

**One-Hundredth Annual Report**

of the

**State Corporation Commission**

of

Virginia

*For the Year Ending December 31, 2002*

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**GENERAL REPORT**

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## Letter of Transmittal

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### COMMONWEALTH OF VIRGINIA

#### *STATE CORPORATION COMMISSION*

RICHMOND, VIRGINIA, *December 31, 2002*

*To the Honorable Mark R. Warner*

*Governor of Virginia*

Sir:

We have the honor to transmit herewith the one-hundredth Annual Report of the State Corporation Commission for the year 2002.

Respectfully submitted,

Clinton Miller, Chairman

Theodore V. Morrison, Jr., Commissioner

Hullihen Williams Moore, Commissioner

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# State Corporation Commission

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## COMMISSIONERS

\*Clinton Miller

Chairman

Theodore V. Morrison, Jr.

Commissioner

Hullihen Williams Moore

Commissioner

Joel H. Peck

*Clerk of the Commission*

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\*Term as Chairman expired January 31, 2002; re-elected Chairman for term of one year beginning on February 1, 2002.

## Commissioners

The three initial Commissioners took office March 1, 1903. From 1903 to 1919 the Commissioners were appointed by the Governor subject to confirmation by the General Assembly. Between 1919 and 1926 they were elected by popular vote. Between 1926 and 1928 they were appointed by the Governor subject to confirmation by the General Assembly. Since 1928 they have been elected by the General Assembly.

The names and terms of office of the Commissioners:

		Years
Beverley T. Crump	March 1, 1903 to June 1, 1907	4
Henry C. Stuart	March 1, 1903 to February 28, 1908	5
Henry Fairfax	March 1, 1903 to October 1, 1905	3
Jos. E. Willard	October 1, 1905 to February 18, 1910	4
Robert R. Prentis	June 1, 1907 to November 17, 1916	9
Wm. F. Rhea	February 28, 1908 to November 15, 1925	18
J. R. Wingfield	February 18, 1910 to January 31, 1918	8
C. B. Garnett	November 17, 1916 to October 28, 1918	2
Alexander Forward	February 1, 1918 to December 5, 1923	5
Robert E. Williams	November 12, 1918 to July 1, 1919	1
(Temporary Appointment during absence of Forward on military service)		
S. L. Lupton	October 28, 1918 to June 1, 1919	1
Berkley D. Adams	June 12, 1919 to January 31, 1928	9
Oscar L. Shewmake	December 16, 1923 to November 24, 1924	1
H. Lester Hooker	November 25, 1924 to January 31, 1972	47
Louis S. Epes	November 16, 1925 to November 16, 1929	4
Wm. Meade Fletcher	February 1, 1928 to December 19, 1943	16
George C. Peery	November 29, 1929 to April 17, 1933	3
Thos. W. Ozlin	April 17, 1933 to July 14, 1944	11
Harvey B. Apperson	January 31, 1944 to October 5, 1947	4
Robert O. Norris	August 30, 1944 to November 20, 1944	
L. McCarthy Downs	December 16, 1944 to April 18, 1949	5
W. Marshall King	October 7, 1947 to June 24, 1957	10
Ralph T. Catterall	April 28, 1949 to January 31, 1973	24
Jesse W. Dillon	July 16, 1957 to January 28, 1972	14
Preston C. Shannon	March 10, 1972 to January 31, 1996	25
Junie L. Bradshaw	March 10, 1972 to January 31, 1985	13
Thomas P. Harwood, Jr.	February 20, 1973 to February 20, 1992	19
Elizabeth B. Lacy	April 1, 1985 to December 31, 1988	4
Theodore V. Morrison, Jr.	February 15, 1989 to	
Hullihen Williams Moore	February 26, 1992 to	
Clinton Miller	February 15, 1996 to	

### From 1903 through 2002 the lines of succession were:

	Years		Years		Years
Crump	4	Stuart	5	Fairfax	3
Prentis	9	Rhea	18	Willard	4
Garnett	2	Epes	4	Wingfield	8
Lupton	1	Peery	3	Forward	5
Adams	9	Ozlin	11	Williams	1
Fletcher	16	Norris	0	Shewmake	1
Apperson	4	Downs	5	Hooker	47
King	10	Catterall	24	Bradshaw	13
Dillon	14	Harwood	19	Lacy	4
Shannon	25	Moore	11	Morrison	14
Miller	7				



### **Preface**

The State Corporation Commission is vested with regulatory authority over many business and economic interests in Virginia. These interests are as varied as the SCC's powers, which are delineated by the state constitution and state law. Its authority ranges from setting rates charged by large investor-owned utilities to serving as the central filing agency for corporations in Virginia.

Initially established to oversee the railroad and telephone and telegraph industries in Virginia, the SCC's jurisdiction now includes many businesses which directly impact Virginia consumers. The SCC's authority encompasses utilities, insurance, state-chartered financial institutions, securities, retail franchising, the Virginia Pilots' Association, and railroads. It is the state's central filing office for corporations, limited partnerships, limited liability companies, and Uniform Commercial Code liens.

The SCC's structure is unique. No other state has charged one agency with such a broad array of regulatory responsibility. The SCC is organized as a fourth branch of government with its own legislative, administrative, and judicial powers. SCC decisions can only be appealed to the Virginia Supreme Court.





**COMMONWEALTH OF VIRGINIA**  
**STATE CORPORATION COMMISSION**

**Rules of Practice and Procedure**

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**CHAPTER 20**  
**STATE CORPORATION COMMISSION**  
**RULES OF PRACTICE AND PROCEDURE**

**PART I.**

**GENERAL PROVISIONS.**

*5 VAC 5-20-10. Applicability.*

The State Corporation Commission Rules of Practice and Procedure are promulgated pursuant to the authority of § 12.1-25 of the Code of Virginia and are applicable to the regulatory and adjudicatory proceedings of the State Corporation Commission except where superseded by more specific rules for particular types of cases or proceedings. When necessary to serve the ends of justice in a particular case, the commission may grant, upon motion or its own initiative, a waiver or modification of any of the provisions of the rules, except 5 VAC 5-20-220, under terms and conditions and to the extent it deems appropriate. These rules do not apply to the internal administration or organization of the commission in matters such as the procurement of goods and services, personnel actions, and similar issues, nor to matters that are being handled administratively by a division or bureau of the commission.

*5 VAC 5-20-20. Good faith pleading and practice; sanctions.*

Every pleading, written motion, or other paper presented for filing by a party represented by an attorney shall be signed by at least one attorney of record in the attorney's individual name, and the attorney's mailing address and telephone number, and where available, telefax number and email address, shall be stated. An individual not represented by an attorney shall sign the individual's pleading, motion, or other paper, and shall state the individual's mailing address and telephone number. A partnership not represented by an attorney shall have a partner sign the partnership's pleading, motion, or other paper, and shall state the partnership's mailing address and telephone number. A non-lawyer may only represent the interests of another before the commission in the presentation of facts, figures, or factual conclusions, as distinguished from legal arguments or conclusions. In the case of an individual or entity not represented by counsel, each signature shall be that of a qualified officer or agent. The pleadings need not be under oath unless so required by statute. The Commission may provide, by order, a manner for acceptance of electronic signatures in particular cases.

The signature of an attorney or party constitutes a certification that: (i) the attorney or party has read the pleading, motion, or other paper; (ii) to the best of the attorney's or party's knowledge, information, and belief formed after reasonable inquiry, it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law; and (iii) it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. A pleading, written motion, or other paper will not be accepted for filing by the Clerk of the Commission if not signed.

An oral motion made by an attorney or party in a commission proceeding constitutes a representation that the motion: (i) is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law; and (ii) is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.

*5 VAC 5-20-30. Counsel.*

Except as otherwise provided in 5 VAC 5-20-20, no person other than a properly licensed attorney at law shall file pleadings or papers or appear at a hearing to represent the interests of another person or entity before the commission. An attorney admitted to practice in another jurisdiction, but not licensed in Virginia, may be permitted to appear in a particular proceeding pending before the commission in association with a member of the Virginia State Bar. The Virginia State Bar member will be counsel of record for every purpose related to the conduct and disposition of the proceeding.

In all appropriate proceedings before the Commission, the Division of Consumer Counsel, Office of the Attorney General, may appear and represent and be heard on behalf of consumers' interests, and investigate matters relating to such appearance, and otherwise may participate to the extent reasonably necessary to discharge its statutory duties.

*5 VAC 5-20-40. Photographs and broadcasting of proceedings.*

Electronic media and still photography coverage of commission hearings will be allowed at the discretion of the commission.

*5 VAC 5-20-50. Consultation by parties with Commissioners and Hearing Examiners.*

No commissioner or hearing examiner shall consult with any party or any person acting on behalf of any party with respect to a pending formal proceeding without giving adequate notice and opportunity for all parties to participate.

*5 VAC 5-20-60. Commission staff.*

The commissioners and hearing examiners shall be free at all times to confer with any member of the commission staff. However, no facts nor legal arguments likely to influence a pending formal proceeding and not of record in that proceeding shall be furnished ex parte to any commissioner or hearing examiner by any member of the commission staff.

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*5 VAC 5-20-70. Informal complaints.*

All correspondence and informal complaints shall be referred to the appropriate division or bureau of the commission. The head of the division or bureau receiving this correspondence or complaint shall attempt to resolve the matter presented. Matters not resolved to the satisfaction of all participating parties by the informal process may be reviewed by the full commission upon the proper filing of a formal proceeding in accordance with the rules by any party to the informal process.

**PART II.****COMMENCEMENT OF FORMAL PROCEEDINGS.***5 VAC 5-20-80. Regulatory proceedings.*

A. Application. Except where otherwise provided by statute, rule or commission order, a person or entity seeking to engage in an industry or business subject to the commission's regulatory control, or to make changes in any previously authorized service, rate, facility, or other aspect of such industry or business that, by statute or rule, must be approved by the Commission, shall file an application requesting authority to do so. The application shall contain: (i) a specific statement of the action sought; (ii) a statement of the facts that the applicant is prepared to prove that would warrant the action sought; (iii) a statement of the legal basis for such action; and (iv) any other information required by law or regulation. Any person or entity filing an application shall be a party to that proceeding.

B. Participation as a respondent. A notice of participation as a respondent is the proper initial response to an application. A notice of participation shall be filed within the time prescribed by the commission and shall contain: (i) a precise statement of the interest of the respondent; (ii) a statement of the specific action sought to the extent then known; and (iii) the factual and legal basis for the action. Any person or entity filing a notice of participation as a respondent shall be a party to that proceeding.

C. Public witnesses. Any person or entity not participating in a matter pursuant to 5 VAC 5-20-80 A or 5 VAC 5-20-80 B may make known their position in any regulatory proceeding by filing written comments in advance of the hearing if provided for by commission order or by attending the hearing, noting an appearance in the manner prescribed by the commission, and giving oral testimony. Public witnesses may not otherwise participate in the proceeding, be included in the service list, or be considered a party to the proceeding.

D. Commission staff. The commission staff may appear and participate in any proceeding in order to see that pertinent issues on behalf of the general public interest are clearly presented to the commission. The staff may, inter alia, conduct investigations and discovery, evaluate the issues raised, testify and offer exhibits, file briefs and make argument, and be subject to cross-examination when testifying. Neither the commission staff collectively nor any individual member of the commission staff shall be considered a party to the case for any purpose by virtue of participation in a proceeding.

*5 VAC 5-20-90. Adjudicatory proceedings.*

A. Initiation of proceedings. Investigative, disciplinary, penal, and other adjudicatory proceedings may be initiated by motion of the commission staff or upon the commission's own motion. Further proceedings shall be controlled by the issuance of a rule to show cause, which shall give notice to the defendant, state the allegations against the defendant, provide for a response from the defendant and, where appropriate, set the matter for hearing. A rule to show cause shall be served in the manner provided by § 12.1-19.1 or § 12.1-29 of the Code of Virginia. The commission staff shall prove the case by clear and convincing evidence.

B. Answer. An answer is the proper initial responsive pleading to a rule to show cause. An answer shall be filed within 21 days of service of the rule to show cause, unless the commission shall order otherwise. The answer shall state, in narrative form, each defendant's responses to the allegations in the rule to show cause and any affirmative defenses asserted by the defendant. Failure to file a timely answer may result in the entry of judgment by default against the party failing to respond.

*5 VAC 5-20-100. Other proceedings.*

A. Promulgation of general orders, rules, or regulations. Before promulgating a general order, rule, or regulation, the commission shall, by order upon an application or upon its own motion, require reasonable notice of the contents of the proposed general order, rule, or regulation, including publication in the Virginia Register of Regulations, and afford interested persons an opportunity to comment, present evidence, and be heard. A copy of each general order, rule, and regulation adopted in final form by the commission shall be filed with the Registrar of Regulations for publication in the Virginia Register of Regulations.

B. Petitions in other matters. Persons having a cause before the commission, whether by statute, rule, regulation, or otherwise, against a defendant, including the commission, a commission bureau, or a commission division, shall proceed by filing a written petition containing: (i) the identity of the parties; (ii) a statement of the action sought and the legal basis for the commission's jurisdiction to take the action sought; (iii) a statement of the facts, proof of which would warrant the action sought; (iv) a statement of the legal basis for the action; and (v) a certificate showing service upon the defendant.

Within 21 days of service of a petition under this rule, the defendant shall file an answer containing, in narrative form, (i) a response to each allegation of the petition and (ii) a statement of each affirmative defense asserted by the defendant. Failure to file a timely answer may result in entry of judgment by default against the defendant failing to respond. Upon order of the commission, the commission staff may participate in any proceeding under this rule in which it is not a defendant to the same extent as permitted by 5 VAC 5-20-80-D.

C. Declaratory judgments. Persons having no other adequate remedy may petition the commission for a declaratory judgment. The petition shall meet the requirements of 5 VAC 5-20-100 B and, in addition, contain a statement of the basis for concluding that an actual controversy exists. In the proceeding, the commission shall by order provide for the necessary notice, responsive pleadings, and participation by interested parties.

**PART III.****PROCEDURES IN FORMAL PROCEEDINGS.**

*5 VAC 5-20-110. Motions.* Motions may be filed for the same purposes recognized by the courts of record in the Commonwealth. Unless otherwise ordered by the commission, any response to a motion must be filed within 14 days of the filing of the motion, and any reply by the moving party must be filed within ten days of the filing of the response.

*5 VAC 5-20-120. Procedure before Hearing Examiners.*

A. Assignment. The commission may, by order, assign a matter pending before it to a hearing examiner. Unless otherwise ordered, the hearing examiner shall conduct all further proceedings in the matter on behalf of the commission in accordance with the rules. In the discharge of his or her duties, the hearing examiner shall exercise all the adjudicatory powers possessed by the commission including, inter alia, the power to administer oaths; require the attendance of witnesses and parties; require the production of documents; schedule and conduct pre-hearing conferences; admit or exclude evidence; grant or deny continuances; and rule on motions, matters of law, and procedural questions. The hearing examiner shall, upon conclusion of all assigned duties, issue a written final report and recommendation to the commission.

B. Objections and certification of issues. An objection to a ruling by the hearing examiner shall be stated with the reasons therefore at the time of the ruling, and the objection may be argued to the commission as part of a response to the hearing examiner's report. A ruling by the hearing examiner that denies further participation by a party in interest or the commission staff in a proceeding that has not been concluded may be immediately appealed to the commission by filing a written motion with the commission for review. Upon the motion of any party or the staff, or upon the hearing examiner's own initiative, the hearing examiner may certify any other material issue to the commission for its consideration and resolution. Pending resolution by the commission of a ruling appealed or certified, the hearing examiner shall retain procedural control of the proceeding.

C. Responses to hearing examiner reports. Unless otherwise ordered by the hearing examiner, responses supporting or objecting to the hearing examiner's final report must be filed within 21 days of the issuance of the report. A reply to a response to the hearing examiner's report may only be filed with leave of the commission. The commission may accept, modify, or reject the hearing examiner's recommendations in any manner consistent with law and the evidence, notwithstanding an absence of objections to the hearing examiner's report.

*5 VAC 5-20-130. Amendment of pleadings.*

No amendment shall be made to any formal pleading after it is filed except by leave of the commission, which leave shall be liberally granted in the furtherance of justice. The commission shall make such provision for notice and for opportunity to respond to the amended pleadings as it may deem necessary and proper.

*5 VAC 5-20-140. Filing and service.*

A formal pleading or other related document shall be considered filed with the commission upon receipt of the original and required copies by the Clerk of the Commission no later than the time established for the closing of business of the clerk's office on the day the item is due. The original and copies shall be stamped by the Clerk to show the time and date of receipt. The commission may by order make provision for electronic filing of documents, including facsimile.

When a filing would otherwise be due on a day when the Clerk's office is not open for public business, the filing will be timely if made on the next regular business day when the office is open to the public. When a period of fifteen days or fewer is permitted to make a filing or take other action pursuant to commission rule or order, intervening weekends or holidays shall not be counted in determining the due date.

Service of a formal pleading, brief, or other document filed with the commission required to be served on the parties to a proceeding or upon the commission staff, shall be effected by delivery of a true copy to the party or staff, or by deposit of a true copy into the United States mail properly addressed and stamped, on or before the date of filing. Service on a party may be made by service on the party's counsel. At the foot of a formal pleading, brief, or other document required to be served, the party making service shall append a certificate of counsel of record that copies were mailed or delivered as required. The commission may, by order, provide for electronic service of documents, including facsimile. Notices, findings of fact, opinions, decisions, orders, or other paper to be served by the commission may be served by United States mail. However, all writs, processes, and orders of the commission, when acting in conformity with § 12.1-27 of the Code of Virginia, shall be attested and served in compliance with § 12.1-19.1 or § 12.1-29 of the Code of Virginia.

*5 VAC 5-20-150. Copies and format.*

Applications, petitions, responsive pleadings, briefs, and other documents must be filed in an original and 15 copies. One copy of each responsive pleading or brief must be served on each party and the commission staff counsel assigned to the matter, or, if no counsel has been assigned, on the General Counsel. Each document must be filed on standard size white opaque paper, 8 ½ by 11 inches in dimension, and must be capable of being reproduced in copies of archival quality. Pleadings shall be bound or attached on the left side and contain adequate margins. Each page following the first page must be numbered. If necessary, a document may be filed in consecutively numbered volumes, each of which may not exceed three inches in thickness. Pleadings containing more than one exhibit should have dividers separating each exhibit and should contain an index. Exhibits such as maps, plats, and photographs not easily reduced to standard size may be filed in a different size, as necessary. All filed documents shall be fully collated and assembled into complete and proper sets ready for distribution and use, without the need for further assembly, sorting, or rearrangement. The Clerk of the Commission may reject the filing of any document not conforming to the requirements of this rule.

*5 VAC 5-20-160. Memorandum of completeness.*

With respect to the filing of a rate application or an application seeking actions that by statute or rule must be completed within a certain number of days, a memorandum shall be filed by an appropriate member of the commission staff within ten days of the filing of the application stating whether all

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

necessary requirements imposed by statute or rule for filing the application have been met and all required information has been filed. If the requirements have not been met, the memorandum shall state with specificity the remaining items to be filed. The Clerk of the Commission immediately shall serve a copy of the memorandum on the filing party. The first day of the period within which action on the application must be concluded shall be set forth in the memorandum and shall be the initial date of filing of applications that are found to be complete upon filing. Applications found to require supplementation shall be complete upon the date of filing of the last item identified in the Staff memorandum. Applications shall be deemed complete upon filing if the memorandum of completeness is not timely filed.

*5 VAC 5-20-170. Confidential information.*

A person who proposes in a formal proceeding that information to be filed with or submitted to the commission be withheld from public disclosure on the ground that it contains trade secrets, privileged, or confidential commercial or financial information shall file this information under seal with the Clerk of the Commission, or otherwise submit the information under seal to the commission staff as may be required. One copy of all such information also shall be submitted under seal to the commission staff counsel assigned to the matter, or, where no counsel has been assigned, to the general counsel who, until ordered otherwise by the commission, shall disclose the information only to the members of the commission staff directly assigned to the matter as necessary in the discharge of their duties. Staff counsel and all members of the commission staff, until otherwise ordered by the commission, shall maintain the information in strict confidence and shall not disclose its contents to members of the public, or to other staff members not assigned to the matter. The commission staff or any party may object to the proposed withholding of the information.

Upon challenge, the filing party shall demonstrate to the satisfaction of the commission that the information should be withheld from public disclosure. If the commission determines that the information should be withheld from public disclosure, it may nevertheless require the information to be disclosed to parties to a proceeding under appropriate protective order.

Whenever a document is filed with the clerk under seal, an expurgated or redacted version of the document deemed by the filing party or determined by the commission to be confidential shall be filed with the clerk for use and review by the public.

When the information at issue is not required to be filed or made a part of the record, a party who wishes to withhold confidential information from filing or production may move the commission for a protective order without filing the materials. In considering such a motion, the commission may require production of the confidential materials for inspection in camera, if necessary.

*5 VAC 5-20-180. Official transcript of hearing.*

The official transcript of a hearing before the commission or a hearing examiner shall be that prepared by the court reporters retained by the commission and certified by the court reporter as a true and correct transcript of the proceeding. Transcripts of proceedings shall not be prepared except in cases assigned to a hearing examiner, when directed by the commission, or when requested by a party desiring to purchase a copy. Parties desiring to purchase copies of the transcript shall make arrangement for purchase with the court reporter. When a transcript is prepared, a copy thereof shall be made available for public inspection in the Clerk of the Commission's office. By agreement of the parties, or as the commission may by order provide, corrections may be made to the transcript.

*5 VAC 5-20-190. Rules of evidence.*

In proceedings under 5 VAC 5-20-90, and all other proceedings in which the commission shall be called upon to decide or render judgment only in its capacity as a court of record, the common law and statutory rules of evidence shall be as observed and administered by the courts of record of the Commonwealth. In other proceedings, evidentiary rules shall not be unreasonably used to prevent the receipt of evidence having substantial probative effect.

*5 VAC 5-20-200. Briefs.*

Written briefs may be authorized at the discretion of the commission, except in proceedings under 5 VAC 5-20-100 A, where briefs may be filed by right. The time for filing briefs and reply briefs, if authorized, shall be set at the time they are authorized. The commission may limit the length of a brief. The commission may by order provide for the electronic filing or service of briefs.

*5 VAC 5-20-210. Oral argument.*

The commission may authorize oral argument, limited as the commission may direct, on any pertinent matter at any time during the course of the proceeding.

*5 VAC 5-20-220. Petition for rehearing or reconsideration.*

Final judgments, orders, and decrees of the commission, except judgments prescribed by § 12.1-36 of the Code of Virginia, and except as provided in §§ 13.1-614 and 13.1-813 of the Code of Virginia, shall remain under the control of the commission and subject to modification or vacation for 21 days after the date of entry. Except for good cause shown, a petition for rehearing or reconsideration must be filed not later than 20 days after the date of entry of the judgment, order, or decree. The filing of a petition will not suspend the execution of the judgment, order, or decree, nor extend the time for taking an appeal, unless the commission, within the 21 day period following entry of the final judgment, order or decree, shall provide for a suspension in an order or decree granting the petition. A petition for rehearing or reconsideration must be served on all parties and delivered to commission staff counsel on or before the day on which it is filed. The commission will not entertain responses to, or requests for oral argument on, a petition. An order granting a rehearing or reconsideration will be served on all parties and commission staff counsel by the Clerk of the Commission.

*5 VAC 5-20-230. Extension of time.*

The commission may, at its discretion, grant a continuance, postponement, or extension of time for the filing of a document or the taking of an action required or permitted by these rules, except for petitions for rehearing or reconsideration filed pursuant to 5 VAC 5-20-220. Except for good cause shown, motions for extensions shall be made in writing, served on all parties and commission staff counsel, and filed with the commission at least three days prior to the date the action sought to be extended is due.



## PART IV.

## DISCOVERY AND HEARING PREPARATION PROCEDURES.

*5 VAC 5-20-240. Prepared testimony and exhibits.*

Following the filing of an application dependent upon complicated or technical proof, the commission may direct the applicant to prepare and file the testimony and exhibits by which the applicant expects to establish its case. In all proceedings in which an applicant is required to file testimony, respondents shall be permitted and may be directed by the commission or hearing examiner to file, on or before a date certain, testimony and exhibits by which they expect to establish their case. Any respondent that chooses not to file testimony and exhibits by that date may not thereafter present testimony or exhibits except by leave of the commission, but may fully participate in the proceeding and engage in cross-examination of the testimony and exhibits of commission staff and other parties. The commission staff also shall file testimony and exhibits when directed to do so by the commission. Failure to comply with the directions of the commission, without good cause shown, may result in rejection of the testimony and exhibits by the commission. With leave of the commission and unless a timely objection is made, the commission staff or a party may correct or supplement any prepared testimony and exhibits before or during the hearing. In all proceedings, all evidence must be verified by the witness before introduction into the record, and the admissibility of the evidence shall be subject to the same standards as if the testimony were offered orally at hearing, unless, with the consent of the commission, the staff and all parties stipulate the introduction of testimony without need for verification. An original and 15 copies of prepared testimony and exhibits shall be filed unless otherwise specified in the commission's scheduling order and public notice. Documents of unusual bulk or weight and physical exhibits other than documents need not be filed in advance, but shall be described and made available for pretrial examination.

*5 VAC 5-20-250. Process, witnesses, and production of documents and things.*

A. Subpoenas. Commission staff and a party to a proceeding shall be entitled to process, to convene parties, to compel the attendance of witnesses, and to compel the production of books, papers, documents, or things provided in this rule.

B. Commission issuance and enforcement of other regulatory agency subpoenas. Upon motion by commission staff counsel, the commission may issue and enforce subpoenas at the request of a regulatory agency of another jurisdiction if the activity for which the information is sought by the other agency, if occurring in the Commonwealth, would be a violation of the laws of the Commonwealth that are administered by the commission.

A motion requesting the issuance of a commission subpoena shall include:

1. A copy of the original subpoena issued by the regulatory agency to the named defendant;
2. An affidavit of the requesting agency administrator stating the basis for the issuance of the subpoena under that state's laws; and
3. A memorandum from the commission's corresponding division director providing the basis for the issuance of the commission subpoena.

C. Documents. In a pending case, at the request of commission staff or any party, the Clerk of the Commission shall issue a subpoena. When a matter is under investigation by commission staff, before a formal proceeding has been established, whenever it appears to the commission by affidavit filed with the Clerk of the Commission by the commission staff or an individual, that a book, writing, document, or thing sufficiently described in the affidavit, is in the possession, or under the control, of an identified person and is material and proper to be produced, the commission may order the Clerk of the Commission to issue a subpoena and to have the subpoena duly served, together with an attested copy of the commission's order compelling production at a reasonable place and time as described in the commission's order.

D. Witnesses. In a pending case, at the request of commission staff or any party, the Clerk of the Commission shall issue a subpoena.

*5 VAC 5-20-260. Interrogatories to parties or requests for production of documents and things.*

The commission staff and a party in a formal proceeding before the commission, other than a proceeding under 5 VAC 5-20-100 A and C, may serve written interrogatories or requests for production of documents upon a party, to be answered by the party served, or if the party served is an entity, by an officer or agent of the entity, who shall furnish to the requesting party information as is known. Interrogatories or requests for production of documents that cannot be timely answered before the scheduled hearing date may be served only with leave of the commission for good cause shown and upon such conditions as the commission may prescribe. No interrogatories or requests for production of documents may be served upon a member of the commission staff, except to discover factual information that supports the workpapers submitted by the staff to the Clerk of the Commission pursuant to 5 VAC 5-20-270. All interrogatories and requests for production of documents shall be filed with the Clerk of the Commission.

The response to each interrogatory or document request shall identify by name the person making the response. Objections, if any, to specified questions shall be stated with specificity, citing appropriate legal authority, and served with the list of responses. Responses and objections to interrogatories or requests for production of documents shall be served within 14 days of receipt, unless otherwise ordered by the commission. Upon motion promptly made and accompanied by a copy of the interrogatory or document request and the response or objection that is subject to the motion, the commission will rule upon the validity of the objection; the objection otherwise will be considered sustained.

Interrogatories or requests for production of documents may relate to any matter not privileged, which is relevant to the subject matter involved, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things, and the identity and location of persons having knowledge of evidentiary value. It is not grounds for objection that the information sought will be inadmissible at the hearing if the information appears reasonably calculated to lead to the discovery of admissible evidence.

Where the response to an interrogatory or document request may only be derived or ascertained from the business records of the party questioned, from an examination, audit, or inspection of business records, or from a compilation, abstract, or summary of business records, and the burden of deriving or ascertaining the response is substantially the same for one entity as for the other, a response is sufficient if it: (i) identifies by name and location all records from which the response may be derived or ascertained; and (ii) tenders to the inquiring party reasonable opportunity to examine, audit, or inspect the

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records subject to objection as to their proprietary or confidential nature. The inquiring party bears the expense of making copies, compilations, abstracts, or summaries.

5 VAC 5-20-270. Hearing preparation.

In a formal proceeding, a party or the commission staff may serve on a party a request to examine the workpapers supporting the testimony or exhibits of a witness whose prepared testimony has been filed in accordance with 5 VAC 5-20-240. The movant may request abstracts or summaries of the workpapers, and may request copies of the workpapers upon payment of the reasonable cost of duplication or reproduction. Copies requested by the commission staff shall be furnished without payment of copying costs. In actions pursuant to 5 VAC 5-20-80 A, the commission staff, upon the filing of its testimony, exhibits, or report, will compile and file with the Clerk of the Commission three copies of any workpapers that support the recommendations made in its testimony or report. The Clerk of the Commission shall make the workpapers available for public inspection and copying during regular business hours.

5 VAC 5-20-280. Discovery in 5 VAC 5-20-90 proceedings.

The following applies only to proceedings in which a defendant is subject to monetary or injunctive penalties, or revocation, cancellation, or curtailment of a license, certificate of authority, registration, or similar authority previously issued by the commission to the defendant.

A. Discovery of material in possession of the Commission staff. Upon written motion of the defendant, the commission shall permit the defendant to inspect and, at the defendant's expense, copy or photograph any relevant written or recorded statements, the existence of which is known, after reasonable inquiry, by the commission staff counsel assigned to the matter to be within the custody, possession, or control of commission staff, made by the defendant, or representatives, or agents of the defendant if the defendant is other than an individual, to a commission staff member or law enforcement officer.

A motion by the defendant under this rule shall be filed and served at least 10 days before the hearing date. The motion shall include all relief sought. A subsequent motion may be made only upon a showing of cause as to why the motion would be in the interests of justice. An order granting relief under 5 VAC 5-20-280 shall specify the time, place, and manner of making discovery and inspection permitted, and may prescribe such terms and conditions as the commission may determine.

Nothing in this rule shall require the disclosure of any information, the disclosure of which is prohibited by statute. The disclosure of the results of a commission staff investigation or work product of commission staff counsel shall not be required.

B. Depositions. After commencement of an action to which this rules applies, the commission staff or a party may take the testimony of a party or another person or entity, other than a member of the commission staff, by deposition on oral examination or by written questions. Depositions may be used for any purpose for which they may be used in the courts of record of the Commonwealth. Except where the commission or hearing examiner finds that an emergency exists, no deposition may be taken later than 10 days in advance of the formal hearing. The attendance of witnesses at depositions may be compelled by subpoena. Examination and cross-examination of the witness shall be as at hearing. Depositions may be taken in the City of Richmond or in the town, city, or county in which the deposed party resides, is employed, or does business. The parties and the commission staff, by agreement, may designate another place for the taking of the deposition. Reasonable notice of the intent to take a deposition must be given in writing to the commission staff counsel and to each party to the action, stating the time and place where the deposition is to be taken. A deposition may be taken before any person (the "officer") authorized to administer oaths by the laws of the jurisdiction in which the deposition is to be taken. The officer shall certify his or her authorization in writing, administer the oath to the deponent, record or cause to be recorded the testimony given, and note any objections raised. In lieu of participating in the oral examination, a party or the commission staff may deliver sealed written questions to the officer, who shall propound the questions to the witness. The officer may terminate the deposition if convinced that the examination is being conducted in bad faith or in an unreasonable manner. Costs of the deposition shall be borne by the party noticing the deposition, unless otherwise ordered by the commission.

C. Requests for admissions. The commission staff or a party to the proceeding may serve upon a party written requests for admission. Each matter on which an admission is requested shall be stated separately. A matter shall be deemed admitted unless within 21 days of the service of the request, or some other period the commission may designate, the party to whom the request is directed serves upon the requesting party a written answer addressing or objecting to the request. The response shall set forth in specific terms a denial of the matter set forth or an explanation as to the reasons the responding party cannot truthfully admit or deny the matter set forth. Requests for admission shall be filed with the Clerk of the Commission and simultaneously served on commission staff counsel and on all parties to the matter.

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Adopted: September 1, 1974  
Revised: May 1, 1985 by Case No. CLK850262  
Revised: August 1, 1986 by Case No. CLK860572 and Repealed June 1, 2001 by Case No. CLK000311  
Adopted: June 1, 2001 by Case No. CLK000311

**LEADING MATTERS DISPOSED OF BY FORMAL ORDERS****BUREAU OF FINANCIAL INSTITUTIONS****CASE NO. BAN20011281  
MARCH 12, 2002**APPLICATION OF  
PEOPLES BANK OF VIRGINIA

For a certificate of authority to begin business as a bank at 2702 North Parham Road, Henrico County, Virginia

Peoples Bank of Virginia, a Virginia corporation, has applied for a certificate of authority, under Chapter 2 of Title 6.1 of the Code of Virginia, to begin business as a bank at 2702 North Parham Road, Henrico County, Virginia. The application was investigated by the Bureau of Financial Institutions ("Bureau").

Having considered the application and the investigation report of the Bureau, the State Corporation Commission ("Commission") finds that the public interest will be served by additional banking facilities in Henrico County where the applicant proposes to be. The Commission also finds that:

- (1) All applicable provisions of law have been complied with;
- (2) Financially responsible individuals have subscribed for capital stock and surplus in an amount deemed by the Commission to be sufficient to warrant successful operation;
- (3) The oaths of all directors have been taken and filed in accordance with § 6.1-48 of the Code of Virginia;
- (4) The applicant was formed in order to conduct a legitimate banking business;
- (5) The moral fitness, financial responsibility, and business qualifications of those named as officers and directors of the proposed bank are such as to command the confidence of the community; and
- (6) The deposits of the bank are to be insured by the Federal Deposit Insurance Corporation.

ACCORDINGLY, IT IS ORDERED that Peoples Bank of Virginia is granted a certificate of authority to do a banking business at the specified location, provided the following conditions are met before the bank opens for business:

1. Capital funds totaling \$11,736,885 are paid into the bank and allocated as follows: \$3,912,295 to capital stock and \$7,824,590 to surplus;
2. The bank actually obtains insurance of its accounts by the Federal Deposit Insurance Corporation; and
3. The bank receives the approval of the Commissioner of Financial Institutions of its appointment of a chief executive officer, and notifies the Commissioner of the date the bank will open for business.

If the bank should not open for business within one (1) year from this date, the authority granted herein shall expire unless it is extended by the Commission.

**CASE NO. BAN20011296  
MARCH 27, 2002**APPLICATION OF  
UNIVERSITY OF VIRGINIA COMMUNITY CREDIT UNION, INC.

To merge with Acme Visible Records Federal Credit Union

**AMENDED ORDER APPROVING A MERGER**

University of Virginia Community Credit Union, Inc., a Virginia state-chartered credit union, filed an application with the State Corporation Commission ("Commission") to merge with Acme Visible Records Federal Credit Union, a federally chartered credit union, pursuant to the provisions of § 6.1-225.27 of the Code of Virginia.

The plan of merger was reviewed by the Commissioner of Financial Institutions. The Commission has considered the application herein and the recommendation of the Commissioner of Financial Institutions and finds: (1) that an emergency exists within the meaning of § 6.1-225.11 of the Code of

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Virginia; (2) that the plan of merger will promote the best interests of the members of the credit unions; and (3) that the members of the merging credit union and the board of directors of the surviving credit union have approved the plan of merger in accordance with applicable law.

THEREFORE, IT IS ORDERED that the merger of Acme Visible Records Federal Credit Union into University of Virginia Community Credit Union, Inc. is approved, provided that the merger, which will be effective when the Clerk issues a certificate of merger, shall be accomplished not later than one (1) year from this date. Following the merger, University of Virginia Community Credit Union, Inc. shall be authorized to operate, as a service facility, what is now the office of Acme Visible Records Federal Credit Union at 5820 Railroad Avenue, Crozet, Virginia 22932.

**CASE NO. BAN20020405  
MAY 16, 2002**

APPLICATION OF  
VIRGINIA HEARTLAND BANK

For approval of a merger and authority to operate banking offices

**ORDER OF APPROVAL**

Virginia Heartland Bank, a Virginia state-chartered bank with its main office at 4700 Harrison Road, Spotsylvania County, Virginia, has applied to the State Corporation Commission ("Commission"), in accordance with § 6.1-194.131 of the Code of Virginia, for approval of its merger with Caroline Savings Bank, a Virginia state-chartered savings bank. Virginia Heartland Bank proposes to be the resulting bank in the transaction, and it seeks authority to operate all the offices of the merging institutions. The Bureau of Financial Institutions ("Bureau") has investigated the proposed transaction.

Having considered the application and the report of the Bureau, the Commission finds that the entity resulting from the merger, Virginia Heartland Bank, will do business as a bank and that it meets the standards established by § 6.1-13 of the Code.

Accordingly, approval is granted for the merger of Caroline Savings Bank into Virginia Heartland Bank, effective upon the issuance by the Clerk of the Commission of a certificate of merger. Authority is hereby given for the resulting bank to operate a main office at 4700 Harrison Road, Spotsylvania County, Virginia, and to operate branches at all the previously authorized office locations of the merging institutions. (A list of the currently authorized offices is attached.)

The approval of the merger granted herein shall expire, if not effected, one (1) year from this date, unless extended by order. Within one (1) year of the merger, the resulting bank shall conform its assets and operations to the provisions of law regulating the operation of state banks.

NOTE: A copy of Attachment A is on file and may be examined at the State Corporation Commission, Bureau of Financial Institutions, Tyler Building, 1300 East Main Street, Richmond, Virginia.

**CASE NO. BAN20020429  
MAY 9, 2002**

APPLICATION OF  
WECCU CREDIT UNION

To merge with Hercules Covington Employees Credit Union

**ORDER APPROVING THE MERGER**

WECCU Credit Union, a Virginia state-chartered credit union, filed an application with the State Corporation Commission ("Commission") to merge with Hercules Covington Employees Credit Union, a Virginia state-chartered credit union, pursuant to the provisions of § 6.1-225.27 of the Code of Virginia.

The plan of merger was reviewed by the Commissioner of Financial Institutions. The Commission has considered the application herein and the recommendation of the Commissioner of Financial Institutions and finds: (1) that the common bond of interest specified in the bylaws of WECCU Credit Union, the surviving credit union, includes the common bonds of both credit unions; (2) that the plan of merger will promote the best interests of the members of the credit unions; and (3) that the members of the merging credit union and the board of directors of the surviving credit union have approved the plan of merger in accordance with applicable law.

THEREFORE, IT IS ORDERED that the merger of Hercules Covington Employees Credit Union into WECCU Credit Union is approved, provided that the merger, which will be effective when the Clerk issues a certificate of merger, shall be accomplished not later than one (1) year from this date.

**CASE NO. BAN20020515  
JUNE 10, 2002**

APPLICATION OF  
COMMUNITY FIRST FINANCIAL CORPORATION

To acquire Community First Bank

**ORDER OF APPROVAL**

Community First Financial Corporation, Lynchburg, Virginia, has filed with the State Corporation Commission ("Commission") the application required by § 6.1-383.1 of the Code of Virginia to acquire all the voting shares of Community First Bank, Lynchburg, Virginia. The Bureau of Financial Institutions ("Bureau") investigated the proposed acquisition.

Having considered the application and the report of the Bureau, the Commission finds that the requirements in § 6.1-383.2 of the Code are met.

THEREFORE, the Commission approves the acquisition of all the voting shares of Community First Bank by Community First Financial Corporation, provided the acquisition takes place within one (1) year from this date and the applicant notifies the Bureau of the effective date within ten (10) days thereof.

**CASE NO. BAN20020529  
JULY 26, 2002**

APPLICATION OF  
HIGHLANDS COMMUNITY BANK

For a certificate of authority to begin business as a bank at 307 Thacker Avenue, City of Covington, Virginia

**ORDER GRANTING AUTHORITY**

Highlands Community Bank, a Virginia corporation, has applied for a certificate of authority, under Chapter 2 of Title 6.1 of the Code of Virginia, to begin business as a bank at 307 Thacker Avenue, City of Covington, Virginia. The application was investigated by the Bureau of Financial Institutions ("Bureau").

Having considered the application and the investigation report of the Bureau, the State Corporation Commission ("Commission") finds that the public interest will be served by additional banking facilities in the City of Covington where the applicant proposes to be. The Commission also finds that:

- (1) All applicable provisions of law have been complied with;
- (2) Financially responsible individuals have subscribed for capital stock and surplus in an amount deemed by the Commission to be sufficient to warrant successful operation;
- (3) The oaths of all directors have been taken and filed in accordance with § 6.1-48 of the Code of Virginia;
- (4) The applicant was formed in order to conduct a legitimate banking business;
- (5) The moral fitness, financial responsibility, and business qualifications of those named as officers and directors of the proposed bank are such as to command the confidence of the community; and
- (6) The deposits of the bank are to be insured by the Federal Deposit Insurance Corporation.

ACCORDINGLY, IT IS ORDERED that Highlands Community Bank is granted a certificate of authority to do a banking business at the specified location, provided the following conditions are met before the bank opens for business:

- (1) Capital funds totaling \$7,223,030 are paid in to the bank and allocated as follows: \$3,611,515 to capital stock and \$3,611,515 to surplus;
- (2) The bank actually obtains insurance of its accounts by the Federal Deposit Insurance Corporation; and
- (3) The bank receives the approval of the Commissioner of Financial Institutions of its appointment of a chief executive officer and notifies the Commissioner of the date the bank will open for business.

If the bank should not open for business within one (1) year from this date, the authority granted herein shall expire unless it is extended by the Commission.

**CASE NO. BAN20020714  
JULY 9, 2002**

APPLICATION OF  
CHECK'N GO OF VIRGINIA, INC. D/B/A CHECK'N GO

For a license to engage in business as a payday lender

**ORDER GRANTING A LICENSE**

Check'n Go of Virginia, Inc. d/b/a Check'n Go, a Virginia corporation, has applied to the State Corporation Commission ("Commission") for a license to engage in the business of payday lending at 56 locations (see attachment). The application was investigated by the Commission's Bureau of Financial Institutions ("Bureau").

Having considered the application and the report of the Bureau, the Commission finds that the application meets the criteria in Chapter 18 of Title 6.1 of the Code of Virginia.

THEREFORE, the license requested in the application is GRANTED, provided that the licensee begins business within one (1) year from this date, and the licensee gives written notice to the Bureau stating the date business was begun, within ten (10) days thereafter.

NOTE: A copy of the Attachment is on file and may be examined at the State Corporation Commission, Bureau of Financial Institutions, Tyler Building, 1300 East Main Street, Richmond, Virginia.

**CASE NO. BAN20020722  
JULY 26, 2002**

APPLICATION OF  
DUPONT COMMUNITY CREDIT UNION

To merge with Community Advantage Federal Credit Union

**ORDER APPROVING THE MERGER**

DuPont Community Credit Union, a Virginia state-chartered credit union, filed an application with the State Corporation Commission ("Commission") to merge with Community Advantage Federal Credit Union, a federally chartered credit union, pursuant to the provisions of § 6.1-225.27 of the Code of Virginia.

The plan of merger was reviewed by the Commissioner of Financial Institutions. The Commission has considered the application herein and the recommendation of the Commissioner of Financial Institutions and finds: (1) that the field of membership specified in the bylaws of DuPont Community Credit Union, the surviving credit union, includes the field of membership of Community Advantage Federal Credit Union; (2) that the plan of merger will promote the best interests of the members of the credit unions; and (3) that the members of the merging credit union and the board of directors of the surviving credit union have approved the plan of merger in accordance with applicable law.

THEREFORE, IT IS ORDERED that the merger of Community Advantage Federal Credit Union into DuPont Community Credit Union is approved, effective upon the issuance by the Clerk of the Commission of a certificate of merger. The merger shall be accomplished not later than one (1) year from this date, unless the time is extended by the Commission.

**CASE NO. BAN20020774  
JULY 9, 2002**

APPLICATION OF  
SOUTHWEST CHECK ADVANCE, INC.

For a license to engage in business as a payday lender

**ORDER GRANTING A LICENSE**

Southwest Check Advance, Inc., a Virginia corporation, has applied to the State Corporation Commission ("Commission") for a license to engage in the business of payday lending at 7108 Duffield Pattonville Road, Duffield, Virginia 24244. The application was investigated by the Commission's Bureau of Financial Institutions ("Bureau").

Having considered the application and the report of the Bureau, the Commission finds that the application meets the criteria in Chapter 18 of Title 6.1 of the Code of Virginia.

THEREFORE, the license requested in the application is GRANTED provided that the licensee begins business within one (1) year from this date and the licensee gives written notice to the Bureau stating the date business was begun within ten (10) days thereafter.

**CASE NO. BAN20020783  
JULY 9, 2002**

APPLICATION OF  
PDQ CASH ADVANCE, INC.

For a license to engage in business as a payday lender

**ORDER GRANTING A LICENSE**

PDQ Cash Advance, Inc., a Virginia corporation, has applied to the State Corporation Commission ("Commission") for a license to engage in the business of payday lending at 1450 Park Avenue Northwest, Norton Square Shopping Center, Norton, Virginia 24273. The application was investigated by the Commission's Bureau of Financial Institutions ("Bureau").

Having considered the application and the report of the Bureau, the Commission finds that the application meets the criteria in Chapter 18 of Title 6.1 of the Code of Virginia.

THEREFORE, the license requested in the application is GRANTED provided that the licensee begins business within one (1) year from this date and the licensee gives written notice to the Bureau stating the date business was begun within ten (10) days thereafter.

**CASE NO. BAN20020805  
AUGUST 9, 2002**

APPLICATION OF  
AMERICAN CASH EXCHANGE ENTERPRISE OF VIRGINIA, L.L.C. D/B/A 1ST CHOICE

For a license to engage in business as a payday lender

**ORDER GRANTING A LICENSE**

American Cash Exchange Enterprise of Virginia, L.L.C. d/b/a 1st Choice, a Tennessee limited liability company, has applied to the State Corporation Commission ("Commission") for a license to engage in the business of payday lending at 11 locations (see attachment). The application was investigated by the Commission's Bureau of Financial Institutions ("Bureau").

Having considered the application and the report of the Bureau, the Commission finds that the application meets the criteria in Chapter 18 of Title 6.1 of the Code of Virginia.

THEREFORE, the license requested in the application is GRANTED provided that the licensee begins business within one (1) year from this date and the licensee gives written notice to the Bureau stating the date business was begun within ten (10) days thereafter.

NOTE: A copy of Attachment A is on file and may be examined at the State Corporation Commission, Bureau of Financial Institutions, Tyler Building, 1300 East Main Street, Richmond, Virginia.

**CASE NO. BAN20020813  
JULY 29, 2002**

APPLICATION OF  
CHECK INTO CASH OF VIRGINIA, LLC D/B/A CHECK INTO CASH

For a license to engage in business as a payday lender

**ORDER GRANTING A LICENSE**

Check into Cash of Virginia, LLC d/b/a Check into Cash, a Delaware limited liability company, has applied to the State Corporation Commission ("Commission") for a license to engage in the business of payday lending at: (1) 2121-23 Wards Road, Lynchburg, Virginia 24502; (2) 1912 Boulevard, Suite C, Colonial Heights, Virginia 23834; (3) 3059 Mechanicsville Pike, Richmond, Virginia 23223; (4) 441 Piney Forest Road, Danville, Virginia 24540; (5) 7461 Midlothian Turnpike, Suite C-152, Richmond, Virginia 23225; and (6) 3600 South Crater Road, Suite B, Petersburg, Virginia 23805. The application was investigated by the Commission's Bureau of Financial Institutions ("Bureau").

Having considered the application and the report of the Bureau, the Commission finds that the application meets the criteria in Chapter 18 of Title 6.1 of the Code of Virginia.

THEREFORE, the license requested in the application is GRANTED provided that the licensee begins business within one (1) year from this date and the licensee gives written notice to the Bureau stating the date business was begun within ten (10) days thereafter.

**CASE NO. BAN20020827  
JULY 26, 2002**

APPLICATION OF  
SOUTHERN FINANCIAL BANK  
Warrenton, Virginia

For a certificate of authority to do a banking business following a merger with Metro-County Bank of Virginia, Inc. and for authority to operate the authorized offices of the merging banks

**ORDER GRANTING AUTHORITY**

Southern Financial Bank, a Virginia state-chartered bank with its main office at 37 East Main Street, Warrenton, Fauquier County, Virginia, has applied to the State Corporation Commission ("Commission"), pursuant to § 6.1-44 of the Code of Virginia, for a certificate of authority to do a banking business following a merger with Metro-County Bank of Virginia, Inc., a Virginia state-chartered bank. Southern Financial Bank proposes to be the surviving bank in the merger and seeks authority to operate all the currently authorized offices of the merging banks. The application was investigated by the Bureau of Financial Institutions ("Bureau").

Having considered the application and the report of the Bureau, the Commission finds that: (1) the provisions of law have been complied with; (2) the capital stock of the resulting bank will be \$2,000,000 and its surplus will be not less than \$83,856,000; (3) the public interest will be served by banking facilities of the resulting bank in the communities where its offices will be; (4) the oaths of all directors have been taken and filed in accordance with the provisions of § 6.1-48 of the Code of Virginia; (5) the bank will conduct a legitimate banking business; (6) the moral fitness, financial responsibility, and business qualifications of those named as officers and directors are such as to command the confidence of the community; and (7) the deposits of the resulting bank will be insured by the Federal Deposit Insurance Corporation.

Accordingly, a certificate of authority to do a banking business is granted to Southern Financial Bank, effective upon the issuance by the Clerk of the Commission of a certificate of merger in the proposed transaction. The resulting bank, which will have its main office at 37 East Main Street, Warrenton, Fauquier County, Virginia, is authorized to maintain and operate, in addition to its current offices and facilities, the offices that have been operated by Metro-County Bank of Virginia, Inc., listed in Attachment A. The authority granted herein shall expire one year from this date, unless extended by Commission order prior to the expiration date.

NOTE: A copy of Attachment A is on file and may be examined at the State Corporation Commission, Bureau of Financial Institutions, Tyler Building, 1300 East Main Street, Richmond, Virginia.

**CASE NO. BAN20020829  
AUGUST 12, 2002**

APPLICATION OF  
T. BYRD, INC. D/B/A INSTANT MONEY SERVICE

For a license to engage in business as a payday lender

**ORDER GRANTING A LICENSE**

T. Byrd, Inc. d/b/a Instant Money Service, a North Carolina corporation, has applied to the State Corporation Commission ("Commission") for a license to engage in the business of payday lending at: (1) 3040-D S. Crater Road, Petersburg, Virginia 23805; (2) 2412 West Mercury Boulevard, Hampton, Virginia 23666; and (3) 12779 Jefferson Avenue, Newport News, Virginia 23606. The application was investigated by the Commission's Bureau of Financial Institutions ("Bureau").

Having considered the application and the report of the Bureau, the Commission finds that the application meets the criteria in Chapter 18 of Title 6.1 of the Code of Virginia.

THEREFORE, the license requested in the application is GRANTED provided that the licensee begins business within one (1) year from this date and the licensee gives written notice to the Bureau stating the date business was begun within ten (10) days thereafter.



**CASE NO. BAN20020835  
SEPTEMBER 24, 2002**

APPLICATION OF  
ADVANCE AMERICA,  
CASH ADVANCE CENTERS OF VIRGINIA, INC. D/B/A ADVANCE AMERICA,  
CASH ADVANCE CENTERS

For a license to engage in business as a payday lender

**ORDER GRANTING A LICENSE**

Advance America, Cash Advance Centers of Virginia, Inc. d/b/a Advance America, Cash Advance Centers, a Delaware corporation, has applied to the State Corporation Commission ("Commission") for a license to engage in the business of payday lending at 79 locations (see attachment). The application was investigated by the Commission's Bureau of Financial Institutions ("Bureau").

Having considered the application and the report of the Bureau, the Commission finds that the application meets the criteria in Chapter 18 of Title 6.1 of the Code of Virginia.

THEREFORE, the license requested in the application is GRANTED provided that the licensee begins business within one (1) year from this date and the licensee gives written notice to the Bureau stating the date business was begun within ten (10) days thereafter.

NOTE: A copy of the Attachment is on file and may be examined at the State Corporation Commission, Bureau of Financial Institutions, Tyler Building, 1300 East Main Street, Richmond, Virginia.

**CASE NO. BAN20020837  
AUGUST 14, 2002**

APPLICATION OF  
PAYDAY USA OF VIRGINIA, LLC D/B/A PAYDAY USA

For a license to engage in business as a payday lender

**ORDER GRANTING A LICENSE**

Payday USA of Virginia, LLC d/b/a Payday USA, a Delaware corporation, has applied to the State Corporation Commission ("Commission") for a license to engage in the business of payday lending at: (1) 2323 Memorial Avenue, Suite 7, Lynchburg, Virginia 24501; (2) 3715 Mechanicsville Turnpike, Richmond, Virginia 23223; (3) 3330 South Crater Road, Suite 12, Petersburg, Virginia 23805; (4) 3912 Hull Street, Unit 9B, Richmond, Virginia 23218; (5) 6529 Auburn Drive, Virginia Beach, Virginia 23463; and (6) 3124 High Street, Portsmouth, Virginia 23707. The application was investigated by the Commission's Bureau of Financial Institutions ("Bureau").

Having considered the application and the report of the Bureau, the Commission finds that the application meets the criteria in Chapter 18 of Title 6.1 of the Code of Virginia.

THEREFORE, the license requested in the application is GRANTED provided that the licensee begins business within one (1) year from this date and the licensee gives written notice to the Bureau stating the date business was begun within ten (10) days thereafter.

**CASE NO. BAN20020839  
NOVEMBER 7, 2002**

APPLICATION OF  
FINANCIAL EXCHANGE COMPANY OF VIRGINIA, INC. D/B/A MONEY MART

For a license to engage in business as a payday lender

**ORDER GRANTING A LICENSE**

Financial Exchange Company of Virginia, Inc. d/b/a Money Mart, a Delaware corporation, has applied to the State Corporation Commission ("Commission") for a license to engage in the business of payday lending at 16 locations (see attachment). The application was investigated by the Commission's Bureau of Financial Institutions ("Bureau").

Having considered the application and the report of the Bureau, the Commission finds that the application meets the criteria in Chapter 18 of Title 6.1 of the Code of Virginia.

THEREFORE, the license requested in the application is GRANTED provided that the licensee begins business within one (1) year from this date and the licensee gives written notice to the Bureau stating the date business was begun within ten (10) days thereafter.

**CASE NO. BAN20020841  
OCTOBER 25, 2002**

APPLICATION OF  
CHECKMATE EXPRESS CORPORATION D/B/A CHECKMATE EXPRESS

For a license to engage in business as a payday lender

**ORDER GRANTING A LICENSE**

Checkmate Express Corporation d/b/a Checkmate Express, a Nevada corporation, has applied to the State Corporation Commission ("Commission") for a license to engage in the business of payday lending at 11 S. 12th Street, Richmond, Virginia 23219. The application was investigated by the Commission's Bureau of Financial Institutions ("Bureau").

Having considered the application and the report of the Bureau, the Commission finds that the application meets the criteria in Chapter 18 of Title 6.1 of the Code of Virginia.

THEREFORE, the license requested in the application is GRANTED provided that the licensee begins business within one (1) year from this date and the licensee gives written notice to the Bureau stating the date business was begun within ten (10) days thereafter.

**CASE NO. BAN20020858  
AUGUST 16, 2002**

APPLICATION OF  
TEDDY L. DEEL, SR. D/B/A QUICK CASH

For a license to engage in business as a payday lender

**ORDER GRANTING A LICENSE**

Teddy L. Deel, Sr. d/b/a Quick Cash has applied to the State Corporation Commission ("Commission") for a license to engage in the business of payday lending at 205 Front Street, Coeburn, Virginia 24230. The application was investigated by the Commission's Bureau of Financial Institutions ("Bureau").

Having considered the application and the report of the Bureau, the Commission finds that the application meets the criteria in Chapter 18 of Title 6.1 of the Code of Virginia.

THEREFORE, the license requested in the application is GRANTED provided that the licensee begins business within one (1) year from this date and the licensee gives written notice to the Bureau stating the date business was begun within ten (10) days thereafter.

**CASE NO. BAN20020859  
SEPTEMBER 6, 2002**

APPLICATION OF  
CASHNET, INC.

For a license to engage in business as a payday lender

**ORDER GRANTING A LICENSE**

CashNet, Inc., a Virginia corporation, has applied to the State Corporation Commission ("Commission"), pursuant to § 6.1-447 of the Code of Virginia, for a license to engage in the business of payday lending at 33 locations (see attachment). The application was investigated by the Commission's Bureau of Financial Institutions ("Bureau").

Having considered the application and the report of the Bureau, the Commission finds that the application meets the criteria in Chapter 18 of Title 6.1 of the code of Virginia.

Therefore, the license requested in the application is granted provided that the licensee begins business within one (1) year from this date and the licensee gives written notice to the Bureau stating the date business was begun within ten (10) days thereafter.

NOTE: A copy of the Attachment is on file and may be examined at the State Corporation Commission, Bureau of Financial Institutions, Tyler Building, 1300 East Main Street, Richmond, Virginia.

**CASE NO. BAN20020862  
AUGUST 16, 2002**

APPLICATION OF  
NORTH STATE FINANCE COMPANY OF GOLDSBORO, N. C., INC. D/B/A IMPERIAL CASH ADVANCE

For a license to engage in business as a payday lender

**ORDER GRANTING A LICENSE**

North State Finance Company of Goldsboro, N. C., Inc. d/b/a Imperial Cash Advance, a North Carolina corporation, has applied to the State Corporation Commission ("Commission") for a license to engage in the business of payday lending at 661 Piney Forest Road, Danville, Virginia 24540. The application was investigated by the Commission's Bureau of Financial Institutions ("Bureau").

Having considered the application and the report of the Bureau, the Commission finds that the application meets the criteria in Chapter 18 of Title 6.1 of the Code of Virginia.

THEREFORE, the license requested in the application is GRANTED provided that the licensee begins business within one (1) year from this date and the licensee gives written notice to the Bureau stating the date business was begun within ten (10) days thereafter.

**CASE NO. BAN20020868  
SEPTEMBER 10, 2002**

APPLICATION OF  
JERBEC ENTERPRISES, INC. D/B/A EXPRESS MONEY SERVICE

For a license to engage in business as a payday lender

**ORDER GRANTING A LICENSE**

JERBEC Enterprises, Inc. d/b/a Express Money Service, a North Carolina corporation, has applied to the State Corporation Commission ("Commission") for a license to engage in the business of payday lending at 1300 Armory Drive, Unit 19, Franklin, Virginia 23851; 3158 Halifax Road, South Boston, Virginia 24592; and 3303 N. Main Street, Suite 14, Danville, Virginia 24540. The application was investigated by the Commission's Bureau of Financial Institutions ("Bureau").

Having considered the application and the report of the Bureau, the Commission finds that the application meets the criteria in Chapter 18 of Title 6.1 of the Code of Virginia.

THEREFORE, the license requested in the application is GRANTED provided that the licensee begins business within one (1) year from this date and the licensee gives written notice to the Bureau stating the date business was begun within ten (10) days thereafter.

**CASE NO. BAN20020869  
AUGUST 29, 2002**

APPLICATION OF  
ANYKIND CHECK CASHING, LC D/B/A CHECK CITY

For a license to engage in business as a payday lender

**ORDER GRANTING A LICENSE**

Anykind Check Cashing, LC d/b/a Check City, a Virginia limited liability company, has applied to the State Corporation Commission ("Commission") for a license to engage in the business of payday lending at: (1) 21 East Broad Street, Richmond, Virginia 23219; (2) 910 North Boulevard, Richmond, Virginia 23230; and (3) 3906 Hull Street, Richmond, Virginia 23224. The application was investigated by the Commission's Bureau of Financial Institutions ("Bureau").

Having considered the application and the report of the Bureau, the Commission finds that the application meets the criteria in Chapter 18 of Title 6.1 of the Code of Virginia.

THEREFORE, the license requested in the application is GRANTED provided that the licensee begins business within one (1) year from this date and the licensee gives written notice to the Bureau stating the date business was begun within ten (10) days thereafter.

**CASE NO. BAN20020871  
JULY 26, 2002**

APPLICATION OF  
MAINSTREET BANKSHARES, INC.

To acquire Franklin Community Bank, N. A.

**ORDER OF APPROVAL**

MainStreet BankShares, Inc., a Virginia financial institution holding company, has filed with the State Corporation Commission ("Commission") the application required by § 6.1-383.1 of the Code of Virginia to acquire all the voting shares of Franklin Community Bank, N. A., an organizing Virginia bank. The Bureau of Financial Institutions ("Bureau") investigated the proposed acquisition.

Having considered the application and the report of the Bureau, the Commission finds that the requirements in § 6.1-383.2 of the Code are met.

THEREFORE, the Commission approves the acquisition of all the voting shares of Franklin Community Bank, N. A. by MainStreet BankShares, Inc., provided the acquisition takes place within one (1) year from this date and the applicant notifies the Bureau of the effective date within ten (10) days thereof.

**CASE NO. BAN20020889  
AUGUST 29, 2002**

APPLICATION OF  
BUCKEYE CHECK CASHING OF VIRGINIA, INC. D/B/A CHECK\$MART

For a license to engage in business as a payday lender

**ORDER GRANTING A LICENSE**

Buckeye Check Cashing of Virginia, Inc. d/b/a Check\$mart, an Ohio corporation, has applied to the State Corporation Commission ("Commission") for a license to engage in the business of payday lending at 7017 A Staples Mill Road, Richmond, Virginia 23228. The application was investigated by the Commission's Bureau of Financial Institutions ("Bureau").

Having considered the application and the report of the Bureau, the Commission finds that the application meets the criteria in Chapter 18 of Title 6.1 of the Code of Virginia.

THEREFORE, the license requested in the application is GRANTED provided that the licensee begins business within one (1) year from this date and the licensee gives written notice to the Bureau stating the date business was begun within ten (10) days thereafter.

**CASE NO. BAN20020890  
SEPTEMBER 24, 2002**

APPLICATION OF  
THE CASH STORE V, LLC

For a license to engage in business as a payday lender

**ORDER GRANTING A LICENSE**

The Cash Store V, LLC, a Kentucky limited liability company, has applied to the State Corporation Commission ("Commission") for a license to engage in the business of payday lending at 9766 Lee Highway, Fairfax, Virginia 22031. The application was investigated by the Commission's Bureau of Financial Institutions ("Bureau").

Having considered the application and the report of the Bureau, the Commission finds that the application meets the criteria in Chapter 18 of Title 6.1 of the Code of Virginia.

THEREFORE, the license requested in the application is GRANTED provided that the licensee begins business within one (1) year from this date and the licensee gives written notice to the Bureau stating the date business was begun within ten (10) days thereafter.

**CASE NO. BAN20020895  
JULY 26, 2002**

APPLICATION OF  
ALLIANCE BANKSHARES CORPORATION

To acquire Alliance Bank Corporation

**ORDER OF APPROVAL**

Alliance Bankshares Corporation has filed with the State Corporation Commission ("Commission") the application required by § 6.1-383.1 of the Code of Virginia to acquire all the voting shares of Alliance Bank Corporation, a Virginia state chartered bank. The Bureau of Financial Institutions ("Bureau") investigated the proposed acquisition.

Having considered the application and the report of the Bureau, the Commission finds that the requirements in § 6.1-383.2 of the Code are met.

THEREFORE, the Commission approves the acquisition of all the voting shares of Alliance Bank Corporation by Alliance Bankshares Corporation, provided the acquisition takes place within one (1) year from this date and the applicant notifies the Bureau of the effective date within ten (10) days thereof.

**CASE NO. BAN20020908  
AUGUST 16, 2002**

APPLICATION OF  
Q.C. & G. FINANCIAL, INC. D/B/A ACE AMERICA'S CASH EXPRESS

For a license to engage in business as a payday lender

**ORDER GRANTING A LICENSE**

Q.C. & G. Financial, Inc. d/b/a Ace America's Cash Express, an Arizona corporation, has applied to the State Corporation Commission ("Commission") for a license to engage in the business of payday lending at 29 locations (See Attachment). The application was investigated by the Commission's Bureau of Financial Institutions ("Bureau").

Having considered the application and the report of the Bureau, the Commission finds that the application meets the criteria in Chapter 18 of Title 6.1 of the Code of Virginia.

THEREFORE, the license requested in the application is GRANTED provided that the licensee begins business within one (1) year from this date and the licensee gives written notice to the Bureau stating the date business was begun within ten (10) days thereafter.

NOTE: A copy of the Attachment is on file and may be examined at the State Corporation Commission, Bureau of Financial Institutions, Tyler Building, 1300 East Main Street, Richmond, Virginia.

**CASE NO. BAN20020912  
AUGUST 16, 2002**

APPLICATION OF  
CASH EXPRESS OF VIRGINIA, INC.

For a license to engage in business as a payday lender

**ORDER GRANTING A LICENSE**

Cash Express of Virginia, Inc., a Virginia corporation, has applied to the State Corporation Commission ("Commission") for a license to engage in the business of payday lending at: (1) 606 West City Point Road, Hopewell, Virginia 23860; (2) 1412 Boulevard, Colonial Heights, Virginia 23834; (3) 913 W. Washington Street, Suffolk, Virginia 23434; (4) 439 S. Witchduck Road, Virginia Beach, Virginia 23462; (5) 3245 Tyre Neck Road, Portsmouth, Virginia 23703; (6) 1100 Armory Drive, Suite 160, Franklin Plaza, Franklin, Virginia 23851; (7) 3525 E. Virginia Beach Boulevard, Norfolk, Virginia 23502; (8) 1047 Kempsville Road, Suite 4, Providence Square, Virginia Beach, Virginia 23464; (9) 1100 Big Bethel Road, Suite 1150, Hampton Woods, Hampton, Virginia 23666; and (10) 10512-B Jefferson Avenue, Brentwood Shopping Center, Newport News, Virginia 23605. The application was investigated by the Commission's Bureau of Financial Institutions ("Bureau").

Having considered the application and the report of the Bureau, the Commission finds that the application meets the criteria in Chapter 18 of Title 6.1 of the Code of Virginia.

THEREFORE, the license requested in the application is GRANTED provided that the licensee begins business within one (1) year from this date and the licensee gives written notice to the Bureau stating the date business was begun within ten (10) days thereafter.

**CASE NO. BAN20020914  
AUGUST 21, 2002**

APPLICATION OF  
E Z CASH OF VIRGINIA, INC.

For a license to engage in business as a payday lender

**ORDER GRANTING A LICENSE**

E Z Cash of Virginia, Inc., a Virginia corporation, has applied to the State Corporation Commission ("Commission") for a license to engage in the business of payday lending at 3501 Holland Road, Suite 113, Virginia Beach, Virginia 23452. The application was investigated by the Commission's Bureau of Financial Institutions ("Bureau").

Having considered the application and the report of the Bureau, the Commission finds that the application meets the criteria in Chapter 18 of Title 6.1 of the Code of Virginia.

THEREFORE, the license requested in the application is GRANTED provided that the licensee begins business within one (1) year from this date and the licensee gives written notice to the Bureau stating the date business was begun within ten (10) days thereafter.

**CASE NO. BAN20020916  
OCTOBER 28, 2002**

APPLICATION OF  
FLEXCHECK OF VIRGINIA, LLC

For a license to engage in business as a payday lender

**ORDER DENYING A LICENSE**

FlexCheck of Virginia, LLC ("applicant"), a South Carolina limited liability company, applied to the State Corporation Commission ("Commission") for a license to engage in the business of payday lending pursuant to Chapter 18 of Title 6.1 of the Code of Virginia. The application was investigated by the Commission's Bureau of Financial Institutions ("Bureau").

The Bureau's investigation report reveals that (1) as of May 31, 2002, the applicant and its parent, FlexCheck Holdings, LLC ("parent"), had a consolidated negative net worth of \$365,484; (2) from inception on January 12, 2002 to May 31, 2002, the parent reported operating losses of \$375,484; (3) the parent's primary liability and sole source of funding for the applicant is a \$4.5 million balance on a \$15 million line of credit from HomeGold Financial, Inc. ("HomeGold"), a company which incurred net losses of \$24.1 million during the first half of 2002, \$73.6 million in 2001, and \$29.8 million in 2000, resulting in a negative net worth of \$110.7 million as of June 30, 2002; (4) a 2001 auditor opinion letter raised serious doubts about HomeGold's ability to continue as a going concern; and (5) the applicant projects losses in excess of \$1 million during the first year of operation.

Having considered the application and the report of the Bureau, the Commission finds that the applicant and its parent lack such financial responsibility and general fitness as to warrant belief that the applicant, if granted a license, would be operated efficiently and fairly, in the public interest, and in accordance with law.

Accordingly, IT IS ORDERED THAT the license requested in the application is denied.

**CASE NO. BAN20020935  
JULY 26, 2002**

APPLICATION OF  
COMMUNITY FIRST FINANCIAL CORPORATION

To acquire 9.3 percent of the voting shares of Highlands Community Bank

**ORDER OF APPROVAL**

Community First Financial Corporation, a Virginia financial institution holding company, has filed with the State Corporation Commission ("Commission") the application required by § 6.1-383.1 of the Code of Virginia to acquire 9.3 percent of the voting shares of Highlands Community Bank, an organizing state bank. The Bureau of Financial Institutions ("Bureau") investigated the proposed acquisition.

Having considered the application and the report of the Bureau, the Commission finds that the requirements in § 6.1-383.2 of the Code are met.

THEREFORE, the Commission approves the acquisition of 9.3 percent of the voting shares of Highlands Community Bank by Community First Financial Corporation, provided the acquisition takes place within one (1) year from this date and the applicant notifies the Bureau of the effective date within ten (10) days thereof.

**CASE NO. BAN20020937  
AUGUST 29, 2002**

APPLICATION OF  
PIEDMONT CASH LOANS, INC.

For a license to engage in business as a payday lender

**ORDER GRANTING A LICENSE**

Piedmont Cash Loans, Inc., a Virginia corporation, has applied to the State Corporation Commission ("Commission") for a license to engage in the business of payday lending at: (1) 2440 Greensboro Road, Martinsville, Virginia 24112; (2) 403 Mount Cross Road, Danville, Virginia 24540; and (3) 3031 Halifax Road, Suite Y, South Boston, Virginia 24558. The application was investigated by the Commission's Bureau of Financial Institutions ("Bureau").

Having considered the application and the report of the Bureau, the Commission finds that the application meets the criteria in Chapter 18 of Title 6.1 of the Code of Virginia.

THEREFORE, the license requested in the application is GRANTED provided that the licensee begins business within one (1) year from this date and the licensee gives written notice to the Bureau stating the date business was begun within ten (10) days thereafter.

**CASE NO. BAN20020941  
OCTOBER 4, 2002**

APPLICATION OF  
EXTOL CORPORATION, INC. D/B/A QUICK CHECK: CASH ADVANCE

For a license to engage in business as a payday lender

**ORDER GRANTING A LICENSE**

Extol Corporation, Inc. d/b/a QUICK CHECK: Cash Advance, a Virginia corporation, has applied to the State Corporation Commission ("Commission") for a license to engage in the business of payday lending at 143 Russell Street, Lebanon, Virginia 24266; and 804 West Main Street, Abingdon, Virginia 24210. The application was investigated by the Commission's Bureau of Financial Institutions ("Bureau").

Having considered the application and the report of the Bureau, the Commission finds that the application meets the criteria in Chapter 18 of Title 6.1 of the Code of Virginia.

THEREFORE, the license requested in the application is GRANTED provided that the licensee begins business within one (1) year from this date and the licensee gives written notice to the Bureau stating the date business was begun within ten (10) days thereafter.

**CASE NO. BAN20020948  
SEPTEMBER 27, 2002**

APPLICATION OF  
DIAMOND G, INC. D/B/A DIAMOND G CHECK ADVANCE

For a license to engage in business as a payday lender

**ORDER GRANTING A LICENSE**

Diamond G, Inc. d/b/a Diamond G Check Advance, a Virginia corporation, has applied to the State Corporation Commission ("Commission") for a license to engage in the business of payday lending at 607 Park Avenue, Norton, Virginia 24273. The application was investigated by the Commission's Bureau of Financial Institutions ("Bureau").

Having considered the application and the report of the Bureau, the Commission finds that the application meets the criteria in Chapter 18 of Title 6.1 of the Code of Virginia.

THEREFORE, the license requested in the application is GRANTED provided that the licensee begins business within one (1) year from this date and the licensee gives written notice to the Bureau stating the date business was begun within ten (10) days thereafter.

**CASE NO. BAN20021037  
AUGUST 28, 2002**

APPLICATION OF  
APPOMATTOX FINANCIAL SERVICES, L.L.C.

For a license to engage in business as a payday lender

**ORDER GRANTING A LICENSE**

Appomattox Financial Services, L.L.C., a Virginia limited liability company, has applied to the State Corporation Commission ("Commission") for a license to engage in the business of payday lending at 103 Cavalier Square Shopping Center, Hopewell, Virginia 23860. The application was investigated by the Commission's Bureau of Financial Institutions ("Bureau").

Having considered the application and the report of the Bureau, the Commission finds that the application meets the criteria in Chapter 18 of Title 6.1 of the Code of Virginia.

THEREFORE, the license requested in the application is GRANTED provided that the licensee begins business within one (1) year from this date and the licensee gives written notice to the Bureau stating the date business was begun within ten (10) days thereafter.

**CASE NO. BAN20021048  
SEPTEMBER 27, 2002**

APPLICATION OF  
CHEQUE CASHING, INC. D/B/A ACE AMERICA'S CASH EXPRESS

For a license to engage in business as a payday lender

**ORDER GRANTING A LICENSE**

Cheque Cashing, Inc. d/b/a ACE America's Cash Express, a Virginia corporation, has applied to the State Corporation Commission ("Commission") for a license to engage in the business of payday lending at 4337 Dale Boulevard, Dale City, Virginia 22193. The application was investigated by the Commission's Bureau of Financial Institutions ("Bureau").

Having considered the application and the report of the Bureau, the Commission finds that the application meets the criteria in Chapter 18 of Title 6.1 of the Code of Virginia.

THEREFORE, the license requested in the application is GRANTED provided that the licensee begins business within one (1) year from this date and the licensee gives written notice to the Bureau stating the date business was begun within ten (10) days thereafter.

**CASE NO. BAN20021061  
AUGUST 26, 2002**

APPLICATION OF  
JERRY W. THORNTON, SR. D/B/A JERRY'S PAYDAY LOANS

For a license to engage in business as a payday lender

**ORDER GRANTING A LICENSE**

Jerry W. Thornton, Sr. d/b/a Jerry's Payday Loans, of Virginia Beach, Virginia, has applied to the State Corporation Commission ("Commission") for a license to engage in the business of payday lending at 1336 A Kempsville Road, Virginia Beach, Virginia 23464. The application was investigated by the Commission's Bureau of Financial Institutions ("Bureau").

Having considered the application and the report of the Bureau, the Commission finds that the application meets the criteria in Chapter 18 of Title 6.1 of the Code of Virginia.

THEREFORE, the license requested in the application is GRANTED provided that the licensee begins business within one (1) year from this date and the licensee gives written notice to the Bureau stating the date business was begun within ten (10) days thereafter.



**CASE NO. BAN20021064  
AUGUST 29, 2002**

APPLICATION OF  
URGENT MONEY SERVICE, INC. D/B/A URGENT MONEY SERVICE

For a license to engage in business as a payday lender

**ORDER GRANTING A LICENSE**

Urgent Money Service, Inc. d/b/a Urgent Money Service, a North Carolina corporation, has applied to the State Corporation Commission ("Commission") for a license to engage in the business of payday lending at: (1) 1000 Memorial Boulevard, Martinsville, Virginia 24112; (2) 3386-A Virginia Avenue, Collinsville, Virginia 24078; (3) 710 E. Stuart Drive, Galax, Virginia 24333; (4) 300-B Roanoke Street, Christiansburg, Virginia 24073; (5) 800 E. Main Street, Suite 350, Wytheville, Virginia 24382; (6) 106 Arlington Avenue, Radford, Virginia 24141; (7) 1107 Main Street, Altavista, Virginia 24517; (8) 7106 Timberlake Road, Lynchburg, Virginia 24502; (9) 2125 College Avenue, Bluefield, Virginia 24605; (10) 6425 Williamson Road, Roanoke, Virginia 24019; (11) 406-B E. Main Street, Bedford, Virginia 24523; and (12) 2625 Peters Creek Road, NW, Roanoke, Virginia 24017. The application was investigated by the Commission's Bureau of Financial Institutions ("Bureau").

Having considered the application and the report of the Bureau, the Commission finds that the application meets the criteria in Chapter 18 of Title 6.1 of the Code of Virginia.

THEREFORE, the license requested in the application is GRANTED provided that the licensee begins business within one (1) year from this date and the licensee gives written notice to the Bureau stating the date business was begun within ten (10) days thereafter.

**CASE NO. BAN20021065  
AUGUST 29, 2002**

APPLICATION OF  
UMS, INC. D/B/A URGENT MONEY SERVICE

For a license to engage in business as a payday lender

**ORDER GRANTING A LICENSE**

UMS, Inc. d/b/a Urgent Money Service, a North Carolina corporation, has applied to the State Corporation Commission ("Commission") for a license to engage in the business of payday lending at 1295-B South Boston Road, Danville, Virginia 24540 and 1121-A Piney Forest Road, Danville, Virginia 24540. The application was investigated by the Commission's Bureau of Financial Institutions ("Bureau").

Having considered the application and the report of the Bureau, the Commission finds that the application meets the criteria in Chapter 18 of Title 6.1 of the Code of Virginia.

THEREFORE, the license requested in the application is GRANTED provided that the licensee begins business within one (1) year from this date and the licensee gives written notice to the Bureau stating the date business was begun within ten (10) days thereafter.

**CASE NO. BAN20021131  
SEPTEMBER 6, 2002**

APPLICATION OF  
QC FINANCIAL SERVICES, INC. D/B/A QUIK CASH

For a license to engage in business as a payday lender

**ORDER GRANTING A LICENSE**

QC Financial Services, Inc. d/b/a Quik Cash, a Missouri corporation, has applied to the State Corporation Commission ("Commission"), pursuant to § 6.1-447 of the Code of Virginia, for a license to engage in the business of payday lending at: (1) 7310 Staples Mill Road, Richmond, Virginia 23228; (2) 146 E Belt Boulevard, Richmond, Virginia 23224; (3) 2706 Chamberlayne Avenue, Richmond, Virginia 23222; (4) 434 Newtown Road, Virginia Beach, Virginia 23462; (5) 12917 Jefferson Avenue, Suite A, Newport News, Virginia 23608; (6) 3018 Mercury Boulevard, Hampton, Virginia 23666; (7) 6212 Jefferson Avenue, Newport News, Virginia 23605; (8) 2706 Virginia Beach Boulevard, Virginia Beach, Virginia 23452; (9) 7433 Granby Street, Norfolk, Virginia 23505; (10) 211 Providence Road, Chesapeake, Virginia 23325; and (11) 3505 Western Branch Boulevard, Portsmouth, Virginia 23707. The application was investigated by the Commission's Bureau of Financial Institutions ("Bureau").

Having considered the application and the report of the Bureau, the Commission finds that the application meets the criteria in Chapter 18 of Title 6.1 of the Code of Virginia.

THEREFORE, the license requested in the application is GRANTED provided that the licensee begins business within one (1) year from this date and the licensee gives written notice to the Bureau stating the date business was begun within ten (10) days thereafter.

**CASE NO. BAN20021143  
OCTOBER 25, 2002**

APPLICATION OF  
YVETTE B. BEHELER D/B/A PAYDAY LOANS OF VIRGINIA

For a license to engage in business as a payday lender

**ORDER GRANTING A LICENSE**

Yvette B. Beheler d/b/a Payday Loans of Virginia has applied to the State Corporation Commission ("Commission") for a license to engage in the business of payday lending at: (1) 3806-B Williamson Road, Roanoke, Virginia 24012; and (2) 5130-C Williamson Road, Roanoke, Virginia 24012. The application was investigated by the Commission's Bureau of Financial Institutions ("Bureau").

Having considered the application and the report of the Bureau, the Commission finds that the application meets the criteria in Chapter 18 of Title 6.1 of the Code of Virginia.

THEREFORE, the license requested in the application is GRANTED provided that the licensee begins business within one (1) year from this date and the licensee gives written notice to the Bureau stating the date business was begun within ten (10) days thereafter.

**CASE NO. BAN20021144  
NOVEMBER 15, 2002**

APPLICATION OF  
YVETTE B. BEHELER D/B/A PAYDAY LOANS OF VIRGINIA

For authority to conduct payday lending where a pawnbroking business is conducted

**ORDER GRANTING OTHER BUSINESS AUTHORITY**

Yvette B. Beheler d/b/a Payday Loans of Virginia (the "Company"), a licensed payday lender, has applied to the State Corporation Commission ("Commission"), pursuant to § 6.1-463 of the Code of Virginia, for authority to conduct business where a pawnbroking business is conducted. The application was investigated by the Commission's Bureau of Financial Institutions ("Bureau").

Having considered the application and the Bureau's report, the Commission finds that the application should be granted subject to the following conditions:

1. The Company shall not make a payday loan to enable a borrower to repay any amount the borrower owes to the pawnbroker.
2. The pawnbroker shall not make a loan to enable a person to repay any amount owed to the Company.
3. The Company shall not make a payday loan to enable a borrower to pay any part of the purchase price of personal property offered for sale by the pawnbroker.
4. The Company and the pawnbroker shall not both make loans to a borrower contemporaneously or in response to a single request for a loan.
5. Both companies shall comply with all federal and state laws and regulations applicable to the conduct of their business.
6. Each company shall maintain books and records for its business separate and apart from the books and records of the other company's business, and in a separate place at the business location(s). The Bureau of Financial Institutions shall be given access to all such books and records, and be furnished with such information and records as it may require in order to assure compliance with this Order.
7. Violation of any provision of this Order may result in revocation of the authority hereby conferred.

**CASE NO. BAN20021145  
NOVEMBER 27, 2002**

APPLICATION OF  
YVETTE B. BEHELER D/B/A PAYDAY LOANS OF VIRGINIA

For authority to conduct Payday lending where a retail sales business is conducted

**ORDER GRANTING OTHER BUSINESS AUTHORITY**

Yvette B. Beheler d/b/a Payday Loans of Virginia (the "Company"), a licensed payday lender, has applied to the State Corporation Commission ("Commission"), pursuant to § 6.1-463 of the Code of Virginia, for authority to conduct her business in offices where a retail sales business is located. The application was investigated by the Commission's Bureau of Financial Institutions ("Bureau").

Having considered the application and the Bureau's report, the Commission finds that the application should be granted subject to the following conditions:

1. The Licensee shall not make a payday loan to enable a borrower to purchase a product from the retailer operating at the locations of the Licensee.
2. Both the Licensee and the other business shall comply with all federal and state laws and regulations applicable to the conduct of their business.
3. The Licensee and the other business shall maintain books and records and in a separate place at the business locations. The Bureau of Financial Institutions shall be given access to all such books and records and be furnished with such information and records as it may require in order to assure compliance with this Order.
4. Violation of any provision of this Order may result in revocation of the authority hereby conferred.

**CASE NO. BAN20021150  
SEPTEMBER 10, 2002**

APPLICATION OF  
DARRELL L. PAYNE D/B/A PAYNE'S CHECK CASHING

For a license to engage in business as a payday lender

**ORDER GRANTING A LICENSE**

Darrell L. Payne d/b/a Payne's Check Cashing has applied to the State Corporation Commission ("Commission"), pursuant to § 6.1-447 of the Code of Virginia, for a license to engage in the business of payday lending at: (1) 727 N. Main Street, Culpeper, Virginia 22701; (2) 816 Cherry Avenue, Charlottesville, Virginia 22903; and (3) 81 South Carlton Street, Harrisonburg, Virginia 22801. The application was investigated by the Commission's Bureau of Financial Institutions ("Bureau").

Having considered the application and the report of the Bureau, the Commission finds that the application meets the criteria in Chapter 18 of Title 6.1 of the Code of Virginia.

THEREFORE, the license requested in the application is GRANTED provided that the licensee begins business within one (1) year from this date and the licensee gives written notice to the Bureau stating the date business was begun within ten (10) days thereafter.

**CASE NO. BAN20021151  
SEPTEMBER 30, 2002**

APPLICATION OF  
DARRELL L. PAYNE D/B/A PAYNE'S CHECK CASHING

For authority to conduct other business in his payday lending offices

**ORDER GRANTING OTHER BUSINESS AUTHORITY**

Darrell L. Payne d/b/a Payne's Check Cashing (the "Company"), a licensed payday lender, has applied to the State Corporation Commission ("Commission"), pursuant to § 6.1-463 of the Code of Virginia, for authority to conduct business as an agent of a money order seller/money transmitter in the Company's payday lending offices. The Company will also be engaged in the check cashing business as permitted by statute. The application was investigated by the Commission's Bureau of Financial Institutions ("Bureau").

Having considered the application and the Bureau's report, the Commission finds that the application should be granted subject to the following conditions:

1. The Company shall not make a payday loan to a borrower to enable the borrower to purchase, or pay a fee related to money orders, money transmission, or check cashing services available at the Company's business locations.
2. The Company shall comply with all federal and state laws and regulations applicable to its money order sales, money transmission, and check cashing business.
3. The Company shall be and remain a party to a written agreement to act as an agent for a person licensed to sell money orders and engage in the money transmission business, who is in good standing with the Bureau of Financial Institutions, under Title 6.1, Chapter 12 of the Code of Virginia ("money order seller/money transmitter licensee"). The Company shall not engage in money order sales or money transmission services on its own behalf or on behalf of any person other than a money order seller/money transmitter licensee with whom it has a written agency agreement.
4. The Company shall maintain books and records for the money order sales, money transmission, and check cashing business separate and apart from its payday lending business and in a different location within the business location. The Bureau of Financial Institutions shall be

given access to all such books and records and be furnished with such information and records as it may require in order to assure compliance with these conditions as well as all applicable laws and regulations.

5. Violation of any condition contained in this Order may result in revocation of the authority hereby conferred.

**CASE NO. BAN20021152  
OCTOBER 25, 2002**

APPLICATION OF  
BAREHUT, INC. D/B/A SPEEDY CASH

For a license to engage in business as a payday lender

**ORDER GRANTING A LICENSE**

Barehut, Inc. d/b/a Speedy Cash, a North Carolina corporation, has applied to the State Corporation Commission ("Commission") for a license to engage in the business of payday lending at 853 West Stuart Drive, Hillsville, Virginia 24343. The application was investigated by the Commission's Bureau of Financial Institutions ("Bureau").

Having considered the application and the report of the Bureau, the Commission finds that the application meets the criteria in Chapter 18 of Title 6.1 of the Code of Virginia.

THEREFORE, the license requested in the application is GRANTED provided that the licensee begins business within one (1) year from this date and the licensee gives written notice to the Bureau stating the date business was begun within ten (10) days thereafter.

**CASE NO. BAN20021154  
AUGUST 29, 2002**

APPLICATION OF  
UNIVERSAL CREDIT CORPORATION OF VA D/B/A THE CASH COMPANY OF BRISTOL, VA

For a license to engage in business as a payday lender

**ORDER GRANTING A LICENSE**

Universal Credit Corporation of VA d/b/a The Cash Company of Bristol, VA, a Virginia corporation, has applied to the State Corporation Commission ("Commission") for a license to engage in the business of payday lending at 3177 Lee Highway, Suite 4, Bristol, Virginia 24202. The application was investigated by the Commission's Bureau of Financial Institutions ("Bureau").

Having considered the application and the report of the Bureau, the Commission finds that the application meets the criteria in Chapter 18 of Title 6.1 of the Code of Virginia.

THEREFORE, the license requested in the application is GRANTED provided that the licensee begins business within one (1) year from this date and the licensee gives written notice to the Bureau stating the date business was begun within ten (10) days thereafter.

**CASE NO. BAN20021162  
SEPTEMBER 26, 2002**

APPLICATION OF  
APPOMATTOX FINANCIAL SERVICES, L.L.C.

For authority to conduct other business in its payday lending office

**ORDER GRANTING OTHER BUSINESS AUTHORITY**

Appomattox Financial Services, L.L.C. (the "Company"), a licensed payday lender, has applied to the State Corporation Commission ("Commission"), pursuant to § 6.1-463 of the Code of Virginia, for authority to conduct business as an agent of a money order seller/money transmitter in the company's payday lending office. The Company will also be engaged in the check cashing business, as permitted by statute. The application was investigated by the Commission's Bureau of Financial Institutions ("Bureau").

Having considered the application and the Bureau's report, the Commission finds that the application should be granted subject to the following conditions:

1. The Company shall not make a payday loan to a borrower to enable the borrower to purchase or pay a fee related to money orders, money transmission, or check cashing services available at the Company's business location.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

2. The Company shall comply with all federal and state laws and regulations applicable to its money order sales, money transmission, and check cashing business.
3. The Company shall be and remain a party to a written agreement to act as an agent for a person licensed to sell money orders and engage in the money transmission business, who is in good standing with the Bureau of Financial Institutions, under Title 6.1, Chapter 12 of the Code of Virginia ("money order seller/money transmitter licensee"). The Company shall not engage in money order sales or money transmission services on its own behalf or on behalf of any person other than a money order seller/money transmitter licensee with whom it has a written agency agreement.
4. The Company shall maintain books and records for the money order sales, money transmission, and check cashing business separate and apart from its payday lending business and in a different location within the business location. The Bureau of Financial Institutions shall be given access to all such books and records and be furnished with such information and records as it may require in order to assure compliance with these conditions as well as all applicable laws and regulations.
5. Violation of any condition contained in this Order may result in revocation of the authority hereby conferred.

**CASE NO. BAN20021182  
AUGUST 16, 2002**

APPLICATION OF  
CHECK 'N GO OF VIRGINIA, INC. D/B/A CHECK 'N GO

For authority to establish an additional office

**ORDER GRANTING A LICENSE FOR AN ADDITIONAL OFFICE**

Check 'n Go of Virginia, Inc. d/b/a Check 'n Go, has applied to the State Corporation Commission ("Commission") for authority to establish an additional office at 5461 Wesleyan Drive, Suite 105, Virginia Beach, Virginia 23455. The application was investigated by the Commission's Bureau of Financial Institutions ("Bureau").

Having considered the application and the report of the Bureau, the Commission finds that the application meets the criteria in Chapter 18 of Title 6.1 of the Code of Virginia.

THEREFORE, the license requested in the application is GRANTED provided that the licensee opens the said office within one (1) year from this date and the licensee gives written notice to the Bureau stating the date business was begun within ten (10) days thereafter.

**CASE NO. BAN20021242  
OCTOBER 30, 2002**

APPLICATION OF  
EXPRESS CHECK ADVANCE OF VIRGINIA, LLC D/B/A EXPRESS CHECK ADVANCE

For a license to engage in business as a payday lender

**ORDER GRANTING A LICENSE**

Express Check Advance of Virginia, LLC d/b/a Express Check Advance, a Tennessee limited liability company, has applied to the State Corporation Commission ("Commission") for a license to engage in the business of payday lending at: (1) 5850 Churchland Boulevard, Portsmouth, Virginia 23703; (2) 1106 West Mercury Boulevard, Hampton, Virginia 23666; and (3) 3877 Holland Road, Suite 404, Virginia Beach, Virginia 23452. The application was investigated by the Commission's Bureau of Financial Institutions ("Bureau").

Having considered the application and the report of the Bureau, the Commission finds that the application meets the criteria in Chapter 18 of Title 6.1 of the Code of Virginia.

THEREFORE, the license requested in the application is GRANTED provided that the licensee begins business within one (1) year from this date and the licensee gives written notice to the Bureau stating the date business was begun within ten (10) days thereafter.

**CASE NO. BAN20021549  
OCTOBER 11, 2002**

APPLICATION OF  
CASH 'TIL PAYDAY, LLC (USED IN VA BY: ADVANCE, LLC)

For a license to engage in business as a payday lender

**ORDER GRANTING A LICENSE**

Cash 'Til Payday, LLC (Used in VA by: Advance, LLC), an Illinois limited liability company, has applied to the State Corporation Commission ("Commission") for a license to engage in the business of payday lending at 2538-B South Crater Road, Petersburg, Virginia 23805; and 4311 Nine Mile Road, Richmond, Virginia 23223. The application was investigated by the Commission's Bureau of Financial Institutions ("Bureau").

Having considered the application and the report of the Bureau, the Commission finds that the application meets the criteria in Chapter 18 of Title 6.1 of the Code of Virginia.

THEREFORE, the license requested in the application is GRANTED provided that the licensee begins business within one (1) year from this date and the licensee gives written notice to the Bureau stating the date business was begun within ten (10) days thereafter.

**CASE NO. BAN20021559  
DECEMBER 19, 2002**

APPLICATION OF  
EXTOL CORPORATION, INC. D/B/A QUICK CHECK: CASH ADVANCE

For authority to conduct payday lending where a health spa and personal appearance services businesses are conducted

**ORDER GRANTING OTHER BUSINESS AUTHORITY**

Extol Corporation, Inc. d/b/a Quick Check: Cash Advance (the "Company"), a licensed payday lender, has applied to the State Corporation Commission ("Commission"), pursuant to § 6.1-463 of the Code of Virginia, for authority to conduct business where a health spa and personal appearance services businesses are conducted. The application was investigated by the Commission's Bureau of Financial Institutions ("Bureau").

Having considered the application and the Bureau's report, the Commission finds that the application should be granted subject to the following conditions:

1. The Company shall not make a payday loan to a borrower to enable the borrower to pay a fee related to health spa or personal appearance services available at the company's business location.
2. The company shall maintain books and records for its payday lending business separate and apart from the books and records of its other businesses and in a separate place at the business location(s). The Bureau shall be given access to all such books and records and be furnished with such information and records as it may require in order to assure compliance with this Order.
3. Violation of any provision of this Order may result in revocation of the authority hereby conferred.

**CASE NO. BAN20021582  
NOVEMBER 27, 2002**

APPLICATION OF  
HIGHLANDS VENTURE FINANCIAL, L.L.C. D/B/A CASH AMERICA

For a license to engage in business as a payday lender

**ORDER GRANTING A LICENSE**

Highlands Venture Financial, L.L.C. d/b/a Cash America, a Virginia limited liability company, has applied to the State Corporation Commission ("Commission") for a license to engage in the business of payday lending at: (1) 3124 Lee Highway, Bristol, Virginia 24202; (2) 1505 Williamson Road, Roanoke, Virginia 24012; and (3) 2401 S. Main Street, Blacksburg, Virginia 24060. The application was investigated by the Commission's Bureau of Financial Institutions ("Bureau").

Having considered the application and the report of the Bureau, the Commission finds that the application meets the criteria in Chapter 18 of Title 6.1 of the Code of Virginia.

THEREFORE, the license requested in the application is GRANTED provided that the licensee begins business within one (1) year from this date and the licensee gives written notice to the Bureau stating the date business was begun within ten (10) days thereafter.

**CASE NO. BAN20021589  
NOVEMBER 6, 2002**

APPLICATION OF  
ANYKIND CHECK CASHING, LC, D/B/A CHECK CITY

For authority to conduct other business in its payday offices

**ORDER GRANTING OTHER BUSINESS AUTHORITY**

Anyking Check Cashing, LC d/b/a Check City (the "Company"), a licensed payday lender, has applied to the State Corporation Commission ("Commission"), pursuant to § 6.1-463 of the Code of Virginia, for authority to conduct business as an agent of a money order seller/money transmitter in the Company's payday lending offices. The Company will also be engaged in the check cashing business as permitted by statute. The application was investigated by the Commission's Bureau of Financial Institutions ("Bureau").

Having considered the application and the Bureau's report, the Commission finds that the application should be granted subject to the following conditions:

1. The Company shall not make a payday loan to a borrower to enable the borrower to purchase or pay a fee related to money orders, money transmission, or check cashing services available at the Company's business locations.
2. The Company shall comply with all federal and state laws and regulations applicable to its money order sales, money transmission, and check cashing business.
3. The Company shall be and remain a party to a written agreement to act as an agent for a person licensed to sell money orders and engage in the money transmission business, who is in good standing with the Bureau of Financial Institutions, under Chapter 12, Title 6.1 of the Code of Virginia ("money order seller/money transmitter licensee"). The Company shall not engage in money order sales or money transmission services on its own behalf or on behalf of any person other than a money order seller/money transmitter licensee with whom it has a written agency agreement.
4. The Company shall maintain books and records for the money order sales, money transmission, and check cashing business separate and apart from its payday lending business and in a different location within the business location. The Bureau of Financial Institutions shall be given access to all such books and records and be furnished with such information and records as it may require in order to assure compliance with these conditions as well as all applicable laws and regulations.
5. Violation of any condition contained in this Order may result in revocation of the authority hereby conferred.

**CASE NO. BAN20021597  
NOVEMBER 26, 2002**

APPLICATION OF  
F & L MARKETING ENTERPRISES LLC D/B/A CASH-2-U PAYDAY LOANS

For a license to engage in business as a payday lender

**ORDER GRANTING A LICENSE**

F & L Marketing Enterprises LLC d/b/a Cash-2-U Payday Loans, a Delaware limited liability company, has applied to the State Corporation Commission ("Commission") for a license to engage in the business of payday lending at: (1) 3131 Mechanicsville Turnpike, Richmond, Virginia 23223; (2) 6100 Midlothian Turnpike, Richmond, Virginia 23225; (3) 2515 West Mercury Boulevard, Hampton, Virginia 23666; and (4) 2711 West Broad Street, Richmond, Virginia 23230. The application was investigated by the Commission's Bureau of Financial Institutions ("Bureau").

Having considered the application and the report of the Bureau, the Commission finds that the application meets the criteria in Chapter 18 of Title 6.1 of the Code of Virginia.

THEREFORE, the license requested in the application is GRANTED provided that the licensee begins business within one (1) year from this date and the licensee gives written notice to the Bureau stating the date business was begun within ten (10) days thereafter.

**CASE NO. BAN20021609  
OCTOBER 17, 2002**

APPLICATION OF  
MICHAEL L. VAUGHAN D/B/A VAUGHAN'S PAYDAY LENDING SERVICE

For a license to engage in business as a payday lender

**ORDER GRANTING A LICENSE**

Michael L. Vaughan d/b/a Vaughan's Payday Lending Service has applied to the State Corporation Commission ("Commission") for a license to engage in the business of payday lending at 2713 Park Crescent, Norfolk, Virginia 23504. The application was investigated by the Commission's Bureau of Financial Institutions ("Bureau").

Having considered the application and the report of the Bureau, the Commission finds that the application meets the criteria in Chapter 18 of Title 6.1 of the Code of Virginia.

THEREFORE, the license requested in the application is GRANTED provided that the licensee begins business within one (1) year from this date and the licensee gives written notice to the Bureau stating the date business was begun within ten (10) days thereafter.

**CASE NO. BAN20021690  
NOVEMBER 27, 2002**

APPLICATION OF  
MINI MART III, INC.

For a license to engage in business as a payday lender

**ORDER GRANTING A LICENSE**

Mini Mart III, Inc., a Virginia corporation, has applied to the State Corporation Commission ("Commission") for a license to engage in the business of payday lending at 4817 Columbia Pike, Arlington, Virginia 22204. The application was investigated by the Commission's Bureau of Financial Institutions ("Bureau").

Having considered the application and the report of the Bureau, the Commission finds that the application meets the criteria in Chapter 18 of Title 6.1 of the Code of Virginia.

THEREFORE, the license requested in the application is GRANTED provided that the licensee begins business within one (1) year from this date and the licensee gives written notice to the Bureau stating the date business was begun within ten (10) days thereafter.

**CASE NO. BAN20021694  
DECEMBER 10, 2002**

APPLICATION OF  
MINI MART III, INC.

For authority to conduct other business in its payday lending offices

**ORDER GRANTING OTHER BUSINESS AUTHORITY**

Mini Mart III, Inc. (the "Company"), a licensed payday lender, has applied to the State Corporation Commission ("Commission"), pursuant to § 6.1-463 of the Code of Virginia, for authority to conduct business as an agent of a money order seller/money transmitter in the Company's payday lending offices. The Company will also be engaged in the check cashing business as permitted by statute. The application was investigated by the Commission's Bureau of Financial Institutions ("Bureau").

Having considered the application and the Bureau's report, the Commission finds that the application should be granted subject to the following conditions:

1. The Company shall not make a payday loan to a borrower to enable the borrower to purchase or pay a fee related to money orders, money transmission, or check cashing services available at the Company's business locations.
2. The Company shall comply with all federal and state laws and regulations applicable to its money order sales, money transmission, and check cashing businesses.
3. The Company shall be and remain a party to a written agreement to act as an agent for a person licensed to sell money orders and engage in the money transmission business, who is in good standing with the Bureau of Financial Institutions, under Chapter 12, Title 6.1 of the Code of Virginia ("money order seller/money transmitter licensee"). The Company shall not engage in money order sales or money transmission



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services on its own behalf or on behalf of any person other than a money order seller/money transmitter licensee with whom it has a written agency agreement.

4. The Company shall maintain books and records for the money order sales, money transmission, and check cashing business separate and apart from its payday lending business and in a different location within the business location. The Bureau of Financial Institutions shall be given access to all such books and records and be furnished with such information and records as it may require in order to assure compliance with these conditions as well as all applicable laws and regulations.
5. Violation of any condition contained in this Order may result in revocation of the authority hereby conferred.

**CASE NO. BAN20021703  
OCTOBER 25, 2002**

APPLICATION OF  
CRUSADER CASH ADVANCE OF VIRGINIA, LLC

For a license to engage in business as a payday lender

**ORDER GRANTING A LICENSE**

Crusader Cash Advance of Virginia, LLC, a Tennessee limited liability company, has applied to the State Corporation Commission ("Commission") for a license to engage in the business of payday lending at 5508-C Fort Avenue, Lynchburg, Virginia 24502. The application was investigated by the Commission's Bureau of Financial Institutions ("Bureau").

Having considered the application and the report of the Bureau, the Commission finds that the application meets the criteria in Chapter 18 of Title 6.1 of the Code of Virginia.

THEREFORE, the license requested in the application is GRANTED provided that the licensee begins business within one (1) year from this date and the licensee gives written notice to the Bureau stating the date business was begun within ten (10) days thereafter.

**CASE NO. BAN20021708  
NOVEMBER 21, 2002**

APPLICATION OF  
J&J CASH CORPORATION

For a license to engage in business as a payday lender

**ORDER GRANTING A LICENSE**

J&J Cash Corporation, a Virginia corporation, has applied to the State Corporation Commission ("Commission") for a license to engage in the business of payday lending at 4710 Columbia Pike, Arlington, Virginia 22204; and 6011 Leesburg Pike, Falls Church, Virginia 22041. The application was investigated by the Commission's Bureau of Financial Institutions ("Bureau").

Having considered the application and the report of the Bureau, the Commission finds that the application meets the criteria in Chapter 18 of Title 6.1 of the Code of Virginia.

THEREFORE, the license requested in the application is GRANTED provided that the licensee begins business within one (1) year from this date and the licensee gives written notice to the Bureau stating the date business was begun within ten (10) days thereafter.

**CASE NO. BAN20021709  
NOVEMBER 6, 2002**

APPLICATION OF  
CASH CORPORATION

For a license to engage in business as a payday lender

**ORDER GRANTING A LICENSE**

Cash Corporation, a Virginia corporation, has applied to the State Corporation Commission ("Commission") for a license to engage in the business of payday lending at 7220 Arlington Boulevard, Falls Church, Virginia 22042. The application was investigated by the Commission's Bureau of Financial Institutions ("Bureau").

Having considered the application and the report of the Bureau, the Commission finds that the application meets the criteria in Chapter 18 of Title 6.1 of the Code of Virginia.

THEREFORE, the license requested in the application is GRANTED provided that the licensee begins business within one (1) year from this date and the licensee gives written notice to the Bureau stating the date business was begun within ten (10) days thereafter.

**CASE NO. BAN20021730  
NOVEMBER 26, 2002**

APPLICATION OF  
EZ LOANS OF VIRGINIA, INC.

For a license to engage in business as a payday lender

**ORDER GRANTING A LICENSE**

EZ Loans of Virginia, Inc., a Virginia corporation, has applied to the State Corporation Commission ("Commission") for a license to engage in the business of payday lending at Oak Hall Marketplace, Route 13 and Virginia Route 175, Oak Hall, Virginia 23316. The application was investigated by the Commission's Bureau of Financial Institutions ("Bureau").

Having considered the application and the report of the Bureau, the Commission finds that the application meets the criteria in Chapter 18 of Title 6.1 of the Code of Virginia.

THEREFORE, the license requested in the application is GRANTED provided that the licensee begins business within one (1) year from this date and the licensee gives written notice to the Bureau stating the date business was begun within ten (10) days thereafter.

**CASE NO. BAN20021809  
DECEMBER 10, 2002**

APPLICATION OF  
BRISTOL'S E-Z CASH ADVANCE, LLC

For a license to engage in business as a payday lender

**ORDER GRANTING A LICENSE**

Bristol's E-Z Cash Advance, LLC, a Tennessee limited liability company, has applied to the State Corporation Commission ("Commission") for a license to engage in the business of payday lending at 1010 W. Main Street, Abingdon, Virginia 24212. The application was investigated by the Commission's Bureau of Financial Institutions ("Bureau").

Having considered the application and the report of the Bureau, the Commission finds that the application meets the criteria in Chapter 18 of Title 6.1 of the Code of Virginia.

THEREFORE, the license requested in the application is GRANTED provided that the licensee begins business within one (1) year from this date and the licensee gives written notice to the Bureau stating the date business was begun within ten (10) days thereafter.

**CASE NO. BAN20021820  
NOVEMBER 27, 2002**

APPLICATION OF  
CASH CONNECTION INC. D/B/A CHECKS CASHED

For a license to engage in business as a payday lender

**ORDER GRANTING A LICENSE**

Cash Connection Inc. d/b/a Checks Cashed, a Virginia corporation, has applied to the State Corporation Commission ("Commission") for a license to engage in the business of payday lending at 6332 Springfield Plaza, Springfield, Virginia 22150. The application was investigated by the Commission's Bureau of Financial Institutions ("Bureau") and meets the criteria in Chapter 18 of Title 6.1 of the Code of Virginia.

THEREFORE, under authority delegated by the Commission, the license requested in this application is GRANTED, provided that the licensee begins business within one (1) year from this date, and the licensee gives written notice to the Bureau stating the date business was begun within ten (10) days thereafter.

**CASE NO. BAN2002-1863  
DECEMBER 17, 2002**

APPLICATION OF  
CASH CORPORATION

For authority to conduct other business in its payday lending offices

**ORDER GRANTING OTHER BUSINESS AUTHORITY**

Cash Corporation (the "Company"), a licensed payday lender, has applied to the State Corporation Commission ("Commission"), pursuant to § 6.1-463 of the Code of Virginia, for authority to conduct business as an agent of a money order seller/money transmitter in the Company's payday lending offices. The Company will also be engaged in the check cashing business as permitted by statute. The application was investigated by the Commission's Bureau of Financial Institutions ("Bureau").

Having considered the application and the Bureau's report, the Commission finds that the application should be granted subject to the following conditions:

1. The Company shall not make a payday loan to a borrower to enable the borrower to purchase or pay a fee related to money orders, money transmission, or check cashing services available at the Company's business locations.
2. The Company shall comply with all federal and state laws and regulations applicable to its money order sales, money transmission, and check cashing businesses.
3. The Company shall be and remain a party to a written agreement to act as an agent for a person licensed to sell money orders and engage in the money transmission business, who is in good standing with the Bureau under Chapter 12, Title 6.1 of the Code of Virginia ("money order seller/money transmitter licensee"). The Company shall not engage in money order sales or money transmission services on its own behalf or on behalf of any person other than a money order seller/money transmitter licensee with whom it has a written agency agreement.
4. The Company shall maintain books and records for the money order sales, money transmission, and check cashing business separate and apart from its payday lending business and in a different location within the business location. The Bureau of Financial Institutions shall be given access to all such books and records and be furnished with such information and records as it may require in order to assure compliance with these conditions as well as all applicable laws and regulations.
5. Violation of any condition contained in this Order may result in revocation of the authority hereby conferred.

**CASE NO. BAN2002-1943  
DECEMBER 10, 2002**

APPLICATION OF  
CASH CONNECTION INC. D/B/A CHECKS CASHED VA

For authority to conduct other business in its payday lending offices

**ORDER GRANTING OTHER BUSINESS AUTHORITY**

Cash Connection Inc. d/b/a Checks Cashed VA (the "Company"), a licensed payday lender, has applied to the State Corporation Commission ("Commission"), pursuant to § 6.1-463 of the Code of Virginia, for authority to conduct business as an agent of a money order seller/money transmitter in the Company's payday lending offices. The Company will also be engaged in the check cashing business as permitted by statute. The application was investigated by the Commission's Bureau of Financial Institutions ("Bureau").

Having considered the application and the Bureau's report, the Commission finds that the application should be granted subject to the following conditions:

1. The Company shall not make a payday loan to a borrower to enable the borrower to purchase or pay a fee related to money orders, money transmission, or check cashing services available at the Company's business locations.
2. The Company shall comply with all federal and state laws and regulations applicable to its money order sales, money transmission, and check cashing businesses.
3. The Company shall be and remain a party to a written agreement to act as an agent for a person licensed to sell money orders and engage in the money transmission business, who is in good standing with the Bureau under Chapter 12, Title 6.1 of the Code of Virginia ("money order seller/money transmitter licensee"). The Company shall not engage in money order sales or money transmission services on its own behalf or on behalf of any person other than a money order seller/money transmitter licensee with whom it has a written agency agreement.

4. The Company shall maintain books and records for the money order sales, money transmission, and check cashing business separate and apart from its payday lending business and in a different location within the business location. The Bureau of Financial Institutions shall be given access to all such books and records and be furnished with such information and records as it may require in order to assure compliance with these conditions as well as all applicable laws and regulations.
5. Violation of any condition contained in this Order may result in revocation of the authority hereby conferred.

**CASE NO. BAN20021977  
NOVEMBER 22, 2002**

APPLICATION OF  
TRANSCOMMUNITY BANKSHARES INCORPORATED

To acquire Bank of Goochland, N. A.

**ORDER OF APPROVAL**

TransCommunity Bankshares Incorporated, a Virginia financial institution holding company, has filed with the State Corporation Commission ("Commission") the application required by § 6.1-383.1 of the Code of Virginia to acquire all the voting shares of Bank of Goochland, N. A., an organizing Virginia bank. The Bureau of Financial Institutions ("Bureau") investigated the proposed acquisition.

Having considered the application and the report of the Bureau, the Commission finds that the requirements in § 6.1-383.2 of the Code are met.

THEREFORE, the Commission approves the acquisition of all the voting shares of Bank of Goochland, N. A. by TransCommunity Bankshares Incorporated, provided the acquisition takes place within one (1) year from this date and the applicant notifies the Bureau of the effective date within ten (10) days thereof.

**CASE NO. BAN20022085  
DECEMBER 23, 2002**

APPLICATION OF  
CHECK ADVANCE OF VIRGINIA, LLC D/B/A PAY DAY USA

For a license to engage in business as a payday lender

**ORDER GRANTING A LICENSE**

Check Advance of Virginia, LLC d/b/a Pay Day USA, a Tennessee limited liability company, has applied to the State Corporation Commission ("Commission") for a license to engage in the business of payday lending at: (1) 221 Carlton Road, Suite 11, Charlottesville, Virginia 22902; (2) 3304 Williamson Road, Roanoke, Virginia 24012; (3) 707 Fort Collier Road, Unit C, Winchester, Virginia 22601; and (4) 105 Mall Road, Suite 121, Covington, Virginia 24426. The application was investigated by the Commission's Bureau of Financial Institutions ("Bureau").

Having considered the application and the report of the Bureau, the Commission finds that the application meets the criteria in Chapter 18 of Title 6.1 of the Code of Virginia.

THEREFORE, the license requested in the application is GRANTED provided that the licensee begins business within one (1) year from this date and the licensee gives written notice to the Bureau stating the date business was begun within ten (10) days thereafter.

**CASE NO. BAN20022257  
DECEMBER 18, 2002**

APPLICATION OF  
EXTOL CORPORATION, INC. D/B/A QUICK CHECK: CASH ADVANCE

For authority to conduct payday lending where a retail sales and rental business is conducted

**ORDER GRANTING OTHER BUSINESS AUTHORITY**

Extol Corporation, Inc. d/b/a Quick Check: Cash Advance (the "Company"), a licensed payday lender, has applied to the State Corporation Commission ("Commission"), pursuant to § 6.1-463 of the Code of Virginia, for authority to conduct business in offices where a retail sales and rental business is conducted. The application was investigated by the Commission's Bureau of Financial Institutions ("Bureau").

Having considered the application and the Bureau's report, the Commission finds that the application should be granted subject to the following conditions:

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

1. The Company shall not make a payday loan to a borrower to enable the borrower to purchase a product or pay a rental fee at the company's business location.
2. The Company shall comply with all federal and state laws and regulations applicable to the conduct of its retail sales and rental business.
3. The Company shall maintain books and records for the retail sales and rental business separate and apart from its payday lending business and in a different location within the business location. The Bureau shall be given access to all such books and records and be furnished with such information and records as it may require in order to assure compliance with these conditions as well as all applicable laws and regulations.
4. Violation of any provision of this Order may result in revocation of the authority hereby conferred.

**CASE NO. BFI990002  
MARCH 29, 2002**

IN THE MATTER OF  
THE NANSEMOND CREDIT UNION, INCORPORATED

**ORDER TERMINATING A CONSERVATORSHIP**

On February 3, 1999, the State Corporation Commission ("Commission") entered a Conservatorship Order in this case under which, among other things, E. Joseph Face, Jr., Commissioner of Financial Institutions ("Commissioner") was appointed conservator for The Nansemond Credit Union, Incorporated ("Nansemond") upon a Petition and evidence then presented. Upon entry of said Order, the Commissioner took charge of the property, affairs and management of Nansemond, and an interim managing board of directors was established consisting of the Commissioner and certain other employees of the Commission.

The Commissioner has now reported to the Commission that Nansemond's financial condition has stabilized and that its business is being conducted in a proper and profitable fashion by a competent manager overseen by a well-informed and committed board of directors elected by its membership in May 2001, and he recommends that the conservatorship be terminated.

Accordingly, IT IS ORDERED THAT:

- (1) The Commissioner is discharged as conservator of Nansemond, and he is relieved of further responsibility for its affairs and management.
- (2) All actions of the Commissioner and the other Commission employee members of the interim managing board of directors relating to the conservatorship are approved.
- (3) The interim managing board of directors is dissolved.
- (4) Management of the property and affairs of Nansemond is hereby revested in its duly elected and appointed board of directors and officers.
- (5) This case is dismissed, and the papers herein shall be placed among the ended cases.

**CASE NO. BFI010208  
JANUARY 30, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION

v.

FOUNDATION FUNDING GROUP, INC. D/B/A GREATSTONE MORTGAGE,  
Defendant

**ORDER REVOKING A LICENSE**

ON A FORMER DAY, the Commissioner of Financial Institutions ("Commissioner") reported to the State Corporation Commission ("Commission") that the Defendant is licensed to engage in business as a mortgage lender under Chapter 16 of Title 6.1 of the Code of Virginia; that the bond filed by the Defendant pursuant to § 6.1-413 of the Code of Virginia was cancelled on October 26, 2001; that the Commissioner, pursuant to delegated authority, gave written notice to the Defendant by certified mail on October 29, 2001, (1) of his intention to recommend revocation of its license unless a new bond was filed by November 17, 2001, and (2) that a written request for hearing was required to be filed in the office of the Clerk on or before November 10, 2001; and that no new bond or written request for hearing was received or filed.

Accordingly, the Commission finds that the Defendant has failed to maintain its bond in force as required by law, and

IT IS ORDERED that the license granted to the Defendant to engage in business as a mortgage lender is hereby revoked.

**CASE NO. BFI020003  
FEBRUARY 20, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION

v.

SOUTHLAND LOG HOMES MORTGAGE COMPANY, LLC,  
Defendant

**ORDER REINSTATING A LICENSE**

On October 30, 2001, in Case No. BFI010169, the State Corporation Commission ("Commission") entered an Order revoking the mortgage broker license issued to the defendant under Chapter 16 of Title 6.1 of the Code of Virginia. Thereafter, the Staff reported to the Commission that the defendant's license was revoked wrongly due to circumstances beyond its control.

Accordingly, IT IS ORDERED that the Defendant's license to engage in business as a mortgage broker is reinstated retroactive to October 30, 2001, and that the Order entered on that date in Case No. BFI010169 revoking the Defendant's license shall be deemed a nullity for all purposes.

**CASE NO. BFI020004  
MARCH 12, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION

Ex Parte: In re: proposed regulation relating to examination and investigation of mortgage lender and broker licensees

**ORDER TO TAKE NOTICE**

WHEREAS, § 6.1-419 of the Mortgage Lender and Broker Act ("Act"), §§ 6.1-408 *et seq.* of the Code of Virginia, authorizes the State Corporation Commission ("Commission") to investigate and examine the affairs, business, and records of any licensed mortgage lender or broker, and to compel the production of papers and objects of all kinds; and

WHEREAS, § 6.1-421 of the Act authorizes the Commission to adopt such regulations as it deems appropriate to effect the purposes of the Act; and

WHEREAS, the Bureau of Financial Institutions has proposed a regulation that will compel, upon request, the production of a written response to the Bureau of Financial Institutions as well as any requested books, records, documentation, or information within either the time period specified therein or thirty days of the request;

IT IS THEREFORE ORDERED THAT:

(1) The proposed regulation, entitled "Responding to Requests from Bureau of Financial Institutions," is appended hereto and made a part of the record herein.

(2) On or before April 22, 2002, any person desiring a hearing or to comment on the proposed regulation shall file a written request for hearing or written comments containing a reference to Case No. BFI020004, with the Clerk of the Commission, Document Control Center, P.O. Box 2118, Richmond, Virginia 23218.

(3) The proposed regulation shall be posted on the Commission's website at <http://www.state.va.us/scc/caseinfo/orders.htm>.

NOTE: A copy of Attachment A entitled "10 VAC 5-160-50. Responding to Requests from Bureau of Financial Institutions" is on file and may be examined at the State Corporation Commission, Clerk's Office, Document Control Center, Tyler Building, First Floor, 1300 East Main Street, Richmond, Virginia.

**CASE NO. BFI-2002-00004  
MAY 9, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION

Ex Parte: In re: proposed regulation relating to examination and investigation of mortgage lender and broker licensees

**ORDER ADOPTING A REGULATION**

By Order entered herein on March 12, 2002, the State Corporation Commission ("Commission") directed that notice be given of its proposal, acting pursuant to § 6.1-421 of the Code of Virginia, to promulgate a regulation applicable to mortgage lender and broker licensees. Notice of the proposed regulation was published in the Virginia Register on April 8, 2002, and the proposed regulation was posted on the Commission's website. Interested parties

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were afforded the opportunity to file written comments in favor of or against the proposal on or before April 22, 2002. Household Finance, by counsel, filed written comments suggesting certain additions to the proposed regulation.

The Commission, having considered the record, the proposed regulation, the written comments filed, and Staff recommendations, concludes that the proposed regulation should be modified in certain respects and that the modified regulation should be adopted.

THEREFORE, IT IS ORDERED THAT:

(1) Modified proposed 10 VAC 5-160-50 entitled "Responding to requests from Bureau of Financial Institutions" attached hereto is adopted effective as of the date of this Order.

(2) The modified proposed regulation shall be transmitted for publication in the Virginia Register.

(3) The Commissioner of Financial Institutions shall send a copy of the regulation to all mortgage lender and broker licensees.

(4) This case is dismissed, and the papers herein shall be placed among the ended cases.

NOTE: A copy of Attachment A entitled "10 VAC 5-160-50. Responding to requests from Bureau of Financial Institutions" is on file and may be examined at the State Corporation Commission, Clerk's Office, Document Control Center, Tyler Building, First Floor, 1300 East Main Street, Richmond, Virginia.

**CASE NO. BFI-2002-00009  
MAY 10, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION  
v.  
APPLE TREE MORTGAGE, INC.,  
Defendant

**ORDER REVOKING A LICENSE**

ON A FORMER DAY, the Commissioner of Financial Institutions ("Commissioner") reported to the State Corporation Commission ("Commission") that the Defendant is licensed to engage in business as a mortgage broker under Chapter 16 of Title 6.1 of the Code of Virginia; that the Defendant did not file its annual report due March 1, 2002, in accordance with § 6.1-418 of the Code of Virginia; that the Commissioner, pursuant to delegated authority, gave written notice to the Defendant by certified mail on April 15, 2002, (1) of his intention to recommend revocation of its license unless an annual report was received by May 7, 2002, and (2) that a written request for hearing was required to be filed in the office of the Clerk on or before April 30, 2002; and that no annual report or written request for hearing was received or filed.

Accordingly, the Commission finds that the Defendant has failed to file an annual report as required by law, and

IT IS ORDERED that the license granted to the Defendant to engage in business as a mortgage broker is hereby revoked.

**CASE NO. BFI-2002-00012  
MAY 28, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION

Ex Parte: In re: proposed payday lending regulations

**ORDER TO TAKE NOTICE**

WHEREAS, § 6.1-458 of the Payday Loan Act ("the Act"), §§ 6.1-444 *et seq.* of the Code of Virginia, authorizes the State Corporation Commission ("Commission") to adopt such regulations as it deems appropriate to effect the purposes of the Act; and

WHEREAS, the Bureau of Financial Institutions has proposed regulations that will define various terms used in the Act, clarify certain requirements and rules applicable to payday lending licensees and payday loans, and provide for the contents of a borrower rights and responsibilities pamphlet;

IT IS THEREFORE ORDERED THAT:

(1) The proposed payday lending regulations are appended hereto and made a part of the record herein.

(2) On or before June 20, 2002, any person desiring a hearing or to comment on the proposed regulations shall file a written request for hearing or written comments containing a reference to Case No. BFI-2002-00012, with the Clerk of the Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218.

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(3) If a request for hearing is filed with the Clerk, a hearing will be held on June 26, 2002, at 10:00 a.m. in the Commission Courtroom, 1300 East Main Street, Second Floor, Richmond, Virginia.

(4) The proposed regulations shall be posted on the Commission's website at the following address:

<http://www.state.va.us/scc/caseinfo/orders.htm>

(5) An attested copy hereof, together with a copy of the proposed regulation, shall be sent to the Registrar of Regulations for publication in the Virginia Register.

NOTE: A copy of Attachment A entitled "Chapter 200. Payday Lending" is on file and may be examined at the State Corporation Commission, Clerk's Office, Document Control Center, Tyler Building, First Floor, 1300 East Main Street, Richmond, Virginia.

**CASE NO. BFI-2002-00012  
JULY 18, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION

Ex Parte: In re: proposed payday lending regulations

**ORDER ADOPTING A REGULATION**

By Order entered herein on May 28, 2002, the State Corporation Commission ("Commission") directed that notice be given of its proposal, acting pursuant to § 6.1-458 of the Code of Virginia, to promulgate regulations to effect the purposes of the Payday Loan Act, § 6.1-444 *et seq.* of the Code of Virginia. Notice of the proposed regulations was published in the Virginia Register on June 17, 2002, and the proposed regulations were posted on the Commission's website. Interested parties were afforded the opportunity to request a hearing or to file written comments in favor of or against the proposal on or before June 20, 2002. The Commission received written comments, and a hearing was held on June 26, 2002.

The Commission, having considered the record, the proposed regulations, the written comments filed, and the testimony of interested parties concludes (1) that the proposed regulations should be modified in certain respects and that the modified regulations should be adopted, and (2) that a further amendment to the payday lending regulations relating to annual reports should be published for comment.

THEREFORE, IT IS ORDERED THAT:

(1) Modified proposed 10 VAC 5-200-10 *et seq.* attached hereto is adopted effective July 22, 2002.

(2) The modified regulations shall be posted on the Commission's website at <http://www.state.va.us/scc/caseinfo/orders.htm>.

(3) An attested copy hereof, together with a copy of the modified regulations, shall be sent to the Registrar of Regulations for publication in the Virginia Register.

(4) This case is continued generally on the Commission's docket.

NOTE: A copy of Attachment A entitled "Payday Lending" is on file and may be examined at the State Corporation Commission, Clerk's Office, Document Control Center, Tyler Building, First Floor, 1300 East Main Street, Richmond, Virginia.

**CASE NO. BFI-2002-00012  
JULY 18, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION

Ex Parte: In re: proposed payday lending regulations

**ORDER TO TAKE NOTICE**

On June 26, 2002, this matter came on for hearing pursuant to an Order entered by the State Corporation Commission ("Commission") on May 28, 2002. During the hearing, Ms. Jean Ann Fox, testifying on behalf of the Consumer Federation of America and the Virginia Citizens Consumer Council, proposed that the Commission, pursuant to § 6.1-454 of the Code of Virginia, publish an annual report detailing certain aggregate data relating to payday loans made by licensees during each calendar year. The Commission, in accordance with a finding in this case set forth in another Order entered this day, deems it proper to afford other interested parties an opportunity to comment on this proposal.

Accordingly, IT IS ORDERED THAT:

(1) An amendment designated 10 VAC 5-200-75 is appended hereto and made part of the record herein.



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(2) On or before August 26, 2002, any person desiring to comment on the proposed amendment shall file written comments containing a reference to Case No. BFI-2002-00012 with the Clerk of the Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218.

(3) The proposed amendment shall be posted on the Commission's website at: <http://www.state.va.us/scc/caseinfo/orders.htm>.

(4) An attested copy hereof, together with a copy of the proposed amendment, shall be sent to the Registrar of Regulations for publication in the Virginia Register.

(5) This case is continued generally on the Commission's docket.

NOTE: A copy of Attachment A entitled "Payday Lending" is on file and may be examined at the State Corporation Commission, Clerk's Office, Document Control Center, Tyler Building, First Floor, 1300 East Main Street, Richmond, Virginia.

**CASE NO. BFI-2002-00012  
DECEMBER 19, 2002**

COMMONWEALTH OF VIRGINIA, ex rel.  
STATE CORPORATION COMMISSION

Ex Parte: In re: proposed payday lending regulations

**ORDER ADOPTING A REGULATION**

By Order entered herein on July 18, 2002, the State Corporation Commission ("Commission") directed that notice be given of its proposal, acting pursuant to § 6.1-458 of the Code of Virginia, to promulgate a regulation setting forth the contents of the annual report required by § 6.1-454 of the Code of Virginia. Notice of the proposed regulation was published in the Virginia Register on August 12, 2002, and the proposed regulation was posted on the Commission's website. Interested parties were afforded the opportunity to request a hearing or to file written comments in favor of or against the proposal on or before September 3, 2002. The Commission received written comments and a request for a hearing, and pursuant to the Order entered herein on October 11, 2002, the Bureau of Financial Institutions ("Bureau") met with those who commented and narrowed the issues to be addressed at the hearing held on December 3, 2002. During the hearing, the Bureau submitted a stipulation containing the proposed regulation with certain changes that were agreed to by the Bureau and the parties who filed comments. The participants in the hearing did not object to the stipulation.

The Commission, having considered the record, the proposed regulation, the written comments filed, the testimony of interested parties, and the stipulation concludes that the proposed regulation should be modified in accordance with the stipulation and that the modified regulation should be adopted.

THEREFORE, IT IS ORDERED THAT:

(1) Modified proposed 10 VAC 5-200-75 attached hereto is adopted effective January 1, 2003.

(2) The modified regulation shall be posted on the Commission's website at <http://www.state.va.us/scc/caseinfo/orders.htm>.

(3) An attested copy hereof, together with a copy of the modified regulation, shall be sent to the Registrar of Regulations for publication in the Virginia Register.

(4) This case is dismissed, and the papers herein shall be placed among the ended cases.

NOTE: A copy of Attachment A entitled "10 VAC 5-20-75. Annual reporting requirements" is on file and may be examined at the State Corporation Commission, Clerk's Office, Document Control Center, Tyler Building, First Floor, 1300 East Main Street, Richmond, Virginia.

**CASE NO. BFI-2002-00014  
JULY 12, 2002**

COMMONWEALTH OF VIRGINIA, ex rel.  
STATE CORPORATION COMMISSION

Ex Parte: In re: proposed regulation relating to bank acquisitions of real estate brokerage subsidiaries

**ORDER TO TAKE NOTICE**

WHEREAS, subdivision B 3 of § 6.1-58.1 of the Virginia Banking Act, § 6.1-3 et seq. of the Code of Virginia, authorizes the State Corporation Commission ("Commission") to allow a controlled subsidiary corporation of a state-chartered bank to engage in any business that is authorized by statute, regulation, or official interpretation for a subsidiary of (i) a national bank or (ii) an out-of-state state bank; and

WHEREAS, it has been reported that numerous states currently permit banks or bank subsidiaries to engage in real estate brokerage activities; and

WHEREAS, the Bureau of Financial Institutions has proposed a regulation that will authorize, subject to application and approval, state-chartered banks to acquire controlled subsidiary corporations engaging in real estate brokerage activities;

## IT IS THEREFORE ORDERED THAT:

- (1) The proposed regulation is appended hereto and made a part of the record herein.
- (2) On or before September 9, 2002, any person desiring a hearing or to comment on the proposed regulation shall file a written request for hearing or written comments containing a reference to Case No. BFI-2002-00014 with the Clerk of the Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218.
- (3) The proposed regulation shall be posted on the Commission's website at the following address: <http://www.state.va.us/scc/caseinfo.orders.htm>.
- (4) An attested copy hereof, together with a copy of the proposed regulation, shall be sent to the Registrar of Regulations for publication in the Virginia Register.

NOTE: A copy of Attachment A entitled "Banking and Savings Institutions" is on file and may be examined at the State Corporation Commission, Clerk's Office, Document Control Center, Tyler Building, First Floor, 1300 East Main Street, Richmond, Virginia.

**CASE NO. BFI-2002-00016  
JULY 9, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION  
v.  
AMERICAN MORTGAGE BANKERS, INC.,  
Defendant

**ORDER REVOKING A LICENSE**

ON A FORMER DAY, the Commissioner of Financial Institutions ("Commissioner") reported to the State Corporation Commission ("Commission") that the Defendant is licensed to engage in business as a mortgage broker under Chapter 16 of Title 6.1 of the Code of Virginia; that the bond filed by the Defendant pursuant to § 6.1-413 of the Code of Virginia was cancelled on June 10, 2002; that the Commissioner, pursuant to delegated authority, gave written notice to the Defendant by certified mail on June 13, 2002, (1) of his intention to recommend revocation of its license unless a new bond was filed by July 4, 2002, and (2) that a written request for hearing was required to be filed in the Office of the Clerk on or before June 27, 2002; and that no new bond or written request for hearing was received or filed.

Accordingly, the Commission finds that the Defendant has failed to maintain its bond in force as required by law, and

IT IS ORDERED that the license granted to the Defendant to engage in business as a mortgage broker is hereby revoked.

**CASE NO. BFI-2002-00021  
AUGUST 9, 2002**

IN RE: F&M TRUST COMPANY

**ORDER CANCELLING A CERTIFICATE**

F&M Trust Company ("F&M") was granted a certificate of authority to engage in the trust business pursuant to Article 3.1 of Title 6.1 of the Code of Virginia on November 19, 1997. The Staff has reported to the State Corporation Commission that F&M subsequently ceased to exist as a result of its merger into Branch Banking and Trust Company of Virginia; and that a proper officer of F&M has surrendered its authority to engage in the trust business.

Accordingly, IT IS ORDERED THAT:

- (1) The certificate of authority issued to F&M Trust Company to engage in the trust business is hereby cancelled.
- (2) This case is dismissed and the papers herein shall be placed among the ended cases.

**CASE NO. BFI-2002-00026  
DECEMBER 23, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION

v.

COMMUNITY HOME MORTGAGE CORPORATION,  
Defendant

**ORDER REVOKING A LICENSE**

ON A FORMER DAY, the Commissioner of Financial Institutions ("Commissioner") reported to the State Corporation Commission ("Commission") that the Defendant is licensed to engage in business as a mortgage lender under Chapter 16 of Title 6.1 of the Code of Virginia; that the bond filed by the Defendant pursuant to § 6.1-413 of the Code of Virginia was cancelled on November 1, 2002; that the Commissioner, pursuant to delegated authority, gave written notice to the Defendant by certified mail on November 7, 2002, (1) of his intention to recommend revocation of its license unless a new bond was filed by November 29, 2002, and (2) that a written request for hearing was required to be filed in the Office of the Clerk on or before November 22, 2002; and that no new bond or written request for hearing was received or filed.

Accordingly, the Commission finds that the Defendant has failed to maintain its bond in force as required by law, and

IT IS ORDERED that the license granted to the Defendant to engage in business as a mortgage lender is hereby revoked.

**CASE NO. BFI-2002-00028  
DECEMBER 23, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION

v.

EAST COAST FUNDING, INC.,  
Defendant

**ORDER REVOKING A LICENSE**

ON A FORMER DAY, the Commissioner of Financial Institutions ("Commissioner") reported to the State Corporation Commission ("Commission") that the Defendant is licensed to engage in business as a mortgage broker under Chapter 16 of Title 6.1 of the Code of Virginia; that the bond filed by the Defendant pursuant to § 6.1-413 of the Code of Virginia was cancelled on November 5, 2002; that the Commissioner, pursuant to delegated authority, gave written notice to the Defendant by certified mail on November 7, 2002, (1) of his intention to recommend revocation of its license unless a new bond was filed by November 29, 2002, and (2) that a written request for hearing was required to be filed in the Office of the Clerk on or before November 22, 2002; and that no new bond or written request for hearing was received or filed.

Accordingly, the Commission finds that the Defendant has failed to maintain its bond in force as required by law, and

IT IS ORDERED that the license granted to the Defendant to engage in business as a mortgage broker is hereby revoked.

**CASE NO. BFI-2002-00030  
DECEMBER 19, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION

v.

HOUSEHOLD INTERNATIONAL, INC.  
a Delaware corporation,  
Defendant

**SETTLEMENT ORDER**

It appears to the State Corporation Commission ("Commission") that the Bureau of Financial Institutions ("Bureau") and Defendant Household International, Inc., on behalf of itself, its direct and indirect subsidiaries, affiliates, officers, directors, employees, agents, related entities, successors, and assigns (collectively, "Household") have resolved certain matters in controversy between them and have consented to the terms hereof.

**DEFINITIONS**

For purposes of this Settlement Order, the following Definitions apply:

A. "Annual Percentage Rate" or "APR" means the measure of the cost of credit expressed as a yearly rate, calculated according to the provisions of the federal Truth-in-Lending Act, 15 U.S.C. §1601, *et seq.*, and the regulations promulgated thereunder.

B. "Balloon Payment" means a scheduled final payment that is more than twice as large as the average of earlier scheduled monthly payments.

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- C. "Potential Borrower" means an individual who is seeking or receiving information about real estate secured credit from Household.
- D. "Borrower" means an individual who has consummated with Household a real estate secured loan transaction.
- E. "Closing" means the process during which a Borrower executes a note and security instrument regarding a lien on real property that is subject to a mortgage loan.
- F. "Consent Judgment" means binding and enforceable judgments or other final agreements between the Settling States and Household, whether judicial or administrative, styled as appropriate under each State's law.
- G. "Covered Transactions" means the real estate secured loans, including Personal Homeowner Loans, and unsecured Live Check loans which were paid off with the proceeds of a Household real estate secured loan, originated by Household's retail lending branches during the period January 1, 1999, through September 30, 2002.
- H. "Discount Points" means points paid by or charged to the Borrower at the time of origination of a mortgage loan for the purpose of reducing the interest rate or time-price differential applicable to the loan.
- I. "Home Equity Line of Credit" or "HELOC" means an open-end line of credit, as defined in Truth in Lending Regulation Z, 12 C.F.R. § 226.2(a)(20), that is secured by real estate.
- J. "HOEPA" means the federal Home Ownership and Equity Protection Act, 15 U.S.C. § 1639, including subsequent amendments.
- K. "Live Check" means an unsolicited negotiable check delivered by Household to a consumer who may receive an unsecured loan by negotiating the check.
- L. "Open-end Credit" means an open-end line of credit as defined in Regulation Z, 12 C.F.R. § 226, including subsequent amendments.
- M. "Personal Homeowner Loan" means the Household real estate secured loan product that is underwritten in a manner similar to unsecured loans.
- N. "RESPA" means the federal Real Estate Settlement Procedures Act of 1974, 12 U.S.C. 2601 et seq., and Regulation X, promulgated pursuant thereto, 24 C.F.R. § 3500, including subsequent amendments.
- O. "Settling States" means the States or Commonwealths, including the District of Columbia, that file, on or before December 16, 2002, fully executed Consent Judgments resolving with Household the matters set forth herein.
- P. "Subordinate Loan" means a loan secured by a lien on real property that is subject to one or more prior liens on the same real property.
- Q. "TILA" means the federal Truth in Lending Act, 15 U.S.C. § 1601 et seq., and Regulation Z, promulgated pursuant thereto, 12 C.F.R. § 226, including subsequent amendments.

**STIPULATED RECITALS**

1. Defendant Household International, Inc., is a Delaware corporation headquartered in Prospect Heights, Illinois.
2. In the ordinary course of business, direct or indirect subsidiaries of Household Finance Corporation, a subsidiary of Household International, Inc., have negotiated and entered into Covered Transactions with Borrowers.
3. State attorneys general and state financial regulators in this Commonwealth (the "Commonwealth") and/or in other states received and investigated consumer complaints and conducted examinations concerning the Covered Transactions. Those complaints, investigations, and examinations related to Household's conduct with respect to the following lending practices (collectively, "the Lending Practices"):
  - A. Two real estate secured loans made at or near the same date to the same Borrower (i.e., "split loans");
  - B. Loan points and origination fees;
  - C. Interest rates;
  - D. Monthly payment amounts;
  - E. Single premium credit and other insurance products;
  - F. Prepayment penalties;
  - G. Live checks;
  - H. Home equity lines of credit;
  - I. Loan billing practices relating to simple interest calculations;
  - J. Balloon payments;

- K. Payoff information provision;
- L. Non-English language documentation; and
- M. Net tangible benefit in loan refinancing.

4. Based upon these investigations and examinations, the Bureau alleges that Household violated various laws and regulations in connection with the Lending Practices for the Covered Transactions and that injunctive and other relief is warranted.

5. Household denies these allegations and has indicated that it would vigorously defend any attempt by the Bureau to assert any claim based on the States' investigations. The Bureau and Household recognize that any litigation would be protracted, and the result of the litigation would be uncertain.

6. In the interest of resolving the complaints, investigations, and examinations in this Commonwealth, the Bureau and Household entered into an agreement in principle dated October 9, 2002 (the "Agreement in Principle"), which provides for entry of this Settlement Order.

7. The agreement to enter into a consent judgment was contingent upon settlement with states representing at least eighty percent (80%) of the dollar volume of the Covered Transactions. This contingency has been satisfied because states filing fully executed consent judgments on or prior to December 16, 2002, constitute at least eighty percent (80%) of that dollar volume, as identified in Exhibit "A" attached to this Settlement Order.

8. Household has waived its right to appeal from this Settlement Order and has voluntarily agreed to its entry and states that no promises of any kind induced it to enter into this Settlement Order, except as provided herein.

9. The Bureau and Household have stipulated to entry of this Settlement Order without trial or the adjudication of the validity of any alleged issue of law or fact.

10. Household International, Inc., is a Delaware corporation which asserts as follows: that it appears herein in order to assure and guarantee the enforcement of the obligations of its various direct and indirect subsidiaries, which are parties hereto, and, further, for the purpose of satisfying and accomplishing this Settlement Order, that its appearance shall not constitute or be construed as a general submission to the jurisdiction of this state for any other purpose; that Household International, Inc., is and will be subject to this Commission's jurisdiction for purposes of enforcement of this Settlement Order only; and acts or conduct, if any, of Household International, Inc., in executing, fulfilling, or assisting in the fulfillment of this Settlement Order shall not constitute a submission to this Commission's jurisdiction for purposes other than the enforcement of this Settlement Order.

11. The Bureau and Household agree that all information provided by Household to the Bureau, the Administrator, or the Monitor, including the Monitor's Reports, in connection with this Settlement Order, or the investigations or examinations referred to in Paragraphs 3 and 4 of the Stipulated Recitals of this Settlement Order, is information provided in connection with an investigation or an examination of a financial institution or in settlement discussions.

12. Household and the Bureau agree that the relief set forth in this Settlement Order, including the amount of restitution and the injunctive relief, is a fair and reasonable settlement for the claims alleged by the Bureau.

NOW, THEREFORE, based upon the stipulation of the Bureau and Household, and good cause appearing,

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED, AS FOLLOWS:

1. Upon agreement of the Bureau and Household, the Commission hereby enters this Settlement Order pursuant to §§ 12.1-13 and 12.1-15 of the Code of Virginia.

2. The Commission shall retain jurisdiction to enforce the terms and conditions of this Settlement Order.

3. For purposes of the relief set forth in this Settlement Order, the Effective Date shall be deemed to be December 16, 2002.

#### **RESTITUTION**

4. *Settlement Fund.*

A. Household shall pay an amount determined in this Paragraph into a trust fund, which may be interest-bearing for restitution, maintained by the Commissioner of Financial Institutions or his designee (the "Settlement Fund"). Household and the Commonwealth recognize that certain other Settling States have agreed to deposit restitution funds into the California Attorney General's Litigation Deposit Fund, which is an interest-bearing trust account administered by the office of the California Attorney General ("California Settlement Fund"). The total amount of Household's combined payments into the California Settlement Fund, together with Household's payments to other settlement funds of Settling States not participating in the California Settlement Fund, shall be a minimum total of \$387,500,000 for Settling States representing eighty percent (80%) of the dollar volume of the Covered Transactions as provided in Exhibit A. If Settling States representing more than eighty percent (80%) of the dollar volume of the Covered Transactions as provided in Exhibit A enter a Consent Judgment, Household shall increase the combined amount of Household's payments into the California Settlement Fund, together with Household's payments to other settlement funds of Settling States not participating in the California Settlement Fund, to a maximum amount of \$484,000,000.

B. Household shall pay into the Settlement Fund the amount of \$16,703,228. The Commonwealth shall use the Settlement Fund solely to provide restitution to Borrowers or to pay those administrative costs not directly paid by Household, as set forth in the Administration Section below. The Commonwealth shall have sole discretion to determine the manner in which it will provide restitution for the Lending Practices to Borrowers who had Covered Transactions, including criteria for choosing which Borrowers shall receive any restitution and the amount to distribute to each. The Commonwealth will determine its own criteria for allocating restitution and other relief to a broad number of Borrowers. The restitution awarded under the terms of this Settlement Order is not and shall not be considered as forgiven debt. Should there be residual funds remaining after initial distribution to

Borrowers and payment of all administrative costs and expenses, such funds shall be distributed to Borrowers and shall not revert to the Commonwealth, except that it shall determine how to use any funds that are associated with un-negotiated settlement checks in accordance with state law.

C. Household shall fund the Settlement Fund in three equal installments. The amount of each of the three installments shall be one-third (1/3) of the amount to be deposited in the Settlement Fund. The first deposit shall be on or before January 15, 2003. The second deposit shall be on or before February 14, 2003. The third and final deposit shall be on or before March 17, 2003. The Commonwealth shall send written notice to Household acknowledging receipt of the full amount of the funds to be deposited by Household under this Paragraph after receipt of the third and final payment.

D. All monies, including interest income, in the Settlement Fund shall be held in trust for the purposes stated in this Settlement Order. Household shall have no property right, interest, claim, or title to the Settlement Fund or any interest earned thereon once they are deposited to the Settlement Fund.

E. The Settlement Fund is intended for restitution to Borrowers affected by the Lending Practices and for payment of administrative expenses that are not covered by Household under Paragraph 28 of this Settlement Order and does not include any monies for fines, penalties, or punitive damages.

F. The Commonwealth may apply some or all of its share of the Settlement Fund to purchase releases of open-end second liens on split loans currently outstanding with Household where a first real estate secured loan and an open-end, second real estate secured loan were made to the same Borrower within a 90-day period and secured by the Borrower's residence. The release from the open-end second lien may be purchased from Household on the basis of the formulae provided by Household to the Settling States. Such formulae will furnish the Settling States the ability to obtain the release of the aforementioned liens for Borrowers on either an individual basis or as a group, depending on the Settling State's criteria for allocating restitution and other relief to Borrowers.

G. The Settlement Fund is intended to be a qualified settlement fund within the meaning of Treasury Regulation Section 1.468B-1 of the U.S. Internal Revenue Code of 1986, as amended.

5. *Prepayment Penalty Relief.* Household shall, within sixty (60) days of the Effective Date, notify Borrowers of its unilateral amendment of the prepayment penalty provisions of all real estate secured loan agreements, which were closed at its retail lending branches nationwide during the period from January 1, 1999, to September 30, 2002, and remain outstanding as of the Effective Date, to state that prepayment penalties are not payable after 24 months after origination, notwithstanding any provisions setting forth a longer period. Household warrants and represents that to the best of its knowledge it has ownership, servicing, or other rights sufficient to effect such a change for all loans closed during the period January 1, 1999, through September 30, 2002. If Household closed any such loans after January 1, 1999, or before September 30, 2002, for which it lacks control as of the Effective Date to make such change, Household shall:

A. Provide full restitution of the amount of the prepayment penalty to Borrowers who incur a prepayment penalty more than two years after the date the loan closed; and

B. Provide a notice, in a form mutually agreeable to the Settling States, to all such Borrowers informing them of their right to this compensation. The relief provided in this Paragraph is separate from, and in addition to, the Settlement Fund.

#### **INJUNCTIVE RELIEF**

Household is hereby enjoined, pursuant to § 12.1-13 of the Code of Virginia, solely in connection with the real estate secured retail branch-based operations of its consumer lending business of its subsidiaries Household Finance Corporation and Beneficial Corporation operating under the brand names HFC and Beneficial, or any successor names or corporations, or its present or future subsidiaries or affiliates engaged in real estate secured consumer lending (allowing a reasonable time to conform such business to the terms of this Injunctive Relief in the case of an acquired entity previously conducting such business), as follows:

6. *Loan Fees.* Household shall not charge loan fees of more than five percent (5%) (or five (5) points) of the loan principal to originate a real estate secured loan, whether in the form of loan origination charges, Discount Points, or both. Household may charge other lender fixed fees at origination that are reasonable, relate to the origination of the loan, and are allowed by state law. Household shall comply with the definition of bona fide Discount Points in the State's law, if any. This Paragraph shall be in force for a period of three (3) years from the Effective Date.

7. *Rates and Point Options Disclosed.* Whenever Household offers Discount Points in connection with a real estate secured loan, Household shall provide written disclosure to Potential Borrowers at the earliest possible date of the interest rates available to the Potential Borrower and the corresponding Discount Points available to buy down the interest rate (e.g., "1 point = .X reduction in interest rate") in a form to be agreed upon by the States and Household.

8. *Good Faith Estimate.* For all proposed real estate secured loan transactions, as set forth in RESPA, Household shall provide to Potential Borrowers, by delivering it by hand or mailing it not later than three (3) business days after the Potential Borrower's application is received or prepared, a good faith estimate ("GFE") of charges that the Potential Borrower is likely to incur in connection with Closing the loan. All charges disclosed by Household in the GFE shall bear a reasonable relationship to the charge the Potential Borrower is likely to pay at Closing, based upon Household's knowledge and experience regarding such charges, the total loan amount applied for by the Potential Borrower, and any other relevant considerations. The fees disclosed in the GFE shall not vary from the actual fees charged by more than ten percent (10%) provided, however, that Household shall be bound to any smaller variance required by law. If the actual fees to be paid at Closing are greater than the total amount of fees disclosed on the GFE by more than 10%, Household shall re-disclose the GFE, except where the increase is the result of an increase in the loan amount originally applied for by the Potential Borrower.

9. *Representations Regarding Interest Rates and Loan Terms.* Household shall represent its loan terms in an accurate and non-deceptive manner. In particular:

A. Household shall not make oral or written representations about rates other than the contract rate and the true Annual Percentage Rate. For example, Household may make no "effective" rate or "blended" rate comparisons unless the applicable federal law requires such a calculation to determine the true Annual Percentage Rate.

1. "Effective Interest Rate". Household shall not represent to any Potential Borrower that his or her loan has an "Effective Interest Rate" or use any similar term. For purposes of this Paragraph, "Effective Interest Rate" shall mean any interest rate other than the contract rate or APR, or rate of interest that is calculated based on the amount of reduced loan interest costs, which a Potential Borrower may realize if the Potential Borrower elects to accelerate repayment of the loan or is permitted to deduct the loan interest payments from federal or state income taxes.

2. "Blended rate". Household shall not make misleading oral or written representations comparing "blended" interest rates purporting to combine the rates on a Potential Borrowers' multiple existing loans, which may be consolidated in the transaction with Household's proposed rate. Nothing in this Settlement Order shall prohibit Household from disclosing its own proposed APR as a "blended" or "composite" rate when that is required by the Truth in Lending Act or state law equivalent.

B. Household shall not make representations about accelerated payment plans without accurate and clear disclosure of the manner in which the accelerated payment plan works (i.e., that any accelerated amortization of the loan only occurs by the Borrower making extra or larger payments).

C. Household shall not make representations about anticipated interest savings available under a bi-weekly payment plan when the plan is actually semi-monthly, unless the amount of the semi-monthly payment creates the represented interest savings.

D. Household shall not unilaterally convert customers from bi-weekly payments to semi-monthly payments.

E. Any comparisons of current and proposed interest rates, monthly payments, and total loan costs by Household shall be predicated upon accurate, non-deceptive, and clear comparisons.

1. Comparisons of the monthly payments shall exclude taxes and insurance from the Potential Borrower's current mortgage loan if the Potential Borrower's current mortgage loan escrows those payments and Household does not escrow those payments. However, if Household escrows taxes and insurance in its monthly payment and the Potential Borrower's current mortgage loan does not escrow those payments, comparisons of the monthly payments shall include an estimate of the taxes and insurance for the Potential Borrower's current mortgage loan.

2. Total loan points and lender origination fees to be charged by Household will be included in any comparison of monthly payments and total loan cost.

10. *Contemporaneous Secured Second Loans.* Household shall not make a Subordinate Loan secured by property within ninety (90) days of making a first lien mortgage loan secured by the same property provided, however, that this prohibition shall not apply when the first lien mortgage loan is a purchase money mortgage loan.

#### 11. *Unsecured Side Loans.*

A. If Household approves the Potential Borrower's application for a real estate secured loan for an amount lower than that for which the Potential Borrower applied, Household may offer an unsecured loan with the real estate secured loan if, and only if, Household makes a counteroffer to the Potential Borrower of a loan amount where the counteroffer consists of a real estate secured loan and an unsecured loan ("unsecured side loan").

B. Household shall not make an unsecured side loan to any Potential Borrower except in the following circumstances:

1. The Potential Borrower assents and agrees to accept the real estate secured loan and the unsecured loan;
2. The unsecured loan provides a benefit to the Potential Borrower; and
3. The unsecured loan is not triggered by the Potential Borrower's need to pay Closing costs, points, or lender fees related to the real estate secured loan.

C. When a real estate secured loan and an unsecured loan are Closed with the Borrower on the same day, Household shall take reasonable steps to ensure that the Borrower understands that there are two separate loans, including:

1. Ensuring that the loan documents are executed in separate transactions at Closing;
2. Confirming the Borrower's understanding that there are two separate transactions at Closing by obtaining acknowledgment, in writing, that the Borrower was advised by Household prior to Closing that the Borrower would enter into two separate loans; and
3. Ensuring that an "Independent Loan Closer," as described in paragraph 14, will conduct each loan Closing.

#### 12. *Balloon Payments.*

A. Household shall provide a written disclosure in form substantially similar to Exhibit "B" attached hereto and which shall state:

1. The amount of the minimum monthly payment;
2. The amount of the Balloon Payment that will result from the Borrower making only the minimum monthly payments;
3. The amount of the monthly payment necessary to avoid a Balloon Payment at the end of the scheduled loan term; and

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

4. That the information and amounts provided in the disclosure assume that:
  - a. The Borrower takes no further advances under the line of credit;
  - b. The Borrower makes all payments in a timely manner; and
  - c. The interest rate on the line of credit is not changed.

B. Prior to Household's implementation of the written disclosure described in Paragraph 12(A), Household shall provide a written disclosure to all Potential Borrowers who apply for a HELOC within three (3) days of submitting an application that states that, if a Borrower makes only the minimum monthly payments required under the HELOC, (1) the Borrower will not pay off the initial advance on the HELOC by the end of the scheduled term, and (2) the Borrower will be obligated to make a Balloon Payment at the end of the scheduled loan term.

13. *Canceling HELOCs.* Household shall permit Borrowers to cancel and terminate a real estate secured Open-end Credit at any time. Household shall adequately disclose to Borrowers the procedure it requires to cancel and terminate any real estate secured Open-end Credit.

14. *Independent Loan Closer.* Household shall revise its real estate secured loan Closing procedure in its branch offices to include use of an "Independent Loan Closer." The Independent Loan Closer may be a third party or an employee of Household so long as the Independent Loan Closer does not report to Household's sales management and the Independent Loan Closer's compensation is not based on the terms of the loan. Further, a Household employee serving as an Independent Loan Closer shall not be compensated based upon the volume of loan closings.

15. *Prepayment Penalties.* Subject to Paragraph 37:

A. Household shall not enter into any real estate secured loan agreement under which a prepayment penalty is imposed on a Borrower ("Prepayment Loan") unless Household discloses to the Potential Borrower in writing within three (3) days of the submission of the application:

1. That the Borrower may be eligible for a real estate secured loan that does *not* contain a prepayment penalty ("Non Prepayment Loan");
2. The interest rate differential between a Prepayment Loan and a Non Prepayment Loan, if such loan is available;
3. The circumstances that would trigger the imposition of a prepayment penalty on the proposed Prepayment Loan; and
4. The maximum dollar amount of the prepayment penalty that could be imposed on the proposed Prepayment Loan based upon the amount applied for.

B. Household shall not charge a prepayment penalty on a real estate secured loan if the existence of the penalty was not fully and timely disclosed in accordance with this Paragraph.

C. No Household real estate secured loan shall contain a prepayment penalty term greater than 24 months from the date of loan origination.

D. Household shall calculate all prepayment penalties in accordance with state law. For any real estate secured loan, if the state law is silent on the method of calculation of a prepayment penalty, the prepayment penalty shall be calculated on the amount outstanding at the time of prepayment.

16. *Net Tangible Benefit.* Household shall not enter into any real estate secured loan that does not provide a net tangible benefit to the Borrower, *i.e.*, a loan that does not result in a monetary benefit to the Borrower, taking into consideration the totality of the circumstances, including, but not limited to, the loan product and the Borrower's stated loan objectives, repayment ability, current and expected income, and current obligations.

17. *Repeat Refinancing.* Household shall not charge loan Discount Points or origination points and fees (other than third-party fees permitted by the applicable state law) on the original amount of any real estate secured loan used to refinance an existing real estate secured loan owned by Household that was originated or refinanced within twelve (12) months of the current refinancing provided, however, that Household may refund all lender origination points and fees and Discount Points paid by or charged to the Borrower on the original loan amount and charge origination points and fees or Discount Points on the total amount of the new real estate secured loan if the points and fees paid on the original loan amount are equal to, or exceed, the points and fees to be charged on the amount being refinanced in the new loan.

18. *Credit Insurance Sales.*

A. Household shall not sell or finance any single premium credit insurance on real estate secured loans.

B. Household's operational systems, training, and scripts shall direct account executives of Household to disclose monthly loan payments *without* the monthly cost of credit insurance before disclosing the monthly loan payment *with* the monthly cost of credit insurance. Household shall establish procedures so that its employees fully explain credit insurance coverage and disclose that all credit insurance products are optional.

C. On each monthly account statement provided to a Borrower for a real estate secured loan, Household shall separately identify the amount of the monthly credit insurance premium that the Borrower is paying.

19. *"Live Checks"*.

A. Household shall not, directly or indirectly, mail or send Live Checks to any Potential Borrower unless such checks contain the following disclosure in 12-point bold face type, on the front and back of the check, unless otherwise required by applicable law: "Signing this check will



result in a loan that must be repaid with interest and fees." (Household will include "and fees" language on the check only if fees are charged in connection with the loan.)

B. Household shall not create or issue any Live Check products that contain a prepayment penalty.

20. *Billing Statement Practices.*

A. On a one-time basis, Household shall allocate all interest short amounts existing on the Effective Date in its real estate secured, closed end simple interest loan portfolio into a Deferred Interest Account.

B. The amount of deferred interest and any interest short as of the date of the last payment shall be disclosed on the Borrower's monthly billing statement.

C. Household shall continue to allocate interest short to the Deferred Interest Account no less often than on a quarterly basis, except to the extent that a full payment (or equivalent) must be made in the quarter for the reallocation to occur. Household shall separately provide the Settling States with its definition of "equivalent" payment and any revised definition. Such information shall be deemed proprietary and confidential.

D. Borrowers shall remain liable for repayment of the deferred interest.

E. Household agrees that it will require third-party purchasers or servicers of Household loans to service the loans in accordance with this Paragraph.

F. Household shall not change a Borrower's payment date without disclosing the new payment date and obtaining the Borrower's consent.

21. *HOEPA Disclosures.*

A. "HOEPA Loan" means a loan that is subject to the provisions of 15 U.S.C. § 1639, as defined by 15 U.S.C. § 1602(aa).

B. Household shall develop systems and reasonable safeguards to provide HOEPA disclosures on all HOEPA loans, including notice of right to rescind.

22. *Best Rate Available.* Household shall provide Borrowers with the lowest rate applicable to a Household real estate secured product for which the Borrower's credit qualifies.

23. *Disclosures Generally.* Household shall establish forms and procedures, including a one-page loan summary of key terms, that simplify and improve real estate secured loan disclosures to Potential Borrowers and Borrowers and that ensure that information is accurate and presented clearly and conspicuously in a timely manner.

24. *Spanish Language Documents.* Household shall provide Spanish language loan documents in all branch offices that are certified by Household to conduct Spanish language transactions. Household employees shall be instructed and trained to not speak Spanish in connection with its loan transactions unless certified to do so. In all such certified offices Household shall ensure that the Independent Loan Closer is certified to conduct Spanish language transactions. Household shall also make available a one-page loan disclosure of key terms in Spanish in certified branch offices to those Borrowers whose primary language is Spanish. Household shall make available in each of its branch offices the addresses and phone numbers of Spanish certified branch offices within a 50-mile radius of that branch. Household will continue to work with the multi-state group to more fully develop its assistance to Spanish speaking Borrowers.

25. *Timely Payoff Information.*

A. Household shall provide payoff information to Borrowers or their authorized representatives on all liens held by Household within five (5) business days of a Borrower's written request, or as specifically permitted by state or federal law. Household shall inform Borrowers that payoff requests by mortgage brokers or other agents must be in writing and must include a written authorization from the Borrower to provide the requested information.

B. Payoff information requested directly by a Borrower in person at a branch location shall be provided as promptly and accurately as is practicable.

**SETTLEMENT FUNDS ADMINISTRATION**

26. *Claims Process.* The Commonwealth shall determine the procedures to send notices and allocate restitution to eligible Borrowers.

27. *State Authority.* The relief, including all payments by Household to the funds or accounts established by this Settlement Order, is in response to and in compliance with the Commonwealth's authority to regulate lending subsidiaries of Household and the State's police powers.

28. *Procedures for Administration of the Settlement.*

A. Household shall choose and retain an administrator ("the Administrator") to administer the process of providing restitution to Borrowers. For the purpose of protecting the proprietary and customer information to be provided to it by Household, the Administrator shall be solely an agent of Household. The identity and contract of the Administrator and any successor administrator shall be subject to the approval of two-thirds (2/3) of the number of Settling States. Household shall select the Administrator in a prompt manner in cooperation with the Settling States.

B. The Commonwealth shall determine its own criteria and procedures for allocation and disbursement of the Settlement Fund and other funds and shall have authority to direct the Administrator with respect to the distribution of that state's funds. The Administrator shall provide notice to Borrowers and distribute the Settlement Fund in accordance with the instructions provided by the Commonwealth.

C. Within ten (10) business days after the Effective Date, Household shall establish and fund a separate administrative fund (the "Administrative Fund") for payment of the Administrator's administrative fees and expenses. The Commonwealth's share of the Administrative Fund is \$334,065. Any fees or expenses of the Administrator in excess of the amount that Household is required to pay for administrative fees and expenses allocable to the Commonwealth under this Settlement Order shall be paid from the Settlement Fund and shall not be a separate debt of the Commonwealth. In addition, Household shall be responsible for any costs of the Administrator, including attorneys' fees and costs of litigation, related to maintaining the confidentiality of customer and proprietary information against third-party requests.

D. Upon selection of the Administrator and establishment of the Administrative Fund, Household shall provide the Administrator with an initial payment from the Administrative Fund in an amount to be agreed upon with the Settling States. Thereafter, the Administrator will be paid from the Administrative Fund as provided in the Administrator's agreement with Household and will send copies of all bills to the Commonwealth.

E. Household shall provide to the Administrator all information reasonably necessary for the administration of the Commonwealth's relief process, in accordance with the following procedure:

1. The Settling States shall provide Household with a uniform data request that identifies the information and data reasonably necessary for the majority of the Settling States to design and implement their restitution plans. Household shall provide the States with the reasonably available uniform data requested, not including the name and identifying information of each Borrower, within a reasonable time not to exceed sixty (60) days after receipt of the Settling States' request.

2. Should the Commonwealth seek additional, non-uniform data that is reasonably necessary to design or implement its restitution plan, Household shall provide that information which is reasonably available, not including the name and identifying information of the Borrower, to the Commonwealth within a reasonable time after complying with the uniform data request, which time shall not exceed the later of: (i) 30 days after complying with the uniform data request in accordance with Paragraph 28(E)(1); or (ii) 45 days after receipt of the non-uniform data request. Household may request an extension of time to respond to a non-uniform data request from the Commonwealth; consent by the Commonwealth shall not be unreasonably withheld.

3. Household shall provide to the Administrator all data, including the name and identifying information of each Borrower, and other information that is reasonably necessary to design or implement the Commonwealth's restitution plan.

4. Household shall promptly comply with all reasonable requests for information from the Commonwealth that are necessary to design or implement the restitution provided in this Settlement Order in accordance with Paragraphs 28(E)(1) and (2).

5. Household shall warrant to the Commonwealth at the time of supplying data to the Administrator that the data is complete and accurate. If Household supplies data that is incomplete or inaccurate and that results in a Borrower receiving no restitution or less restitution than the Borrower would have been entitled to under the Commonwealth's restitution plan if complete and accurate data had been provided, Household shall be responsible for the difference between the restitution received by the Borrower, if any, and the amount that should have been paid had complete and accurate data been provided.

6. Household and the Administrator shall provide the Commonwealth with the following information regarding administration of the Settlement Fund and the Administrative Fund:

a. A copy of the contract between Household and the Administrator, prior to its execution, for review and approval by two-thirds (2/3) of the number of the Settling States.

b. A full and complete quarterly accounting of all charges and fees allocated to and charged against the Commonwealth's designated Administrative Funds paid by Household.

F. The Administrator shall permit reasonable onsite inspections by the Settling States on the premises of the Administrator to verify the sending of notices and disbursements.

G. The Administrator shall confer with the Commonwealth regarding administration of its restitution program. When the Administrator is prepared to distribute some or all of the restitution to the Commonwealth's Borrowers, the Administrator shall notify the Commonwealth. Following receipt of notice, the State shall cause some or all of the Settlement Fund to be transferred to the Administrator. The Administrator shall hold all settlement funds in a trust account with a federally insured deposit institution. Upon receipt of settlement funds, the Administrator shall immediately issue and mail restitution checks to Borrowers. The Administrator shall provide to the Commonwealth monthly account reconciliation reports setting forth the checks that have cleared since the last report and the uncleared checks outstanding on the date of the report. Upon order from the Commonwealth, the Administrator shall issue stop-payment orders on any uncleared checks and return all remaining funds to the Commonwealth.

### MONITORING

29. *Implementation Timeline.* Household will phase in the changes required by this Settlement Order no later than December 31, 2003.

30. *Oversight and Compliance.*

A. *Retention of the Monitor.*

1. Within one hundred twenty (120) days of the Effective Date, Household shall propose an independent entity to monitor Household's compliance with this Settlement Order (the "Monitor") to the Settling States for their approval. During such time, Household and the Settling States shall mutually agree to the procedures to be employed by the Monitor, but in no event shall such agreement occur later than ninety (90) days after the Effective Date. Agreement to said procedures shall be signified by consent of two-thirds (2/3) of the number of Settling States.

2. Within fifteen (15) days of Household's submission of the proposed Monitor (which shall include the proposal submitted to Household by the proposed Monitor), the States shall indicate whether the proposed Monitor is approved as signified by two-thirds (2/3) vote of the number of Settling States. If the Settling States do not approve the proposed Monitor, Household shall submit an alternative proposed Monitor within thirty (30) days. The Settling States shall indicate whether the alternative proposed Monitor is approved, as signified by two-thirds (2/3) vote of the number of Settling States, within ten (10) days of said submission to the Settling States.

3. For the purpose of protecting the customer information and proprietary Household information provided to the Monitor by Household, the Monitor shall be an agent of Household. Any customer and Household proprietary information shall remain the sole property of Household.

4. Within fifteen (15) days of the Effective Date, the Settling States shall designate a Compliance Committee consisting of no more than seven (7) individuals. The Compliance Committee shall substitute representation as necessary.

5. Household shall pay the full cost of the Monitor, including expenses and staff support, except as provided herein. Household's financial obligation under this Paragraph is limited to the amounts set forth in its contract with the Monitor, plus any sums required for such additional work as are agreed upon by Household and the Compliance Committee. Agreement for additional work shall not be unreasonably withheld provided, however, that in no event shall the cost of the additional work increase the contract amount by more than fifteen percent (15%) of the Monitor's annual base contract rate.

#### B. Powers of the Monitor

1. Household shall provide to the Monitor (in a form, schedule, and through a collection method of the Monitor's choosing) access to any and all documents requested by the Monitor. With regard to a sampling of loans, the Monitor will request the number of loans needed for a ninety-five percent (95%) confidence level, with an error tolerance of plus or minus five percent (5%). If the sample demonstrates a level of violations in any of Household's obligations set forth in the Injunctive Relief section of this Settlement Order, within a state or taking all states into consideration, of ten percent (10%) or greater (hereinafter, a "Violation"), the Commonwealth may request that the Monitor increase the loan sample and confidence level upon notice to Household but without Household's consent.

2. If, at any time, the Monitor determines that interviews with one or more Household employees are necessary to determine whether Household is in compliance with this Settlement Order, Household shall make a reasonable number of such persons available for telephonic or in-person interview within fourteen (14) business days of the Monitor's request.

3. At such times as the Monitor makes an inspection of Household documents, files, and other materials, Household shall provide the Monitor with private workspace and access to a photocopier.

4. The Monitor shall review data to determine whether Household has complied with this Settlement Order for the period of six (6) months after the Effective Date, for the subsequent period of six (6) months, and for the four (4) annual periods thereafter. The Monitor shall issue reports setting forth its findings of each review to the Settling States ("Monitor's Reports" or "Reports"), with copies submitted simultaneously to Household's undersigned counsel within a reasonable time after completion of each review. The Reports shall include (i) the Monitor's determination as to whether Household is in Violation of this Settlement Order, and (ii) the factual basis for that determination. Prior to the issuance of any Report, the Monitor shall confer jointly with Household and the Settling States regarding the review.

#### C. Enforcement of this Settlement Order.

1. Except as otherwise provided herein, the Monitor's Report may be used by the Bureau in any court hearing, trial, or other proceeding relating to this action and shall be admissible in evidence if there is a Violation of Household's undertakings set forth in this Settlement Order. The Monitor's Report with respect to a particular Violation shall not be admissible or used for any purpose by the Bureau if Household cures the Violation within a reasonable time, which shall be no fewer than thirty (30) days and no greater than ninety (90) days after receipt of the Report provided, however, that Household shall not be afforded an opportunity to cure for the purpose of preventing the State from using the Monitor's Report when the Violation is a Repeat Violation. A Repeat Violation shall be a ten percent (10%) or more failure rate in the same section of the Injunctive Relief part of this Settlement Order in any one state in more than one Report. Those portions of the Monitor's Reports dealing with a Violation of such section shall be admissible when there is a Repeat Violation of that same section.

2. Nothing in this Settlement Order limits the right of the Bureau to perform investigations or examinations independent of the investigations performed by the Monitor.

D. Retention of Documents. Household shall retain and have available for inspection for a period of three (3) years from the date of the document or the Effective Date of this Settlement Order, whichever is later, all material records and documents reasonably necessary to document its compliance with this Settlement Order.

31. *Employee Training.* Household shall provide employee training, which shall include training on the terms of, and compliance with, the Settlement Order. Household shall modify its employee manuals to be consistent with the requirements of the Settlement Order.

### **RELEASES**

32. *Releases from Borrowers.* Each Borrower who receives a payment from the Settlement Fund shall first execute the following general release of Household: "In consideration for the restitution received, I hereby release Household from all civil claims and causes of action which I may have as of the date of this release agreement, in contract, in tort (including, but not limited to, personal injury and emotional distress), in statute, regulation or common law, and whether in an administrative or judicial proceeding, whether known or unknown, threatened or unasserted, that arise from or are related to the restitution received or the following lending practices by Household in connection with real estate secured loans originated by Household's retail branches from January 1, 1999, through September 30, 2002: Household's conduct with respect to multiple real estate secured loans that are made at or near the same date to the same Borrower (i.e., 'split loans'), loan points and origination fees, interest rates, monthly payment amounts, single premium credit and other insurance products, prepayment penalties, loans offered through a negotiable check (i.e., 'live checks'), home equity lines of credit, loan billing practices relating to

simple interest calculations, balloon payments, payoff information, non-English language documentation, and net tangible benefit in loan refinancing. Notwithstanding this release, I may affirmatively or defensively assert any claim or defense that I have with respect to my loan with Household in response to a judicial or threatened non-judicial foreclosure, including those related to the lending practices listed in this release. However, I agree that the otherwise released claims cannot form the basis for an affirmative monetary recovery to me against Household. For purposes of this release, 'Household' means Household International, Inc., Household Finance Corporation, Beneficial Corporation, and their direct and indirect subsidiaries, affiliates, officers, directors, employees, agents, related entities, successors, and assigns."

The release shall be written in both English and Spanish.

33. *Release from the State.* The relief to be provided by Household in this Settlement Order resolves all civil investigations and proceedings, if any, by the State Corporation Commission that have been or could have been brought based upon the Lending Practices for the Covered Transactions. To the extent that the Settling States received complaints relating to a Live Check that was issued during the time period January 1, 1999, through September 30, 2002, regarding Household's failure to disclose that the Live Check was a loan, the claims relating to that issue are released. This release is effective only upon Household's completing full funding of the Settlement Fund. This release does not include any waiver or release of any civil or administrative claims, regulatory matters, or causes of action based on Household's practices, acts, or omissions that are not based upon the Lending Practices with respect to the Covered Transactions.

#### PAYMENT TO STATE

34. *Other Funds.* Any investigative fees or other costs of the Commission with respect to the Lending Practices that Household may be obligated to pay shall be deemed to have been paid in full pursuant to this Paragraph with respect to the Lending Practices for the Covered Transactions.

Household shall, within ten (10) days after the Effective Date, pay to the Commission \$50,000.00 as full payment of the Commission's attorney fees, investigation fees, and other costs related to the resolution of this matter.

#### MISCELLANEOUS

35. Household shall work with the Settling States to more fully develop timely loan disclosures related to this Settlement Order -- specifically the prepayment penalty disclosure, Discount Points disclosure, balloon payment disclosure, and one-page loan summary of key terms.

36. Household and the Settling States reserve the right to change the Monitor or Administrator upon approval by Household and two-thirds (2/3) of the number of Settling States. The Settling States reserve the right to remove the Administrator upon approval of two-thirds (2/3) of the number of Settling States. A successor Administrator shall be selected in accordance with the provisions of Paragraph 28(A).

37. *Compliance with State and Federal Law and Prior Agreements.* Nothing in this Agreement shall relieve Household of its obligation to comply with applicable state and federal law. Where state statutes or regulations, letters of understanding, or agreements with Household, entered into and in force with a state regulator or state agency of this State, provide greater consumer protections than the terms or provisions included in this Settlement Order, the state statutes, regulations, letters of understanding, or agreements with Household shall govern.

38. *Modification of the Settlement Order.* This Settlement Order may be modified only by order of the Commission. After making a good faith effort to obtain the concurrence of the other party for the requested relief, Household or the Bureau may petition the Commission for modification of the terms and conditions of this Settlement Order.

39. *Limitation on Use of Information from Household.* The Agreement in Principle, this Settlement Order, and any information provided by Household in the course of negotiating the Agreement in Principle or this Settlement Order shall not be used as an admission of, or evidence of, the validity of any alleged wrongdoing or liability, or as an admission of, or evidence of, any alleged fault or omission by Household, in any civil, criminal, or administrative proceeding in any court, administrative agency, arbitration, or other tribunal, except as expressly provided in this Settlement Order. The Agreement in Principle, this Settlement Order, and any information provided by Household in the course of negotiating the Agreement in Principle or this Settlement Order shall not be used as the basis for denial of any license, authorization, approval, or consent that may be required by Household under Virginia's mortgage lending, banking, insurance, or similar financial laws or regulations, except as expressly provided in this Settlement Order.

40. *Confidentiality of Information.* If the Commission receives a request for documents provided by Household relative to the subject matter of the investigations or examinations referred to in Paragraphs 3 and 4 of the Stipulated Recitals of this Settlement Order, the negotiation of the Agreement in Principle or this Settlement Order, the Monitor's Reports, or information obtained by the Administrator or Monitor in connection with this Settlement Order, the Commission shall comply with applicable disclosure laws and promptly provide notice of such request as will afford Household a reasonable opportunity to assert that the documents subject to the request are exempt from disclosure.

41. *Service of Notices and Process.* Service of notices and process required by this Settlement Order or its enforcement shall be served on the following persons, or any individual subsequently designated by the parties:

A. Household

Corporate Secretary  
Household Finance Corporation  
2700 Sanders Road  
Prospect Heights, Illinois 60078  
(847) 564-5000

## B. State Corporation Commission

Title: General Counsel  
Address: P.O. Box 1197  
Richmond, VA 23218  
Telephone: (804) 371-9671  
Facsimile: (804) 371-9240

NOTE: Copies of Exhibits A and B are on file and may be examined at the State Corporation Commission, Clerk's Office, Document Control Center, Tyler Building, First Floor, 1300 East Main Street, Richmond, Virginia.

**CASE NO. BFI-2002-00031**  
**DECEMBER 19, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION

v.

CBSK FINANCIAL GROUP, INC. D/B/A AMERICAN HOME LOANS,  
Defendant

**SETTLEMENT ORDER**

ON A FORMER DAY, the Staff reported to the State Corporation Commission ("Commission") that the Defendant, a licensed mortgage lender and broker under Chapter 16 of Title 6.1 of the Code of Virginia, violated various provisions of the Mortgage Lender and Broker Act, § 6.1-408 *et seq.*, of the Code of Virginia; that the Defendant offered to settle this case by payment of a fine in the sum of twenty thousand dollars (\$20,000.00), tendered said sum to the Commonwealth of Virginia, and waived his right to a hearing in the case; and the Commissioner of Financial Institutions recommended that the Commission accept Defendant's offer of settlement pursuant to authority granted under § 12.1-15 of the Code of Virginia.

Accordingly, IT IS ORDERED THAT:

- (1) Defendant's offer in settlement of this case is accepted.
- (2) This case is dismissed.
- (3) The papers herein shall be placed in the file for ended causes.

**CLERK'S OFFICE****CASE NO. CLK-2002-00004  
JUNE 25, 2002**COMMONWEALTH OF VIRGINIA, ex rel.  
STATE CORPORATION COMMISSIONEx Parte: In the matter of repealing certain regulations relating to the regulation of motor carriers**FINAL ORDER**

On April 17, 2002, the State Corporation Commission ("Commission") issued an Order for Notice and Comment on the proposed repeal of motor carrier regulations promulgated by the Commission prior to the transfer of the Commission's authority relating to the regulation of motor carriers to the Department of Motor Vehicles by Chapter 744 of the 1995 Acts of Assembly ("Chapter 744"). Interested persons were given the opportunity to comment on the repeal on or before June 3, 2002. No comments were filed.

Chapter 744 provided that all rules, regulations, and orders governing the operations, supervision, and control of motor carriers in effect on July 1, 1995, were to remain in effect until "such time as changed in accordance with law." The motor carrier regulations promulgated by the Commission in effect on July 1, 1995 are listed in Attachment 1 hereto. Chapter 596 of the 2001 Acts of Assembly subsequently incorporated all of the requirements of the motor carrier regulations listed in Attachment 1 hereto into the Code of Virginia ("Code"). These regulations, therefore, may be repealed.

NOW UPON CONSIDERATION of the matter, the Commission is of the opinion and finds that the regulations listed in Attachment 1 hereto should be repealed. We will direct that this Order be forwarded to the Registrar of Regulations for publication in the Virginia Register of Regulations.

Accordingly, IT IS ORDERED THAT:

- (1) The repeal of the regulations appended hereto as Attachment 1 is hereby adopted as final.
- (2) A copy of this Order shall be forwarded promptly to the Registrar of Regulations for publication in the Virginia Register of Regulations.
- (3) There being nothing further to come before the Commission, this case shall be dismissed and the papers filed herein placed in the file for ended causes.

NOTE: A copy of Attachment 1 is on file and may be examined at the State Corporation Commission, Clerk's Office, Document Control Center, Tyler Building, First Floor, 1300 East Main Street, Richmond, Virginia.

**BUREAU OF INSURANCE****CASE NO. INS910007  
MARCH 11, 2002**

COMMONWEALTH OF VIRGINIA

At the relation of the  
STATE CORPORATION COMMISSION

v.

AMERICAN UNIVERSAL INSURANCE COMPANY,  
Defendant**FINAL ORDER**

WHEREAS, American Universal Insurance Company, a foreign corporation domiciled in the State of Rhode Island ("Defendant"), initially was licensed to transact the business of insurance in the Commonwealth of Virginia on June 6, 1956;

WHEREAS, by order entered herein on January 30, 1991, Defendant's license to transact the business of insurance in the Commonwealth of Virginia was suspended due to Defendant having been placed into liquidation by its state of domicile;

WHEREAS, by letter of Defendant's accounting manager dated July 13, 2001, and filed with the Commission on March 4, 2002, Defendant requested that its license to transact an insurance business in the Commonwealth of Virginia be withdrawn;

WHEREAS, the withdrawal of Defendant's license has been processed by the Bureau of Insurance, effective January 28, 2002;

WHEREAS, the Bureau of Insurance has recommended that the Order Suspending License be vacated and this case be closed; and

THE COMMISSION, having considered the record herein and the recommendation of the Bureau of Insurance, is of the opinion that the Order Suspending License entered by the Commission should be vacated;

THEREFORE, IT IS ORDERED THAT:

- (1) The Order Suspending License entered by the Commission should be, and it is hereby, VACATED;
- (2) This case be, and it is hereby, DISMISSED; and
- (3) The papers herein be placed in the file for ended causes.

**CASE NO. INS930051  
MARCH 11, 2002**

COMMONWEALTH OF VIRGINIA

At the relation of the  
STATE CORPORATION COMMISSION

v.

KENTUCKY CENTRAL LIFE INSURANCE COMPANY,  
Defendant**FINAL ORDER**

WHEREAS, Kentucky Central Life Insurance Company, a foreign corporation domiciled in the State of Kentucky ("Defendant"), initially was licensed to transact the business of insurance in the Commonwealth of Virginia on June 6, 1950;

WHEREAS, § 38.2-1028 of the Code of Virginia requires that insurers licensed to transact the business of insurance in the Commonwealth of Virginia maintain capital of \$1,000,000 and minimum surplus of \$3,000,000

WHEREAS, by order entered herein on March 3, 1993, Defendant's license to transact the business of insurance in the Commonwealth of Virginia was suspended due to Defendant's failure to comply with such minimum surplus requirement, which became effective February 19, 1993;

WHEREAS, by affidavit of Defendant's vice president and controller dated May 5, 1993, and filed with the Commission on June 8, 1993, the Commission was advised that the Defendant had restored its surplus to the minimum amount required by Virginia law as of March 31, 1993;

WHEREAS, on August 18, 1994, Defendant was placed in liquidation by the Circuit Court of Franklin County, Kentucky, and 90% of its policies were acquired by Jefferson-Pilot Life Insurance Company, a North Carolina-domiciled insurer;

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

WHEREAS, by affidavit of the Deputy Liquidator of Defendant dated July 1, 2001, and filed with the Clerk's Office of the Commission on March 4, 2002, the Deputy Liquidator states that Defendant no longer is in the business of selling life and health insurance policies and requests that its authority to do business in the Commonwealth of Virginia be withdrawn;

WHEREAS, the Bureau of Insurance has recommended that the Order Suspending License be vacated and this case be closed; and

THE COMMISSION, having considered the record herein and the recommendation of the Bureau of Insurance, is of the opinion that the Order Suspending License entered by the Commission should be vacated;

THEREFORE, IT IS ORDERED THAT:

- (1) The Order Suspending License entered by the Commission should be, and it is hereby, VACATED;
- (2) This case be, and it is hereby, DISMISSED; and
- (3) The papers herein be placed in the file for ended causes.

**CASE NO. INS-1993-00417  
MAY 2, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

v.

CHURCH OF GOD IN CHRIST HOSPITAL FUND,  
Defendant

**JUDGMENT ORDER**

WHEREAS, by a Rule to Show Cause entered by the Commission on September 6, 1996, for the reasons stated therein, the Commission, among other things, assigned this case to a Hearing Examiner to conduct further proceedings in this matter on the allegation by the Bureau of Insurance (the "Bureau") that Church of God in Christ Hospital Fund ("Defendant") had violated § 38.2-1024 of the Code of Virginia by transacting the business of insurance in the Commonwealth of Virginia without first obtaining a license from the Commission to transact such insurance business;

WHEREAS, by Ruling of the Chief Hearing Examiner dated November 16, 2001, Defendant was directed to file an Answer on or before December 20, 2001, or be declared in default, to the Bureau's Motion to Expand the Scope of the original Rule to Show Cause, which was filed on October 17, 2001, and to appear before the Commission on January 10, 2002, to show cause why the Commission should not order Defendant to cease and desist from any conduct which constitutes a violation of § 38.2-1024 of the Code of Virginia;

WHEREAS, Defendant failed to file an Answer, and the Bureau filed a Motion for Default Judgment, with supporting affidavit, on January 8, 2002, as well as a Supplementary Affidavit on February 4, 2002;

WHEREAS, on February 7, 2002, the Chief Hearing Examiner's Report, which contained a summary of the evidence, findings, and recommendations to the Commission, was filed with the Clerk of the Commission;

WHEREAS, in her report, the Chief Hearing Examiner found that Defendant is in default and that the Bureau's Motion for Default Judgment should be granted;

WHEREAS, the Chief Hearing Examiner also found that Defendant has violated § 38.2-1024 of the Code of Virginia by transacting the business of insurance in the Commonwealth of Virginia without first obtaining a license from the Commission and should be penalized and enjoined from further violation except as is necessary to maintain existing coverage pending an orderly cessation of business;

WHEREAS, the Chief Hearing Examiner has recommended that the Commission enter an order: (i) permanently enjoining Defendant from transacting the business of insurance in Virginia without first obtaining a license to do so; (ii) directing Defendant to cease and desist immediately from enrolling any new participants, except for newborn children or newly acquired dependents of existing participants; (iii) requiring Defendant to continue to provide insurance coverage to existing participants in Virginia, pay all covered claims incurred by such participants, and wind down its insurance business in Virginia on or before May 31, 2002; (iv) directing Defendant to submit an affidavit to the Bureau on or before July 1, 2002, confirming that Defendant has paid all claims, has terminated its insurance business in Virginia and has ceased transacting the business of insurance in Virginia; (v) directing Defendant to notify all Virginia participants, within 14 days of the entry of the Commission's Judgment Order, that Defendant must wind down its insurance business by letter, in a form approved by the Bureau; (vi) directing Defendant to provide the Bureau with copies of the final letters; and (vii) penalizing Defendant the sum of thirteen thousand dollars (\$13,000) for its violations of § 38.2-1024 of the Code of Virginia;

WHEREAS, the Chief Hearing Examiner's Report also notified the Bureau and Defendant that any comments to the Report were required to be filed with the Clerk of the Commission within fourteen (14) days from the date thereof (February 22, 2002);

WHEREAS, a copy of the Chief Hearing Examiner's Report was mailed to Defendant on or about February 7, 2002, and no comments were filed within the allotted time, or subsequently submitted; and

THE COMMISSION, having considered the record herein, the findings of fact, conclusions of law, and recommendations of its Chief Hearing Examiner, adopts the Chief Hearing Examiner's findings of fact and conclusions of law as its own, except that the Commission is of the opinion that the



dates set forth in recommendations (iii) and (iv) should be extended to provide Defendant sufficient time to wind down its business and comply with the requirement to notify participants of the termination of its business in Virginia, and that Defendants should provide participants a copy of this Order, and further, the Commission is of the opinion that Defendant should be permanently enjoined from transacting the business of insurance in the Commonwealth of Virginia and that Defendant should be penalized the amount of thirteen thousand dollars (\$13,000);

THEREFORE, IT IS ORDERED THAT:

- (1) Defendant be, and it is hereby, PERMANENTLY ENJOINED from transacting the business of insurance in the Commonwealth of Virginia without first obtaining a license from the Bureau to do so pursuant to Chapter 10 of Title 38.2 of the Code of Virginia;
- (2) Defendant shall cease and desist immediately from enrolling any new participants, except for newborn children or newly acquired dependents of existing participants;
- (3) Defendant shall continue to provide insurance coverage to existing participants in Virginia, pay all covered claims incurred by such participants, and wind down its insurance business in Virginia on or before July 31, 2002;
- (4) Defendant shall submit an affidavit to the Bureau on or before September 3, 2002, confirming that Defendant has paid all claims, has terminated its insurance business in Virginia and has ceased transacting the business of insurance in Virginia;
- (5) Defendant shall notify all Virginia participants by letter, in a form approved by the Bureau and which shall include a copy of this Order, within 14 days of the entry of this Order, that Defendant must wind down its insurance business and shall provide the Bureau with copies of the final letters;
- (6) Defendant be, and it is hereby, penalized in the amount of thirteen thousand dollars (\$13,000) for its violations of § 38.2-1024 of the Code of Virginia; and
- (7) The papers herein be placed in the file for ended causes.

**CASE NO. INS-1994-00129  
JUNE 25, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
AMERICAN CAPITAL LIFE INSURANCE COMPANY,  
Defendant

**FINAL ORDER**

By order entered December 7, 1994, Defendant's license to transact the business of insurance in the Commonwealth of Virginia was suspended.

By letter of Deborah Jones, Assistant Corporate Counsel and Assistant Secretary of Fort Dearborn Life Insurance Company, and attached affidavit of Maureen T. Mulville, Vice President and Secretary of Defendant, dated June 12, 2002, and filed with the Commission on June 24, 2002, the Commission was advised that Defendant is a shell company and has not conducted an insurance business for a number of years and that Defendant is voluntarily liquidating and dissolving.

The letter and affidavit also requested that Defendant's license to transact the business of insurance in the Commonwealth of Virginia be withdrawn.

The Commission issued a Certificate of Withdrawal effective May 21, 2002; the Bureau of Insurance has processed the withdrawal of Defendant's license, effective June 20, 2002.

The Bureau of Insurance has recommended that this case be closed;

THEREFORE, IT IS ORDERED THAT:

- (1) This case be, and it is hereby, DISMISSED; and
- (2) The papers herein be placed in the file for ended causes.

**CASE NO. INS-1999-00147  
DECEMBER 31, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
PROVIDENT INDEMNITY LIFE INSURANCE COMPANY,  
Defendant

**FINAL ORDER**

By order entered February 15, 2001, Defendant's license to transact the business of insurance in the Commonwealth of Virginia was suspended due to Defendant's failure to comply with the minimum surplus requirement set forth in § 38.2-1028 of the Code of Virginia.

By letter of Alvin H. Clemens, President and Secretary of Defendant, dated December 18, 2002, and filed with the Bureau of Insurance, Defendant requested that its license to transact the business of insurance in the Commonwealth of Virginia be withdrawn on or before December 31, 2002. Mr. Clemens' letter also noted and requested that the withdrawal should be effective immediately following the assumption transfer of all of Defendant's life insurance policies and annuity contracts to Lincoln Heritage Life Insurance Company.

By Order Approving Application entered herein December 23, 2002, in Case No. INS-2002-01313, the Commission approved the application of Lincoln Heritage Life Insurance Company filed with the Commission on December 20, 2002, for the approval of its reinsurance agreement with Defendant pursuant to § 38.2-136 C of the Code of Virginia.

The withdrawal of Defendant's license has been processed by the Bureau of Insurance, effective December 30, 2002.

The Bureau of Insurance has recommended that this case be closed;

THEREFORE, IT IS ORDERED THAT:

- (1) The Order Suspending License entered by the Commission should be, and it is hereby, VACATED;
- (2) This case be, and it is hereby, DISMISSED; and
- (3) The papers herein be placed in the file for ended causes.

**CASE NO. INS-1999-00271  
NOVEMBER 15, 2002**

At the relation of the  
STATE CORPORATION COMMISSION  
v.  
OLD AMERICAN TITLE, INC.,  
Defendant

**FINAL ORDER**

On February 22, 2000, a Rule to Show Cause ("Rule") was issued against Old American Title, Inc. ("Defendant"). The Bureau of Insurance ("Bureau") alleged in the Rule to Show Cause that Defendant, which was licensed by the Commission as a title insurance agent and registered as a settlement agent with the Virginia State Bar, violated § 6.1-2.23 C of the Code of Virginia by retaining interest received on funds deposited in connection with an escrow, settlement or closing.

The Hearing Examiner, appointed pursuant to § 12.1-31 of the Code of Virginia to take evidence in this case, convened a hearing in this matter on June 20, 2000. The Hearing Examiner filed her Report on September 11, 2002. Comments to the Report were filed and later withdrawn by the Bureau. In her Report, the Hearing Examiner made the following findings of fact and recommendations:

1. Defendant is charged with violating the Commonwealth of Virginia's "Consumer Real Estate Settlement Protection Act" (Virginia Code §§ 6.1-2.19 *et seq.* ), which was implemented to establish consumer protection safeguards. One of those safeguards is the prohibition against any settlement agent retaining interest on funds deposited in connection with an escrow, settlement or closing.
2. In order to prove a violation of § 6.1-2.23 C, the Bureau must prove by clear and convincing evidence not only that Defendant retained interest on funds held in connection with an escrow, settlement or closing, but also that the transaction involved the purchase of or lending on the security of real estate located in Virginia containing not more than four residential dwelling units.
3. The Bureau alleges 166 instances where Defendant retained interest on funds held in connection with an escrow, settlement or closing. In 165 of the 166 instances cited by the Bureau, the Hearing Examiner concluded that the showing made by the staff was insufficient to prove by clear and convincing evidence that the transactions involved real estate located in Virginia containing not more than four residential dwelling units.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

4. In the 166th transaction that was shown to involve the type of real property which is covered by CRESPA, the evidence was insufficient to show whether or not interest was collected and retained on that particular transaction, or if that transaction involved the purchase of the real estate or lending of monies on the security of real estate.

In view of the above findings, the Hearing Examiner recommended that the Rule to Show Cause be dismissed.

UPON CONSIDERATION of the Rule to Show Cause, the evidence presented at the hearing, the Hearing Examiner's Report, the Bureau's Comments thereto, and the subsequent withdrawal of those Comments, the Commission is of the opinion that the Hearing Examiner's findings of fact and recommendations should be adopted.

THEREFORE, IT IS ORDERED THAT:

1. The Hearing Examiner's findings of fact and recommendations be, and the same are hereby, adopted;
2. The Rule to show Cause heretofore issued against Defendant on February 22, 2000, be, and the same is hereby, Dismissed; and
3. The papers herein be placed in the file for ended causes.

**CASE NO. INS-2000-00056  
DECEMBER 12, 2002**

COMMONWEALTH OF VIRGINIA

At the relation of the  
STATE CORPORATION COMMISSION

v.

CALIFORNIA COMPENSATION INSURANCE COMPANY,  
Defendant

**FINAL ORDER**

By order entered September 11, 2000, Defendant's license to transact the business of insurance in the Commonwealth of Virginia was suspended due to Defendant's failure to comply with the minimum surplus requirement set forth in § 38.2-1028 of the Code of Virginia.

By letter of Becky Spikings, Manager, Cash & Statutory Reporting for the Superior National Insurance Companies in Liquidation, dated June 18, 2002, and filed with the Bureau of Insurance, the Commission was advised that on September 26, 2000, Defendant, Superior National Insurance Company, Superior Pacific Casualty Company, Combined Insurance Company, and Commercial Compensation Casualty Company (collectively referred to as the "Superior National Insurance Companies in Liquidation") were placed into liquidation by order of the Superior Court of Los Angeles, California. Ms. Spikings' letter also requested that the licenses of Defendant, Commercial Compensation Casualty Company, and Superior National Insurance Company, those companies licensed to transact the business of insurance in the Commonwealth of Virginia, be withdrawn.

The withdrawal of Defendant's license has been processed by the Bureau of Insurance, effective September 16, 2002.

The Bureau of Insurance has recommended that this case be closed;

THEREFORE, IT IS ORDERED THAT:

- (1) The Order Suspending License entered by the Commission should be, and it is hereby, VACATED;
- (2) This case be, and it is hereby, DISMISSED; and
- (3) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2000-00057  
DECEMBER 12, 2002**

COMMONWEALTH OF VIRGINIA

At the relation of the  
STATE CORPORATION COMMISSION

v.

SUPERIOR NATIONAL INSURANCE COMPANY,  
Defendant

**FINAL ORDER**

By order entered September 11, 2000, Defendant's license to transact the business of insurance in the Commonwealth of Virginia was suspended due to Defendant's failure to comply with the minimum surplus requirement set forth in § 38.2-1028 of the Code of Virginia.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

By letter of Becky Spikings, Manager, Cash & Statutory Reporting for the Superior National Insurance Companies in Liquidation, dated June 18, 2002, and filed with the Bureau of Insurance, the Commission was advised that on September 26, 2000, Defendant, Commercial Compensation Casualty Company, Superior Pacific Casualty Company, Combined Insurance Company, and California Compensation Insurance Company (collectively referred to as the "Superior National Insurance Companies in Liquidation") were placed into liquidation by order of the Superior Court of Los Angeles, California. Ms. Spikings' letter also requested that the licenses of Defendant, California Compensation Insurance Company, and Commercial Compensation Casualty Company, those companies licensed to transact the business of insurance in the Commonwealth of Virginia, be withdrawn.

The withdrawal of Defendant's license has been processed by the Bureau of Insurance, effective September 16, 2002.

The Bureau of Insurance has recommended that this case be closed;

THEREFORE, IT IS ORDERED THAT:

- (1) The Order Suspending License entered by the Commission should be, and it is hereby, VACATED;
- (2) This case be, and it is hereby, DISMISSED; and
- (3) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2000-00058  
DECEMBER 12, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

v.  
COMMERCIAL COMPENSATION CASUALTY COMPANY,  
Defendant

**FINAL ORDER**

By order entered September 11, 2000, Defendant's license to transact the business of insurance in the Commonwealth of Virginia was suspended due to Defendant's failure to comply with the minimum surplus requirement set forth in § 38.2-1028 of the Code of Virginia.

By letter of Becky Spikings, Manager, Cash & Statutory Reporting for the Superior National Insurance Companies in Liquidation, dated June 18, 2002, and filed with the Bureau of Insurance, the Commission was advised that on September 26, 2000, Defendant, Superior National Insurance Company, Superior Pacific Casualty Company, Combined Insurance Company, and California Compensation Insurance Company (collectively referred to as the "Superior National Insurance Companies in Liquidation") were placed into liquidation by order of the Superior Court of Los Angeles, California. Ms. Spikings' letter also requested that the licenses of Defendant, California Compensation Insurance Company, and Superior National Insurance Company, those companies licensed to transact the business of insurance in the Commonwealth of Virginia, be withdrawn.

The withdrawal of Defendant's license has been processed by the Bureau of Insurance, effective September 16, 2002.

The Bureau of Insurance has recommended that this case be closed;

THEREFORE, IT IS ORDERED THAT:

- (1) The Order Suspending License entered by the Commission should be, and it is hereby, VACATED;
- (2) This case be, and it is hereby, DISMISSED; and
- (3) The papers herein be placed in the file for ended causes.

**CASE NO. INS010011  
MARCH 5, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

v.  
FREMONT INDEMNITY COMPANY,  
Defendant

**FINAL ORDER**

WHEREAS, Fremont Indemnity Company, a foreign corporation domiciled in the State of California ("Defendant"), initially was licensed to transact the business of insurance in the Commonwealth of Virginia on March 11, 1983;

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

WHEREAS, § 38.2-1028 of the Code of Virginia requires that insurers licensed to transact the business of insurance in the Commonwealth of Virginia maintain capital of \$1,000,000 and minimum surplus of \$3,000,000;

WHEREAS, by order entered herein on March 7, 2001, Defendant's license to transact the business of insurance in the Commonwealth of Virginia was suspended due to Defendant's failure to comply with such minimum surplus requirement;

WHEREAS, on October 15, 2001, Defendant merged with and into Fremont Industrial Indemnity Company, which immediately changed its name to Fremont Indemnity Company;

WHEREAS, the Bureau of Insurance has recommended that the Order Suspending License be vacated and this case be closed; and

THE COMMISSION, having considered the record herein and the recommendation of the Bureau of Insurance, is of the opinion that the Suspension Order entered by the Commission should be vacated;

THEREFORE, IT IS ORDERED THAT:

- (1) The Order Suspending License entered by the Commission should be, and it is hereby, VACATED;
- (2) This case be, and it is hereby, DISMISSED; and
- (3) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2001-00062  
JULY 31, 2002**

PETITION OF  
ROBERT WEINGARTEN,  
GERRY R. GINSBERG,  
and  
LEONARD GUBAR

For issuance of temporary restraining order, preliminary injunction and other relief

**ORDER**

On March 21, 2001, the Petitioners filed their "Petition for Payment and Declaration of Priority Status" seeking, *inter alia*, an order requiring payment from the receivership estate of Fidelity Bankers Life Insurance Company ("Fidelity Bankers") of the sum of \$3.5 million as an administrative expense having priority status under § 38.2-1509, Code of Virginia. On August 8, 2001, the Commission entered a Final Order assigning the Petitioners' claim the priority status of "other creditors" as set forth in § 38.2-1509(B)1(v).

The Supreme Court of Virginia considered the matter on an appeal of right, and determined that the \$3.5 million judgment in favor of Petitioners is entitled to be paid as an expense of the administration of the Fidelity Bankers receivership estate under § 38.2-1509. Accordingly, the Supreme Court of Virginia remanded the matter to the Commission for further proceedings consistent with its opinion and, on July 24, 2002, the Commission received the mandate to that effect.

IT IS THEREFORE ORDERED THAT:

- (1) The Deputy Receiver is directed to pay the Petitioners' \$3.5 million claim as an expense of the administration of the estate under § 38.2-1509 together with the costs taxed to the Deputy Receiver on July 23, 2002.
- (2) The papers herein shall be placed in the file for ended causes.

**CASE NO. INS-2001-00087  
JULY 19, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
BENEFIT PLANS OF AMERICA, INC.,  
Defendant

**FINAL ORDER**

By a Consent Order entered herein May 4, 2001, Benefit Plans of America, Inc., a Mississippi-domiciled dental services plan operating in the Commonwealth of Virginia ("Defendant"), agreed to terminate its Virginia business. Specifically, as set forth in ordering paragraphs (1) through (5) respectively of the Consent Order, Defendant agreed to: (1) cease and desist from enrolling any new participants who are residents of the Commonwealth of Virginia, except for newborn children or newly acquired dependents of existing participants; (2) continue to provide dental services to existing participants

in Virginia and pay all covered claims incurred by such participants; (3) notify all Virginia participants of the wind-down of its dental services plan business and provide them a copy of the Consent Order on or before May 15, 2001; (4) wind down its dental services plan business in Virginia on or before April 30, 2002; and (5) submit an affidavit to the Bureau of Insurance on or before June 15, 2002, confirming that Defendant has paid all claims, Defendant's dental services business in Virginia has been terminated, and Defendant is no longer operating a dental services plan in Virginia.

Defendant filed with the Bureau of Insurance an affidavit dated July 11, 2002, advising the Bureau that it had provided to all Virginia participants a copy of the Consent Order, and a written notification approved by the Bureau that their participation in the plan would terminate in accordance with the Consent Order, that all business in Virginia has been terminated, that the plan is no longer operating in Virginia, and that the plan has paid all eligible claims.

The Bureau filed the affidavit with the Clerk of the Commission on July 18, 2002, and has recommended that this case be closed.

IT IS THEREFORE ORDERED THAT:

- (1) This case be, and it is hereby, dismissed; and
- (2) The papers herein be placed in the file for ended causes.

**CASE NO. INS010128  
MARCH 18, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

v.  
HOME PROTECTORS, INC.,  
Defendant

**FINAL ORDER**

On July 16, 2001, the Bureau of Insurance ("Bureau") filed a Motion for Temporary Injunction requesting that the Commission enter an order temporarily enjoining Home Protectors, Inc. ("Home Protectors" or "Defendant") from issuing any new contracts, certificates or other evidences of insurance coverage in the Commonwealth. The Commission granted the Bureau's Motion on July 17, 2001, and issued a Rule to Show Cause against the Defendant, requesting that the Defendant file a Response to the Bureau's allegation that Home Protectors was operating an unlicensed home protection company in the Commonwealth of Virginia, in violation of § 38.2-2603 of the Code of Virginia. The Commission also assigned this case to a Hearing Examiner and scheduled this matter for a hearing.

A hearing was convened on this matter on September 25, 2001. Scott A. White, Esq., appeared on behalf of the Bureau. Mark R. Baumgartner, Esq., appeared on behalf of the Defendant. At the close of the hearing, the Hearing Examiner extended the previously issued injunction against the Defendant until such time as the Commission rules on this case.

On November 13, 2001, the Hearing Examiner filed his Report on this case. In his Report, the Hearing Examiner found that the Defendant's agreements clearly satisfy the definition of insurance, since they transfer the risk of loss from the homeowner to the Defendant. The Hearing Examiner also found that the Defendant's contracts fell within the definition of "home protection insurance" found in § 38.2-129 of the Code of Virginia, and that the Defendant did not meet the requirements for any of the exemptions from regulation as a home protection company listed in § 38.2-2601 of the Code of Virginia. The Hearing Examiner ultimately found: (1) that the Defendant's actions constituted the business of selling home protection insurance; (2) that the Defendant should be permanently enjoined from operating as a home protection company in the Commonwealth of Virginia without a license; and (3) that the Defendant should be fined in the amount of five thousand dollars (\$5,000) for its violations of § 38.2-2603 of the Code of Virginia.

The Defendant filed comments on the Hearing Examiner's Report on December 4, 2001. In its comments, the Defendant maintains that its service does not meet the definition of "insurance" in § 38.2-100 and that, therefore, the Commission need not analyze the other provisions of Chapter 26 (§§ 38.2-2600 et seq.) of Title 38.2 of the Code of Virginia.

The Commission disagrees with the Defendant's arguments. Section 38.2-100 of the Code of Virginia provides, in part, that "[w]ithout limiting the foregoing, 'insurance' shall include. . .each of the classifications of insurance set forth in Article 2 (§ 38.2-101 et seq.) of this chapter. . ." This explicit language sweeps in the definition of "home protection insurance" in § 38.2-129 of the Code of Virginia. The Defendant, by the terms of its own contract, is indemnifying the insured for the "failure of any inspection to detect the likelihood of failure."

There is no inherent evil in the service that the Defendant is providing. Indeed, by virtue of its willingness to include the cost of repair or replacement as a measure of damages in its contracts, the Defendant has a product that not only provides a service, but also provides a remedy for that service if it fails in its intended purpose. Nonetheless, the product clearly is insurance and subject to regulation by the Bureau. There is no evidence of any fraud on the part of the Defendant in marketing this product, nor was any alleged by the Bureau. Instead, there was a clear difference of opinion between the Bureau and the Defendant over the precise nature of the contract at issue.

Upon consideration of the entire record in this proceeding, the Commission adopts the Hearing Examiner's findings of fact as to the violations of law but declines to adopt the recommendations concerning the penalties to be imposed.

Accordingly, IT IS ORDERED THAT:

- (1) The Defendant is permanently enjoined from future violations of Title 38.2 of the Code of Virginia;

- (2) The Defendant is penalized in the amount of five hundred dollars (\$500); and
- (3) The papers herein be placed in the file for ended causes.

**CASE NO. INS010190  
FEBRUARY 27, 2002**

APPLICATION OF  
NATIONAL COUNCIL ON COMPENSATION INSURANCE, INC.

For revision of voluntary loss costs and assigned risk workers' compensation insurance rates

**FINAL ORDER**

The Commission heard the application filed in this matter on February 19, 2002. The National Council on Compensation Insurance, Inc. ("NCCI"), the Commission's Bureau of Insurance ("BOI"), the Division of Consumer Counsel, Office of the Attorney General ("OAG"), and respondents Washington Construction Employers Association and the Iron Workers Employers Association ("Respondents") appeared before the Commission by their counsel. By Order Granting Pre-Trial Motion entered on February 15, 2002, the pre-filed testimony and exhibits of NCCI witness Martin H. Wolf and BOI witness David C. Parcell were admitted into the record of this proceeding. The Commission has considered the record in its entirety.

Accordingly, IT IS ORDERED THAT:

- (1) The proposed target of .944 to adjust for experience-rating off-balance be, and it is hereby, disapproved; and in lieu thereof, a target of .948 shall be utilized;
- (2) The proposed swing limits of + or - 25% be, and they are hereby, disapproved; and in lieu thereof, swing limits of + or - 15% shall be utilized, as recommended by OAG witness Fauerbach;
- (3) The proposed procedure to recognize the large medical claim be, and it is hereby, disapproved; and in lieu thereof, the procedure proposed by BOI witness Lefkowitz shall be utilized;
- (4) It is requested that the working group, consisting of representatives of NCCI, BOI, OAG, and any other interested parties ("working group"): (a) study the servicing carrier allowance issue, including, but not limited to, the development of a competitive bidding or procurement structure and methodology and make recommendations accordingly; (b) study a method for gradually moving toward an off-balance of 1.000 and make recommendations accordingly; (c) study the swing limits proposal of BOI witness Ileo for future NCCI applications and make recommendations accordingly; and (d) continue to meet and seek consensus, to the extent possible, concerning any additional methodological and other issues of concern to members of the working group;
- (5) NCCI and other persons participating in future NCCI voluntary loss costs and assigned risk rate applications before the Commission, when proposing methodologies or data sources that are different from the methodologies or data sources upon which the current voluntary loss costs and/or assigned risk rates and/or rating values are based, shall be required to disclose the voluntary loss costs and/or assigned risk rates or rating values effect of the change employing both the methodology it proposes to replace as well as the newly proposed methodology;
- (6) In accordance with the adjustments ordered herein, NCCI shall revise its voluntary loss costs and assigned risk rates, as follows: (i) a decrease of 1.6% in industrial class voluntary loss costs; (ii) an increase of 0.3% in underground coal mines voluntary loss costs, prior to the application of the amended swing limits procedure adopted herein; (iii) an increase of 21.1% in surface coal mines voluntary loss costs, prior to the application of the amended swing limits procedure adopted herein; (iv) an increase of 19.3% in industrial class assigned risk rates; (v) an increase of 26.8% in underground coal mines assigned risk rates, prior to the application of the amended swing limits procedure adopted herein; and (vi) an increase of 38.3% in surface coal mines assigned risk rates, prior to the application of the amended swing limits procedure adopted herein;
- (7) Except as otherwise ordered herein, the proposed revisions to voluntary loss costs, assigned risk rates, minimum premiums, rating values, rules, regulations, and procedures for writing workers' compensation voluntary loss costs and assigned risk rates that have been filed by NCCI in this proceeding on behalf of its members and subscribers be, and they are hereby, APPROVED for use with respect to new and renewal business issued to become effective on and after April 1, 2002; and
- (8) NCCI, BOI, OAG, and the Respondents in this proceeding make their best efforts to recommend jointly to the Commission, on or before June 1, 2002, a proposed schedule for any year 2002 voluntary loss costs/assigned risk rate revision proceeding before the Commission. Such proposed schedule shall address: (i) the "pre-filing" of any discovery requests by BOI, OAG, and any other parties; (ii) the date on which NCCI proposes to file with the Commission any voluntary loss costs/assigned risk rate application and its direct testimony; (iii) the date on which NCCI proposes to respond to such pre-filed discovery requests; (iv) the dates for the pre-filing of the direct testimony of BOI, OAG and any respondent and the rebuttal testimony of NCCI; and (v) the date of any proposed hearing before the Commission.

**CASE NO. INS010192  
JANUARY 29, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
UNITED FIDELITY CORPORATION,  
Defendant

**ORDER TO TAKE NOTICE**

WHEREAS, § 38.2-2402 of the Code of Virginia prohibits any surety insurer from transacting the business of surety insurance in the Commonwealth of Virginia without first obtaining a license from the Commission to transact that class of business; and

WHEREAS, on January 24, 2002, the Bureau of Insurance, by counsel, filed with the Clerk of the Commission a Motion for Permanent Injunction alleging that Defendant has issued at least nine performance bonds in Virginia without first obtaining a license from the Commission and requesting that the Commission enter an order permanently enjoining Defendant from transacting any further surety business in the Commonwealth of Virginia;

THEREFORE, IT IS ORDERED that Defendant TAKE NOTICE that the Commission shall enter a Judgment Order subsequent to February 15, 2002, permanently enjoining Defendant from transacting the business of insurance in the Commonwealth of Virginia unless on or before February 15, 2002, Defendant files with the Clerk of the Commission, Document Control Center, P.O. Box 2118, Richmond, Virginia 23218 a responsive pleading and a request for a hearing.

**CASE NO. INS010192  
FEBRUARY 22, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
UNITED FIDELITY CORPORATION,  
Defendant

**JUDGMENT ORDER**

WHEREAS, by order entered herein January 29, 2002, Defendant was ordered to take notice that the Commission would enter a Judgment Order subsequent to February 15, 2002, permanently enjoining Defendant from transacting the business of insurance in the Commonwealth of Virginia, unless on or before February 15, 2002, Defendant filed with the Clerk of the Commission a responsive pleading and a request for a hearing;

WHEREAS, as of the date of this order, Defendant has failed to file a responsive pleading to object to the entry of a Judgment Order and has not requested a hearing;

THEREFORE, IT IS ORDERED THAT:

- (1) Defendant United Fidelity Corporation be, and it is hereby, permanently enjoined from transacting the business of insurance in the Commonwealth of Virginia; and
- (2) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2001-00232  
APRIL 16, 2002**

PETITION OF  
CHRISTINA POWELL LOPEZ

For review of determination of noncompliance with the Virginia Continuing Education requirements for the 1999-2000 biennium

**FINAL ORDER**

On September 6, 2001, Christina Powell Lopez filed a petition contesting the Bureau of Insurance's (the "Bureau") termination of her insurance agent license for failing to comply with the Virginia continuing education requirements for the 1999-2000 biennium. By order dated October 1, 2001, the Commission docketed the proceeding, assigned the matter to a Hearing Examiner, and ordered the Bureau to file an Answer or other responsive pleading to the petition.



On November 1, 2001, the Bureau filed a Motion for Summary Judgment on the grounds that Petitioner provided no legal basis upon which to overturn the Bureau's decision to administratively terminate her license. Petitioner filed her response to the Bureau's motion on January 25, 2002, citing a number of reasons why she completed only 15 of the required 16 hours of continuing education credits specific to her license type by December 31, 2000.

On February 28, 2002, the Hearing Examiner filed his Report on this case. In his report, the Hearing Examiner found that § 38.2-1866 of the Code of Virginia requires that every resident and nonresident agent licensed by the Commission furnish, on a biennial basis, evidence demonstrating that the agent has satisfied the continuing education requirements. Petitioner was required to complete 16 hours of continuing education credits in her license type for the 1999-2000 biennium. However, at the end of the biennium, Petitioner had completed only fifteen credits applicable to her property and casualty insurance agent license. Following an appeals process conducted in accordance with the requirements of § 38.2-1869, Petitioner's license was administratively terminated on September 1, 2001.

The Hearing Examiner noted that the scope of review in appealing the administrative termination of an agent's license for failing to comply with the continuing education requirements is limited to determining whether the records concerning the agent's proof of compliance are accurate. In this case, the Hearing Examiner found it clear from the record that Petitioner failed to complete 16 continuing education credit hours specific to her license type for the 1999-2000 biennium. As a result, the Hearing Examiner recommended that the Commission affirm the Bureau's administrative termination of Petitioner's license. The Hearing Examiner also recommended that the Commission allow Petitioner to immediately reapply for reinstatement of her license without having to pay the \$1000 administrative penalty set forth in § 38.2-1869 B 2, provided she successfully completed the study course and examination requirements by December 31, 2002.

Upon consideration of the entire record in this proceeding, the Commission adopts the Hearing Examiner's findings of fact and recommendation affirming the Bureau's administrative termination of Petitioner's license. The Commission also finds it unnecessary to waive the \$1000 administrative penalty since such penalty applies only if the agent wishes to make application for a new license prior to ninety days after termination of the agent's license. The record indicates that Petitioner's license was administratively terminated by the Bureau on September 1, 2001, and the date of this order is well beyond the applicable ninety-day period.

Accordingly, IT IS ORDERED THAT:

- (1) The Bureau of Insurance's administrative termination of Petitioner's license is affirmed;
- (2) Petitioner may immediately make application for a new license subject to the requirements set forth in § 38.2-1869 B 1 of the Code of Virginia; and
- (3) The papers herein be placed in the file for ended causes.

**CASE NO. INS010268  
APRIL 2, 2002**

PETITION OF  
THOMAS AND MARY PORCELLA

For review of HOW Insurance Company Home Owners Corporation and Home Owners Warranty Corporation Deputy Receiver's Determination of Appeal

**ORDER**

On October 14, 1994, the Circuit Court of the City of Richmond, Virginia, entered an order appointing the Virginia State Corporation Commission ("Commission") the Receiver of HOW Insurance Company ("HOWIC"), Home Warranty Corporation ("HWC") and Home Owners Warranty Corporation ("HOW") (collectively, "HOW Companies" or "HOW"). The receivership order granted the Commission authority to proceed with the rehabilitation or liquidation of the HOW Companies and established a "Receivership Appeal Procedure" to govern any appeals or challenges to any decisions rendered by the Receiver or the Receiver's duly authorized representatives.

On September 14, 2001, Thomas and Mary Porcella ("Petitioners") filed a Petition for Review ("Petition") with the Commission contesting the Deputy Receiver's Determination of Appeal in Claim No. 3832042 denying the Petitioners' claim for coverage under their homeowners warranty insurance policy to their home located at 1696 PGA Boulevard, Melbourne, Florida. According to that Determination of Appeal, Petitioners' claim was denied because the claim was submitted to the Companies after the warranty coverage expiration date of October 31, 2000.<sup>1</sup> Petitioners filed their claim with the HOW Companies on May 15, 2001.<sup>2</sup> Petitioners alleged that their home was structurally damaged by a latent defect, and for purposes of reporting an insurance warranty claim to the HOW Companies, Florida law on limitations of actions is controlling. By order dated October 16, 2001, the Commission docketed the Petition, assigned the matter to a Hearing Examiner, and directed the Deputy Receiver to file an Answer or other responsive pleading to the Petition on or before November 30, 2001.

On November 30, 2001, the Deputy Receiver, by counsel, filed a Motion to Dismiss ("Motion") and Answer to the Petition and Memorandum in Support of Motion to Dismiss. In its Motion, the Deputy Receiver contends, among other things, that the Petitioners fail to assert a claim on which relief under the HOW Program may be granted and should be dismissed based upon the following: (i) Petitioners' claim is untimely pursuant to the express terms of the HOW Insurance/Warranty documents; and (ii) Petitioners' claim is barred pursuant to the doctrine of res judicata.

<sup>1</sup> Determination of Appeal for Claim No. 3832042 dated August 24, 2001, addressed to Thomas & Mary Porcella.

<sup>2</sup> Deputy Receiver's Memorandum in Support of Motion to Dismiss at 2.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

By ruling dated December 4, 2001, the Hearing Examiner granted Petitioners an opportunity to file a response to the Motion on or before December 28, 2001. Petitioners filed no response.

After reviewing the filings submitted in the case and the applicable law, the Hearing Examiner filed his report on January 29, 2002. Therein, the Hearing Examiner made the following findings and recommendations:

(1) Virginia substantive law, rather than Florida law, should be applied in this case to avoid exposing the receivership estate to a myriad of possible conflicting state laws and to provide for the orderly administration and wind down of the estate.

(2) Petitioners' home was enrolled in the HOW program by their builder on or about October 31, 1990.<sup>3</sup>

(3) According to the terms of the HOW Insurance/Warranty documents, Petitioners' HOW program coverage expired on October 31, 2000, and the 30-day grace period expired on November 30, 2000.<sup>4</sup>

(4) The HOW Companies received the Petitioners' claim on May 15, 2001, more than six months after the expiration of all HOW program insurance/warranty coverage.

(5) The Petitioners' claim is time-barred by the express terms of the HOW Insurance/Warranty documents.

(6) The Deputy Receiver's Motion to Dismiss should be granted.

(7) The Commission should enter an order: (i) granting the Deputy Receiver's Motion to Dismiss; (ii) affirming the Deputy Receiver's Determination of Appeal; (iii) dismissing the Petition with prejudice; and (iv) passing the papers herein to the file for ended causes.

Upon consideration of the filings submitted and the Report of the Hearing Examiner, the Commission is of the opinion and so finds that the findings and recommendations of the Hearing Examiner should be adopted.

Accordingly, IT IS ORDERED THAT:

(1) The Deputy Receiver's Motion to Dismiss be, and it is hereby, GRANTED;

(2) The Petition for Review of Thomas and Mary Porcella be, and it is hereby, DENIED;

(3) The Determination of Appeal issued by the Deputy Receiver in Claim No. 3832042 on August 24, 2001, be, and the same is hereby, AFFIRMED; and

(4) The case is dismissed and the papers herein are passed to the file for ended causes.

<sup>3</sup> Deputy Receiver's Memorandum in Support of Motion to Dismiss at 1.

<sup>4</sup> Home Owners Warranty Coverage Insurance/Warranty Documents, Part I, "Coverage Terms," Section C, at 20. Exhibit D of the Deputy Receiver's Memorandum in Support of Motion to Dismiss.

**CASE NO. INS-2001-00272  
AUGUST 20, 2002**

COMMONWEALTH OF VIRGINIA

At the relation of the  
STATE CORPORATION COMMISSION

v.

BELINDA A. MOTIL, a/k/a ELLEN A. MOTIL,  
Defendant

**JUDGMENT ORDER**

By a Rule to Show Cause (the "Rule") issued by the Commission on January 11, 2002, Defendant was ordered to appear in the Commission's Courtroom on February 26, 2002, and show cause, if any, why the Commission, in addition to a penalty under § 38.2-218 of the Code of Virginia (the "Code"), should not revoke the licenses of Defendant to transact the business of insurance in the Commonwealth of Virginia.

The Rule was issued based on the allegations of the Bureau of Insurance (the "Bureau") that Defendant had provided untrue information on her insurance agent license applications filed with the Commission and other state insurance departments. Such allegations, if proven, would be grounds for revocation of Defendant's licenses under § 38.2-1831 of the Code.

On February 14, 2002, the Rule was amended to replace the language of § 38.2-1831 as set forth in the Rule with the language of § 38.2-1831 in effect at the time the alleged violations occurred. Specifically, in the Amended Rule the Bureau alleged that by providing untrue information on her insurance agent license applications, Defendant: (1) has been guilty of fraudulent or dishonest practices; and (2) is not trustworthy or competent to solicit, negotiate, procure, or effect the classes of insurance for which a license is applied for or held.

On February 26, 2002, a hearing was conducted whereby the Bureau appeared represented by counsel, and Defendant appeared pro se.

On July 16, 2002, the Hearing Examiner issued his Report, in which he found that the Bureau had established by clear and convincing evidence that Defendant was guilty of dishonest practices by lying in order to obtain her insurance agent licenses. He also found that the Bureau had established by clear and convincing evidence that Defendant was not trustworthy or competent to solicit, negotiate, procure, or effect the classes of insurance for which she held licenses. Specifically, the Bureau had established that Defendant engaged in a systematic scheme to obtain insurance agent licenses in a number of jurisdictions by falsifying her applications for licenses.

Accordingly, the Hearing Examiner recommended that the Commission enter an order revoking Defendant's insurance agent licenses.

UPON CONSIDERATION of the Rule to Show Cause, the evidence presented at the hearing, and the Hearing Examiner's Report, the Commission adopts the findings of fact and recommendations made by the Hearing Examiner in his Report.

IT IS THEREFORE ORDERED THAT:

(1) The licenses of Defendant to transact the business of insurance as an agent in the Commonwealth of Virginia be, and they are hereby, REVOKED;

(2) All appointments issued under said licenses be, and they are hereby, VOID;

(3) Defendant shall transact no further business in the Commonwealth of Virginia as an insurance agent;

(4) Defendant shall not apply to the Commission to be licensed as an insurance agent in the Commonwealth of Virginia prior to two (2) years from the date of this Order;

(5) The Bureau of Insurance shall cause a copy of this Order to be sent to every insurance company for which Defendant holds an appointment to act as an insurance agent in the Commonwealth of Virginia; and

(6) The papers herein be placed in the file for ended causes.

**CASE NO. INS010280  
JANUARY 24, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

Ex Parte: In the matter of Adopting Revisions to the Rules Governing Insurance Premium Finance Companies

**ORDER ADOPTING REVISIONS TO RULES**

WHEREAS, by order entered herein December 18, 2001, all interested persons were ordered to take notice that the Commission would consider the entry of an order subsequent to January 20, 2002, adopting revisions proposed by the Bureau of Insurance to the Commission's Rules Governing Insurance Premium Finance Companies unless on or before January 20, 2002, any person objecting to the adoption of the proposed revisions filed a request for a hearing with the Clerk of the Commission;

WHEREAS, the Order also required all interested persons to file their comments in support of or in opposition to the proposed revisions on or before January 20, 2002;

WHEREAS, as of the date of this Order, no request for a hearing has been filed with the Clerk of the Commission;

WHEREAS, as of the date of this Order, no comments have been filed with the Clerk of the Commission;

WHEREAS, the Bureau has recommended that the proposed revisions be adopted;

THE COMMISSION, having considered the proposed revisions and the Bureau's recommendation, is of the opinion that the attached proposed revisions should be adopted;

THEREFORE, IT IS ORDERED THAT:

(1) The revisions to Chapter 390 of Title 14 of the Virginia Administrative Code entitled "Rules Governing Insurance Premium Finance Companies," which amend the rules at 14 VAC 5-390-20 through 14 VAC 5-395-40, and which are attached hereto and made a part hereof, should be, and they are hereby, ADOPTED to be effective February 1, 2002;

(2) AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to the Bureau of Insurance in care of Deputy Commissioner Mary M. Bannister, who forthwith shall give further notice of the adoption of the revisions to the rules by mailing a copy of this Order, together with a copy of the revised rules, to persons licensed by the Commission to transact the business of an insurance premium finance company in the Commonwealth of Virginia and to all persons licensed by the Commission to transact the business of a property and casualty insurance company in the Commonwealth of Virginia; and by forwarding a copy of this Order, including a copy of the attached revised rules, to the Virginia Registrar of Regulations for appropriate publication in the Virginia Register of Regulations; and

(3) The Bureau of Insurance shall file with the Clerk of the Commission an affidavit of compliance with the notice requirements of paragraph (2) above.

NOTE: A copy of Attachment A entitled "Chapter 390. Rules Governing Insurance Premium Finance Companies" is on file and may be examined at the State Corporation Commission, Clerk's Office, Document Control Center, Tyler Building, First Floor, 1300 East Main Street, Richmond, Virginia.

**CASE NO. INS010282  
JANUARY 15, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

v.  
QUALCHOICE OF VIRGINIA HEALTH PLAN, INC.,  
Defendant

**SETTLEMENT ORDER**

IT APPEARING from a market conduct examination performed by the Bureau of Insurance that Defendant, duly licensed by the Commission to transact the business of a health maintenance organization in the Commonwealth of Virginia, in certain instances, violated §§ 38.2-502, 38.2-503, 38.2-510 A 5, 38.2-511, 38.2-316 A, 38.2-1812 A, 38.2-1822 A, 38.2-3407.3, 38.2-3407.15 C, 38.2-3542 C, 38.2-4304 B, 38.2-4306 B 1, 38.2-4306.1, 38.2-4312 A, 38.2-4313, 38.2-5803 A, and 38.2-5804 A of the Code of Virginia, as well as 14 VAC 5-90-50 B, 14 VAC 5-90-60 A 1, 14 VAC 5-90-60 B 1, 14 VAC 5-90-60 C 1, 14 VAC 5-90-100 A, 14 VAC 5-90-130 A, 14 VAC 5-90-160, 14 VAC 5-90-170 A, 14 VAC 5-210-70 B 2, 14 VAC 5-210-70 C, and 14 VAC 5-210-110 B;

IT FURTHER APPEARING that the Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-4316 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations;

IT FURTHER APPEARING that effective September 1, 2001, the Defendant was merged with and into Southern Health Services, Inc., with Southern Health Services, Inc. being the survivor of the merger;

IT FURTHER APPEARING that Southern Health Services, Inc., on behalf of Defendant, has been advised of its right to a hearing in this matter, whereupon Southern Health Services, Inc., on behalf of Defendant has made an offer of settlement to the Commission wherein Southern Health Services, Inc., on behalf of Defendant, has tendered to the Commonwealth of Virginia the sum of thirty-one thousand dollars (\$31,000), waived its right to a hearing, and agreed to the entry by the Commission of a cease and desist order; and

IT FURTHER APPEARING that the Bureau of Insurance has recommended that the Commission accept the offer of settlement of Southern Health Services, Inc., on behalf of Defendant, pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia,

IT IS ORDERED THAT:

(1) Southern Health Services, Inc.'s offer in settlement of the matter set forth herein be, and it is hereby, accepted;

(2) Southern Health Services, Inc., on behalf of Defendant, shall cease and desist from any conduct which constitutes a violation of §§ 38.2-502, 38.2-503, 38.2-510 A 5, 38.2-511, 38.2-316 A, 38.2-1812 A, 38.2-1822 A, 38.2-3407.3, 38.2-3407.15 C, 38.2-3542 C, 38.2-4304 B, 38.2-4306 B 1, 38.2-4306.1, 38.2-4312 A, 38.2-4313, 38.2-5803 A, or 38.2-5804 A of the Code of Virginia, or 14 VAC 5-90-50 B, 14 VAC 5-90-60 A 1, 14 VAC 5-90-60 B 1, 14 VAC 5-90-60 C 1, 14 VAC 5-90-100 A, 14 VAC 5-90-130 A, 14 VAC 5-90-160, 14 VAC 5-90-170 A, 14 VAC 5-210-70 B 2, 14 VAC 5-210-70 C, or 14 VAC 5-210-110 B; and

(3) The papers herein be placed in the file for ended causes.

**CASE NO. INS010288  
JANUARY 15, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

v.  
AMERICAN BANKERS LIFE ASSURANCE COMPANY OF FLORIDA,  
Defendant

**SETTLEMENT ORDER**

IT APPEARING from an investigation and subsequent allegations by the Bureau of Insurance that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, in a certain instance, violated § 38.2-610 of the Code of Virginia by failing to give to an applicant for insurance written notice of an adverse underwriting decision in the form approved by the Commission;

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

IT FURTHER APPEARING that the Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violation;

IT FURTHER APPEARING that Defendant has been advised of its right to a hearing in this matter, whereupon Defendant has made an offer of settlement to the Commission wherein Defendant has tendered to the Commonwealth of Virginia the sum of fifteen thousand dollars (\$15,000) and waived its right to a hearing; and

IT FURTHER APPEARING that the Bureau of Insurance has recommended that the Commission accept the offer of settlement of Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia,

IT IS ORDERED THAT:

- (1) The offer of Defendant in settlement of the matter set forth herein be, and it is hereby, accepted; and
- (2) The papers herein be placed in the file for ended causes.

**CASE NO. INS010293  
JANUARY 15, 2002**

COMMONWEALTH OF VIRGINIA

At the relation of the  
STATE CORPORATION COMMISSION

v.

PACIFIC LIFE AND ANNUITY COMPANY,  
Defendant

**SETTLEMENT ORDER**

IT APPEARING from a market conduct examination performed by the Bureau of Insurance that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, in certain instances, violated §§ 38.2-3407.15 B 1, 38.2-3407.15 B 2, 38.2-3407.15 B 3, 38.2-3407.15 B 4, 38.2-3407.15 B 7, and 38.2-3407.15 B 8 of the Code of Virginia;

IT FURTHER APPEARING that the Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations;

IT FURTHER APPEARING that Defendant has been advised of its right to a hearing in this matter, whereupon Defendant has made an offer of settlement to the Commission wherein Defendant has tendered to the Commonwealth of Virginia the sum of nine thousand dollars (\$9,000) and waived its right to a hearing; and

IT FURTHER APPEARING that the Bureau of Insurance has recommended that the Commission accept the offer of settlement of Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia,

IT IS ORDERED THAT:

- (1) The offer of Defendant in settlement of the matter set forth herein be, and it is hereby, accepted; and
- (2) The papers herein be placed in the file for ended causes.

**CASE NO. INS010294  
JANUARY 16, 2002**

COMMONWEALTH OF VIRGINIA

At the relation of the  
STATE CORPORATION COMMISSION

v.

RELIASTAR LIFE INSURANCE COMPANY,  
Defendant

**SETTLEMENT ORDER**

IT APPEARING from a market conduct examination performed by the Bureau of Insurance that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, in certain instances, violated §§ 38.2-3407.15 B 1, 38.2-3407.15 B 2, 38.2-3407.15 B 3, 38.2-3407.15 B 4, 38.2-3407.15 B 7, and 38.2-3407.15 B 8 of the Code of Virginia;

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

IT FURTHER APPEARING that the Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations;

IT FURTHER APPEARING that Defendant has been advised of its right to a hearing in this matter, whereupon Defendant has made an offer of settlement to the Commission wherein Defendant has tendered to the Commonwealth of Virginia the sum of nine thousand dollars (\$9,000), waived its right to a hearing, and agreed to the entry by the Commission of a cease and desist order; and

IT FURTHER APPEARING that the Bureau of Insurance has recommended that the Commission accept the offer of settlement of Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia,

## IT IS ORDERED THAT:

- (1) The offer of Defendant in settlement of the matter set forth herein be, and it is hereby, accepted;
- (2) Defendant cease and desist from any conduct which constitutes a violation of §§ 38.2-3407.15 B 1, 38.2-3407.15 B 2, 38.2-3407.15 B 3, 38.2-3407.15 B 4, 38.2-3407.15 B 7 or 38.2-3407.15 B 8 of the Code of Virginia; and
- (3) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2001-00297  
MAY 3, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
FORTIS INSURANCE COMPANY,  
Defendant

**SETTLEMENT ORDER**

IT APPEARING from a market conduct examination performed by the Bureau of Insurance that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, in certain instances, violated Subsection 1 of § 38.2-502, Subsection 8 of § 38.2-606 and §§ 38.2-503, 38.2-510 A 2, 38.2-510 A 5, 38.2-316 A, 38.2-316 B, 38.2-316 C, 38.2-604 C 4, 38.2-610, 38.2-1318 C, 38.2-1812 A, 38.2-1833 A, 38.2-1834 C, 38.2-3405 A, 38.2-3407.1 B, 38.2-3407.4 A, 38.2-5803 A 4, and 38.2-5804 A of the Code of Virginia, as well as 14 VAC 5-30-60 2 b, 14 VAC 5-40-40 A 1, 14 VAC 5-40-40 A 6, 14 VAC 5-40-60 B, 14 VAC 5-90-40, 14 VAC 5-90-50, 14 VAC 5-90-60 A 1, 14 VAC 5-90-60 A 2, 14 VAC 5-90-60 B 1, 14 VAC 5-90-90-C, 14 VAC 5-90-110, 14 VAC 5-90-130, 14 VAC 5-90-170 A, 14 VAC 5-200-160, 14 VAC 5-200-170 A 5, 14 VAC 5-400-30, 14 VAC 5-400-50 A, 14 VAC 5-400-60 A, 14 VAC 5-400-60 B, and 14 VAC 5-400-70 B;

IT FURTHER APPEARING that the Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations;

IT FURTHER APPEARING that Defendant has been advised of its right to a hearing in this matter, whereupon Defendant has made an offer of settlement to the Commission wherein Defendant has tendered to the Commonwealth of Virginia the sum of fifty-seven thousand dollars (\$57,000), waived its right to a hearing, and agreed to the entry by the Commission of a cease and desist order; and

IT FURTHER APPEARING that the Bureau of Insurance has recommended that the Commission accept the offer of settlement of Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia,

## IT IS ORDERED THAT:

- (1) The offer of Defendant in settlement of the matter set forth herein be, and it is hereby, accepted;
- (2) Defendant cease and desist from any conduct which constitutes a violation of Subsection 1 of § 38.2-502, Subsection 8 of § 38.2-606 or §§ 38.2-503, 38.2-510 A 2, 38.2-510 A 5, 38.2-316 A, 38.2-316 B, 38.2-316 C, 38.2-604 C 4, 38.2-610, 38.2-1318 C, 38.2-1812 A, 38.2-1833 A, 38.2-1834 C, 38.2-3405 A, 38.2-3407.1 B, 38.2-3407.4 A, 38.2-5803 A 4, or 38.2-5804 A of the Code of Virginia, or 14 VAC 5-30-60 2 b, 14 VAC 5-40-40 A 1, 14 VAC 5-40-40 A 6, 14 VAC 5-40-60 B, 14 VAC 5-90-40, 14 VAC 5-90-50, 14 VAC 5-90-60 A 1, 14 VAC 5-90-60 A 2, 14 VAC 5-90-60 B 1, 14 VAC 5-90-90-C, 14 VAC 5-90-110, 14 VAC 5-90-130, 14 VAC 5-90-170 A, 14 VAC 5-200-160, 14 VAC 5-200-170 A 5, 14 VAC 5-400-30, 14 VAC 5-400-50 A, 14 VAC 5-400-60 A, 14 VAC 5-400-60 B, or 14 VAC 5-400-70 B; and
- (3) The papers herein be placed in the file for ended causes.

**CASE NO. INS010300  
MARCH 5, 2002**

APPLICATION OF  
TRAVELERS CASUALTY AND AND SURETY COMPANY,

For approval of an assumption reinsurance agreement pursuant to § 38.2-136 C of the Code of Virginia

**ORDER APPROVING APPLICATION**

WHEREAS, on May 31, 2000, Reliance Insurance Company, a Pennsylvania-domiciled insurer ("Reliance"), and Travelers Casualty and Surety Company, a Connecticut-domiciled insurer licensed to transact the business of insurance in the Commonwealth of Virginia ("Travelers"), entered into a loss and unearned premium reserve portfolio reinsurance agreement and a quota share reinsurance agreement (the "reinsurance agreements") which transferred all of the risk on Reliance's surety and fidelity bonds and policies to Travelers;

WHEREAS, the reinsurance agreements provided that in the event Reliance is placed in liquidation, Travelers shall "assume all of the obligations arising under such in-force Reinsured Contracts," as such term is defined in the reinsurance agreements;

WHEREAS, on October 3, 2001, the Commonwealth Court of Pennsylvania entered an order finding Reliance insolvent and placing Reliance into liquidation, thereby triggering the cut-through provision of the reinsurance agreements described in the immediately preceding paragraph and requiring Travelers to assume Reliance's surety and fidelity bond and policy obligations as direct obligations;

WHEREAS, although the approval of this transaction by the domiciliary regulators of Reliance or Travelers is not required, the liquidator of Reliance has approved the issuance of assumption liability certificates, as evidenced by the letter of the authorized designee of Reliance's liquidator dated November 15, 2001, and filed with the Commission's Bureau of Insurance;

WHEREAS, on December 12, 2001, Travelers filed with the Commission an application requesting approval of the reinsurance agreements;

WHEREAS, on January 24, 2001, Travelers filed supplemental documentation in support of its application;

WHEREAS, the Bureau of Insurance, having reviewed the application and supplemental information to ensure that Virginia policyholders will not lose any rights or claims afforded under their original bonds and policies pursuant to Chapter 16 of Title 38.2 of the Code of Virginia, has recommended that the application be approved; and

THE COMMISSION, having considered the application, the recommendation of the Bureau of Insurance that the application be approved, and the law applicable hereto, is of the opinion that the application should be approved;

THEREFORE, IT IS ORDERED THAT the application of Travelers Casualty and Surety Company for approval of the reinsurance agreements pursuant to § 38.2-136 C of the Code of Virginia be, and it is hereby, APPROVED.

**CASE NO. INS010302  
MARCH 5, 2002**

COMMONWEALTH OF VIRGINIA

At the relation of the  
STATE CORPORATION COMMISSION

v.

CONTINENTAL ASSURANCE COMPANY,  
Defendant

**SETTLEMENT ORDER**

IT APPEARING from a market conduct examination performed by the Bureau of Insurance that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, in certain instances, violated §§ 38.2-3407.15 B 1, 38.2-3407.15 B 2, 38.2-3407.15 B 3, 38.2-3407.15 B 4, 38.2-3407.15 B 7, and 38.2-3407.15 B 8 of the Code of Virginia;

IT FURTHER APPEARING that the Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations;

IT FURTHER APPEARING that Defendant has been advised of its right to a hearing in this matter, whereupon Defendant has made an offer of settlement to the Commission wherein Defendant has tendered to the Commonwealth of Virginia the sum of nine thousand dollars (\$9,000), waived its right to a hearing, and agreed to the entry by the Commission of a cease and desist order; and

IT FURTHER APPEARING that the Bureau of Insurance has recommended that the Commission accept the offer of settlement of Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia,

IT IS ORDERED THAT:

(1) The offer of Defendant in settlement of the matter set forth herein be, and it is hereby, accepted;

(2) Defendant cease and desist from any conduct which constitutes a violation of §§ 38.2-3407.15 B 1, 38.2-3407.15 B 2, 38.2-3407.15 B 3, 38.2-3407.15 B 4, 38.2-3407.15 B 7, or 38.2-3407.15 B 8 of the Code of Virginia; and

(3) The papers herein be placed in the file for ended causes.

**CASE NO. INS010303  
MARCH 5, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
CONTINENTAL CASUALTY COMPANY,  
Defendant

**SETTLEMENT ORDER**

IT APPEARING from a market conduct examination performed by the Bureau of Insurance that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, in certain instances, violated §§ 38.2-3407.15 B 1, 38.2-3407.15 B 2, 38.2-3407.15 B 3, 38.2-3407.15 B 4, 38.2-3407.15 B 7, and 38.2-3407.15 B 8 of the Code of Virginia;

IT FURTHER APPEARING that the Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations;

IT FURTHER APPEARING that Defendant has been advised of its right to a hearing in this matter, whereupon Defendant has made an offer of settlement to the Commission wherein Defendant has tendered to the Commonwealth of Virginia the sum of nine thousand dollars (\$9,000), waived its right to a hearing, and agreed to the entry by the Commission of a cease and desist order; and

IT FURTHER APPEARING that the Bureau of Insurance has recommended that the Commission accept the offer of settlement of Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia,

IT IS ORDERED THAT:

- (1) The offer of Defendant in settlement of the matter set forth herein be, and it is hereby, accepted;
- (2) Defendant cease and desist from any conduct which constitutes a violation of §§ 38.2-3407.15 B 1, 38.2-3407.15 B 2, 38.2-3407.15 B 3, 38.2-3407.15 B 4, 38.2-3407.15 B 7, or 38.2-3407.15 B 8 of the Code of Virginia; and
- (3) The papers herein be placed in the file for ended causes.

**CASE NO. INS010304  
JANUARY 4, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
TERRY W. LAWRIMORE,  
Defendant

**ORDER REVOKING LICENSE**

IT APPEARING from an investigation by the Bureau of Insurance that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia as an insurance agent, in certain instances, violated §§ 38.2-512 and 38.2-1813 of the Code of Virginia, as well as the Cease and Desist Order entered by the Commission in Case No. INS000009, by making false statements or representations on or relative to an application for an insurance policy for the purpose of obtaining a fee or commission, by failing to pay funds in the ordinary course of business to the insured or his assignee, insurer, insurance premium finance company or agent entitled to the payment, by failing to hold all premiums, return premiums, or other funds received by Defendant in a fiduciary capacity, and by commingling business or personal funds with funds required to be maintained in a separate fiduciary trust account;

IT FURTHER APPEARING that the Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1831 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations;

IT FURTHER APPEARING that Defendant has been notified of Defendant's right to a hearing before the Commission in this matter by certified letter dated November 29, 2001, and mailed to Defendant's address shown in the records of the Bureau of Insurance;



## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

IT FURTHER APPEARING that Defendant, having been advised in the aforesaid manner of his right to a hearing in this matter, has failed to request a hearing and has not otherwise communicated with the Bureau of Insurance;

IT FURTHER APPEARING that the Bureau of Insurance, upon Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of Defendant's licenses to transact the business of insurance in the Commonwealth of Virginia as an insurance agent; and

THE COMMISSION is of the opinion and finds that Defendant has violated §§ 38.2-512 and 38.2-1813 of the Code of Virginia by making false statements or representations on or relative to an application for an insurance policy for the purpose of obtaining a fee or commission, by failing to pay funds in the ordinary course of business to the insured or his assignee, insurer, insurance premium finance company or agent entitled to the payment, by failing to hold all premiums, return premiums, or other funds received by Defendant in a fiduciary capacity, and by commingling business or personal funds with funds required to be maintained in a separate fiduciary trust account;

THEREFORE, IT IS ORDERED THAT:

(1) The licenses of Defendant to transact the business of insurance as an agent in the Commonwealth of Virginia be, and they are hereby, REVOKED;

(2) All appointments issued under said licenses be, and they are hereby, VOID;

(3) Defendant transact no further business in the Commonwealth of Virginia as an insurance agent;

(4) Defendant shall not apply to the Commission to be licensed as an insurance agent in the Commonwealth of Virginia prior to two (2) years from the date of this order;

(5) The Bureau of Insurance cause a copy of this order to be sent to every insurance company for which Defendant holds an appointment to act as an insurance agent in the Commonwealth of Virginia; and

(6) The papers herein be placed in the file for ended causes.

**CASE NO. INS010314  
FEBRUARY 11, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
LORI DICKENS BRITT,  
Defendant

**ORDER REVOKING LICENSE**

IT APPEARING from an investigation by the Bureau of Insurance that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia as an insurance agent, in a certain instance, violated § 38.2-4806 D of the Code of Virginia by failing to file timely with the Commission the quarterly report summarizing the business transacted by Defendant for the third quarter of 2001;

IT FURTHER APPEARING that the Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1831 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and to suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violation;

IT FURTHER APPEARING that Defendant has been notified of Defendant's right to a hearing before the Commission in this matter by two certified letters dated December 18, 2001, January 10, 2002, respectively, and mailed to Defendant's address shown in the records of the Bureau of Insurance;

IT FURTHER APPEARING that Defendant, having been advised in the aforesaid manner of her right to a hearing in this matter, has failed to request a hearing and has not otherwise communicated with the Bureau of Insurance;

IT FURTHER APPEARING that the Bureau of Insurance, upon Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of Defendant's licenses to transact the business of insurance in the Commonwealth of Virginia as an insurance agent; and

THE COMMISSION is of the opinion and finds that Defendant has violated § 38.2-4806 D of the Code of Virginia by failing to file timely with the Commission the quarterly report summarizing the business transacted by Defendant for the third quarter of 2001;

THEREFORE, IT IS ORDERED THAT:

(1) The licenses of Defendant to transact the business of insurance as an agent in the Commonwealth of Virginia be, and they are hereby, REVOKED;

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

- (2) All appointments issued under said licenses be, and they are hereby, VOID;
- (3) Defendant transact no further business in the Commonwealth of Virginia as an insurance agent;
- (4) Defendant shall not apply to the Commission to be licensed as an insurance agent in the Commonwealth of Virginia prior to two (2) years from the date of this Order;
- (5) The Bureau of Insurance cause a copy of this Order to be sent to every insurance company for which Defendant holds an appointment to act as an insurance agent in the Commonwealth of Virginia; and
- (6) The papers herein be placed in the file for ended causes.

**CASE NO. INS020001  
JANUARY 14, 2002**

COMMONWEALTH OF VIRGINIA

At the relation of the  
STATE CORPORATION COMMISSION

v.

OMNI INSURANCE COMPANY, OMNI INDEMNITY COMPANY,  
and  
TRUMBULL INSURANCE COMPANY,  
Defendants

**SETTLEMENT ORDER**

IT APPEARING from a market conduct examination performed by the Bureau of Insurance that Defendants, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, in certain instances, violated the Code of Virginia and the Virginia Administrative Code as follows: Omni Insurance Company violated §§ 38.2-610 A, 38.2-1812, 38.2-1833, 38.2-1905 A, 38.2-1905 C, 38.2-1906 D, 38.2-2208, 38.2-2212, and 38.2-2220 of the Code of Virginia, as well as 14 VAC 5-400-40 A and 14 VAC 5-400-70 D; Omni Indemnity Company violated §§ 38.2-1812, 38.2-1833, 38.2-1906 D, 38.2-2208, 38.2-2220, and 38.2-2230 of the Code of Virginia, as well as 14 VAC 5-400-40 A and 14 VAC 5-400-70 D; and Trumbull Insurance Company violated §§ 38.2-1812, 38.2-1822, 38.2-1833, 38.2-1906 D, 38.2-2208, 38.2-2213, and 38.2-2220 of the Code of Virginia, as well as 14 VAC 5-390-40, 14 VAC 5-400-40 A, and 14 VAC 5-400-70 D;

IT FURTHER APPEARING that the Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke Defendants' licenses upon a finding by the Commission, after notice and opportunity to be heard, that Defendants have committed the aforesaid alleged violations;

IT FURTHER APPEARING that Defendants have been advised of their right to a hearing in this matter, whereupon Defendants, without admitting any violation of Virginia law, have made an offer of settlement to the Commission wherein Defendants have tendered to the Commonwealth of Virginia the sum of eleven thousand dollars (\$11,000), waived their right to a hearing, and agreed to the entry by the Commission of a cease and desist order; and

IT FURTHER APPEARING that the Bureau of Insurance has recommended that the Commission accept the offer of settlement of Defendants pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia,

IT IS ORDERED THAT:

- (1) The offer of Defendants in settlement of the matter set forth herein be, and it is hereby, accepted;
- (2) Omni Insurance Company cease and desist from any conduct which constitutes a violation of §§ 38.2-610 A, 38.2-1812, 38.2-1833, 38.2-1905 A, 38.2-1905 C, 38.2-1906 D, 38.2-2208, 38.2-2212, or 38.2-2220 of the Code of Virginia, or 14 VAC 5-400-40 A or 14 VAC 5-400-70 D; Omni Indemnity Company cease and desist from any conduct which constitutes a violation of §§ 38.2-1812, 38.2-1833, 38.2-1906 D, 38.2-2208, 38.2-2220, or 38.2-2230 of the Code of Virginia, or 14 VAC 5-400-40 A or 14 VAC 5-400-70 D; and Trumbull Insurance Company cease and desist from any conduct which constitutes a violation of §§ 38.2-1812, 38.2-1822, 38.2-1833, 38.2-1906 D, 38.2-2208, 38.2-2213, or 38.2-2220 of the Code of Virginia, or 14 VAC 5-390-40, 14 VAC 5-400-40 A, or 14 VAC 5-400-70 D.
- (3) The papers herein be placed in the file for ended causes.

**CASE NO. INS020002  
JANUARY 8, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

Ex Parte: In the matter of Repealing Certain of the Rules Governing Variable Life Insurance

**ORDER TO TAKE NOTICE**

WHEREAS, § 12.1-13 of the Code of Virginia provides that the Commission shall have the power to promulgate rules and regulations in the enforcement and administration of all laws within its jurisdiction, and § 38.2-223 of the Code of Virginia provides that the Commission may issue any rules and regulations necessary or appropriate for the administration and enforcement of Title 38.2 of the Code of Virginia;

WHEREAS, the rules and regulations issued by the Commission pursuant to § 38.2-223 of the Code of Virginia are set forth in Title 14 of the Virginia Administrative Code;

WHEREAS, the Bureau of Insurance has recommended the repeal of certain rules set forth in Chapter 80 of Title 14 of the Virginia Administrative Code entitled "Rules Governing Variable Life Insurance," specifically, the rules designated as 14 VAC 5-80-160, 14 VAC 5-80-170, 14 VAC 5-80-180, and 14 VAC 5-80-190;

WHEREAS, the Bureau's recommendation to repeal 14 VAC 5-80-160, 14 VAC 5-80-170, 14 VAC 5-80-180, and 14 VAC 5-80-190 results from the Bureau's adoption of the requirement that the establishment, maintenance, and reporting of reserve liabilities for variable life insurance be in accordance with the National Association of Insurance Commissioners Accounting Practices and Procedures Manual and as provided by §§ 38.2-1311 et seq. and 38.2-3126 et seq. of the Code of Virginia; and

WHEREAS, the Commission is of the opinion that the proposed repeal of 14 VAC 5-80-160, 14 VAC 5-80-170, 14 VAC 5-80-180, and 14 VAC 5-80-190 should be considered with a proposed effective date of March 31, 2002;

THEREFORE IT IS ORDERED THAT:

(1) All interested persons who desire to comment in support of or in opposition to, or to request a hearing to oppose the repeal of, 14 VAC 5-80-160, 14 VAC 5-80-170, 14 VAC 5-80-180, and 14 VAC 5-80-190, shall file such comments or hearing request on or before March 1, 2002, in writing with the Clerk of the Commission, Document Control Center, P.O. Box 2118, Richmond, Virginia 23218 and shall refer to Case No. INS020002;

(2) If no written request for a hearing on the proposed repeal is filed on or before March 1, 2002, the Commission, upon consideration of any comments submitted in support of or in opposition to the proposed repeal, shall consider the repeal of 14 VAC 5-80-160, 14 VAC 5-80-170, 14 VAC 5-80-180, and 14 VAC 5-80-190 as recommended by the Bureau of Insurance;

(3) AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to the Bureau of Insurance in care of Deputy Commissioner Douglas C. Stolte, who forthwith shall give further notice of the proposed repeal of 14 VAC 5-80-160, 14 VAC 5-80-170, 14 VAC 5-80-180, and 14 VAC 5-80-190 by mailing a copy of this Order to all insurers licensed and authorized to offer any form of life insurance or annuities as defined by §§ 38.2-102 through 38.2-107.1 of the Code of Virginia; and by forwarding a copy of this Order to the Virginia Registrar of Regulations for appropriate publication in the Virginia Register of Regulations; and

(4) The Bureau of Insurance shall file with the Clerk of the Commission an affidavit of compliance with the notice requirements of paragraph (3) above.

NOTE: A copy of Attachment A entitled "Chapter 80. Rules Governing Variable Life Insurance" is on file and may be examined at the State Corporation Commission, Clerk's Office, Document Control Center, Tyler Building, First Floor, 1300 East Main Street, Richmond, Virginia.

**CASE NO. INS020002  
MARCH 6, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

Ex Parte: In the matter of Repealing Certain of the Rules Governing Variable Life Insurance

**ORDER REPEALING REGULATION**

WHEREAS, by order entered herein January 8, 2002, all interested persons were ordered to take notice that the Commission would consider the entry of an order subsequent to March 1, 2002, repealing 14 VAC 5-80-160, 14 VAC 5-80-170, 14 VAC 5-80-180, and 14 VAC 5-80-190, as proposed by the Bureau of Insurance, unless on or before March 1, 2002, any person objecting to the proposed repeal filed a request for a hearing with the Clerk of the Commission;

WHEREAS, the January 8, 2002, Order also required all interested persons to file their comments in support of or in opposition to the proposed repeal on or before March 1, 2002;

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

WHEREAS, as of the date of this Order, no request for a hearing has been filed with the Clerk of the Commission;

WHEREAS, as of the date of this Order, no comments have been filed with the Clerk of the Commission;

WHEREAS, the Bureau has recommended that 14 VAC 5-80-160, 14 VAC 5-80-170, 14 VAC 5-80-180, and 14 VAC 5-80-190 be repealed; and

THE COMMISSION, having considered 14 VAC 5-80-160, 14 VAC 5-80-170, 14 VAC 5-80-180, and 14 VAC 5-80-190, and the Bureau's recommendation, is of the opinion that 14 VAC 5-80-160, 14 VAC 5-80-170, 14 VAC 5-80-180, and 14 VAC 5-80-190 should be repealed;

THEREFORE, IT IS ORDERED THAT:

(1) Certain of the rules in Chapter 80 of Title 14 of the Virginia Administrative Code entitled "Rules Governing Variable Life Insurance" and specifically designated as 14 VAC 5-80-160, 14 VAC 5-80-170, 14 VAC 5-80-180, and 14 VAC 5-80-190, should be, and it is hereby, REPEALED to be effective March 31, 2002;

(2) AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to the Bureau of Insurance in care of Deputy Commissioner Douglas C. Stolte, who forthwith shall give further notice of the repeal of 14 VAC 5-80-160, 14 VAC 5-80-170, 14 VAC 5-80-180, and 14 VAC 5-80-190 by mailing a copy of this Order to all insurers licensed and authorized to offer any form of life insurance or annuities as defined by §§ 38.2-102 through 38.2-107.1 of the Code of Virginia; and by forwarding a copy of this Order to the Virginia Registrar of Regulations for appropriate publication in the Virginia Register of Regulations; and

(3) The Bureau of Insurance shall file with the Clerk of the Commission an affidavit of compliance with the notice requirement of paragraph (2) above.

CASE NO. INS020003  
JANUARY 8, 2002

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
KIMBERLY JO SMITH,  
Defendant

ORDER REVOKING LICENSE

IT APPEARING from an investigation by the Bureau of Insurance that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia as an insurance agent, in certain instances, violated §§ 38.2-1819 and 38.2-1826 of the Code of Virginia by failing to include in her written application information prescribed by the Commission and by failing to report within thirty days to the Commission and to every insurer for which she is appointed any change in her residence address;

IT FURTHER APPEARING that the Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1831 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations;

IT FURTHER APPEARING that Defendant has been notified of Defendant's right to a hearing before the Commission in this matter by certified letter dated December 7, 2001, and mailed to Defendant's address shown in the records of the Bureau of Insurance;

IT FURTHER APPEARING that Defendant, having been advised in the aforesaid manner of her right to a hearing in this matter, has failed to request a hearing and has not otherwise communicated with the Bureau of Insurance;

IT FURTHER APPEARING that the Bureau of Insurance, upon Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of Defendant's licenses to transact the business of insurance in the Commonwealth of Virginia as an insurance agent; and

THE COMMISSION is of the opinion and finds that Defendant has violated §§ 38.2-1819 and 38.2-1826 of the Code of Virginia by failing to include in her written application information prescribed by the Commission and by failing to report within thirty days to the Commission and to every insurer for which she is appointed any change in her residence address;

THEREFORE, IT IS ORDERED THAT:

(1) The licenses of Defendant to transact the business of insurance as an agent in the Commonwealth of Virginia be, and they are hereby, REVOKED;

(2) All appointments issued under said licenses be, and they are hereby, VOID;

(3) Defendant transact no further business in the Commonwealth of Virginia as an insurance agent;

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

(4) Defendant shall not apply to the Commission to be licensed as an insurance agent in the Commonwealth of Virginia prior to two (2) years from the date of this order;

(5) The Bureau of Insurance cause a copy of this order to be sent to every insurance company for which Defendant holds an appointment to act as an insurance agent in the Commonwealth of Virginia; and

(6) The papers herein be placed in the file for ended causes.

**CASE NO. INS020008  
JANUARY 31, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

v.

CENTRAL RESERVE LIFE INSURANCE COMPANY,  
Defendant

**SETTLEMENT ORDER**

IT APPEARING from a market conduct examination performed by the Bureau of Insurance that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, in certain instances, violated §§ 38.2-3407.15 B 1, 38.2-3407.15 B 2, 38.2-3407.15 B 3, 38.2-3407.15 B 4, 38.2-3407.15 B 5, 38.2-3407.15 B 6, 38.2-3407.15 B 7, 38.2-3407.15 B 8, and 38.2-3407.15 B 9 of the Code of Virginia;

IT FURTHER APPEARING that the Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations;

IT FURTHER APPEARING that Defendant has been advised of its right to a hearing in this matter, whereupon Defendant has made an offer of settlement to the Commission wherein Defendant has tendered to the Commonwealth of Virginia the sum of thirteen thousand five hundred dollars (\$13,500) and waived its right to a hearing; and

IT FURTHER APPEARING that the Bureau of Insurance has recommended that the Commission accept the offer of settlement of Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia,

IT IS ORDERED THAT:

- (1) The offer of Defendant in settlement of the matter set forth herein be, and it is hereby, accepted; and
- (2) The papers herein be placed in the file for ended causes.

**CASE NO. INS020009  
JANUARY 31, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

v.

CONTINENTAL GENERAL INSURANCE COMPANY,  
Defendant

**SETTLEMENT ORDER**

IT APPEARING from a market conduct examination performed by the Bureau of Insurance that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, in certain instances, violated §§ 38.2-3407.15 B 1, 38.2-3407.15 B 2, 38.2-3407.15 B 3, 38.2-3407.15 B 4, 38.2-3407.15 B 5, 38.2-3407.15 B 6, 38.2-3407.15 B 7, 38.2-3407.15 B 8, and 38.2-3407.15 B 9 of the Code of Virginia;

IT FURTHER APPEARING that the Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations;

IT FURTHER APPEARING that Defendant has been advised of its right to a hearing in this matter, whereupon Defendant has made an offer of settlement to the Commission wherein Defendant has tendered to the Commonwealth of Virginia the sum of thirteen thousand five hundred dollars (\$13,500) and waived its right to a hearing; and

IT FURTHER APPEARING that the Bureau of Insurance has recommended that the Commission accept the offer of settlement of Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia,

IT IS ORDERED THAT:

- (1) The offer of Defendant in settlement of the matter set forth herein be, and it is hereby, accepted; and
- (2) The papers herein be placed in the file for ended causes.

**CASE NO. INS020020  
FEBRUARY 12, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
NEW YORK LIFE INSURANCE COMPANY,  
Defendant

**SETTLEMENT ORDER**

IT APPEARING from a market conduct examination performed by the Bureau of Insurance that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, in certain instances, violated §§ 38.2-3407.15 B 1, 38.2-3407.15 B 2, 38.2-3407.15 B 3, 38.2-3407.15 B 4, 38.2-3407.15 B 5, 38.2-3407.15 B 6, 38.2-3407.15 B 7, 38.2-3407.15 B 8, and 38.2-3407.15 B 9 of the Code of Virginia;

IT FURTHER APPEARING that the Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations;

IT FURTHER APPEARING that Defendant has been advised of its right to a hearing in this matter, whereupon Defendant has made an offer of settlement to the Commission wherein Defendant has tendered to the Commonwealth of Virginia the sum of thirteen thousand five hundred dollars (\$13,500) and waived its right to a hearing; and

IT FURTHER APPEARING that the Bureau of Insurance has recommended that the Commission accept the offer of settlement of Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia,

IT IS ORDERED THAT:

- (1) The offer of Defendant in settlement of the matter set forth herein be, and it is hereby, accepted; and
- (2) The papers herein be placed in the file for ended causes.

**CASE NO. INS020021  
MARCH 5, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
THE GEORGE WASHINGTON UNIVERSITY HEALTH PLAN, INC.,  
Defendant

**SETTLEMENT ORDER**

IT APPEARING from a market conduct examination performed by the Bureau of Insurance that Defendant, duly licensed by the Commission to transact the business of a health maintenance organization in the Commonwealth of Virginia, in certain instances, violated §§ 38.2-3407.15 B 1, 38.2-3407.15 B 2, 38.2-3407.15 B 3, 38.2-3407.15 B 4, 38.2-3407.15 B 5, 38.2-3407.15 B 6, and 38.2-3407.15 B 9 of the Code of Virginia;

IT FURTHER APPEARING that the Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-4316 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations;

IT FURTHER APPEARING that Defendant has been advised of its right to a hearing in this matter, whereupon Defendant has made an offer of settlement to the Commission wherein Defendant has tendered to the Commonwealth of Virginia the sum of seven thousand dollars (\$7,000) and waived its right to a hearing; and

IT FURTHER APPEARING that the Bureau of Insurance has recommended that the Commission accept the offer of settlement of Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia,

IT IS ORDERED THAT:

- (1) The offer of Defendant in settlement of the matter set forth herein be, and it is hereby, accepted; and
- (2) The papers herein be placed in the file for ended causes.

**CASE NO. INS020022  
FEBRUARY 1, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
NEWARK INSURANCE COMPANY,  
Defendant

**ORDER TO TAKE NOTICE**

WHEREAS, § 38.2-1040 of the Code of Virginia provides, inter alia, that the Commission may suspend or revoke the license of any insurance company to transact the business of insurance in the Commonwealth of Virginia whenever the Commission finds that the company has violated any law of this Commonwealth;

WHEREAS, Newark Insurance Company, a foreign corporation domiciled in the State of New Jersey ("Defendant"), is licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia;

WHEREAS, pursuant to § 38.2-1301 of the Code of Virginia and 14 VAC 5-270-50, Defendant was required to file its 2000 audited financial statement with the Bureau of Insurance (the "Bureau") by June 1, 2001, and to file its September 30, 2001 quarterly statement with the Bureau by November 15, 2001; and

WHEREAS, as of the date of this Order, Defendant has failed to file such audited financial statement and quarterly statement with the Bureau;

THEREFORE, IT IS ORDERED that Defendant TAKE NOTICE that the Commission shall enter an order subsequent to February 15, 2002, suspending the license of Defendant to transact the business of insurance in the Commonwealth of Virginia unless on or before February 15, 2002, Defendant files with the Clerk of the Commission, Document Control Center, P.O. Box 2118, Richmond, Virginia 23218, a request for a hearing before the Commission with respect to the proposed suspension of Defendant's license.

**CASE NO. INS020022  
FEBRUARY 25, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
NEWARK INSURANCE COMPANY,  
Defendant

**ORDER SUSPENDING LICENSE**

WHEREAS, for the reasons stated in an order entered herein February 1, 2002, Defendant was ordered to take notice that the Commission would enter an order subsequent to February 15, 2002, suspending the license of Defendant to transact the business of insurance in the Commonwealth of Virginia unless on or before February 15, 2002, Defendant filed with the Clerk of the Commission a request for a hearing before the Commission to contest the proposed suspension of Defendant's license; and

WHEREAS, as of the date of this Order, Defendant has not filed a request to be heard before the Commission with respect to the proposed suspension of Defendant's license;

THEREFORE, IT IS ORDERED THAT:

- (1) Pursuant to § 38.2-1040 of the Code of Virginia, the license of Defendant to transact the business of insurance in the Commonwealth of Virginia be, and it is hereby, **SUSPENDED**;
- (2) Defendant shall issue no new contracts or policies of insurance in the Commonwealth of Virginia until further order of the Commission;
- (3) The appointments of Defendant's agents to act on behalf of Defendant in the Commonwealth of Virginia be, and they are hereby, **SUSPENDED**;
- (4) Defendant's agents shall transact no new insurance business on behalf of Defendant in the Commonwealth of Virginia until further order of the Commission;

(5) The Bureau of Insurance shall cause an attested copy of this Order to be sent to each of Defendant's agents appointed to act on behalf of Defendant in the Commonwealth of Virginia as notice of the suspension of such agent's appointment; and

(6) The Bureau of Insurance shall cause notice of the suspension of Defendant's license to be published in the manner set forth in § 38.2-1043 of the Code of Virginia.

**CASE NO. INS020024  
MARCH 27, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

HOME WARRANTY PLANS, INC.,  
Defendant

**ORDER TO TAKE NOTICE**

WHEREAS, § 38.2-2603 of the Code of Virginia prohibits any home protection company from issuing or offering to issue home protection insurance contracts in the Commonwealth of Virginia until a home protection company license has been granted by the Commission; and

WHEREAS, on March 25, 2002, the Bureau of Insurance, by counsel, filed with the Clerk of the Commission a Motion for Permanent Injunction alleging that Defendant has issued at least five home protection insurance contracts in Virginia without first obtaining a license from the Commission and requesting that the Commission enter an Order permanently enjoining Defendant from issuing any further home protection insurance contracts in Virginia;

THEREFORE, IT IS ORDERED that Defendant TAKE NOTICE that the Commission shall enter a Judgment Order subsequent to May 1, 2002, permanently enjoining Defendant from transacting the business of insurance in the Commonwealth of Virginia unless on or before May 1, 2002, Defendant files with the Clerk of the Commission, Document Control Center, P.O. Box 2118, Richmond, Virginia 23218, a responsive pleading and a request for a hearing.

**CASE NO. INS-2002-00024  
MAY 7, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

v.  
HOME WARRANTY PLANS, INC.,  
Defendant

**JUDGMENT ORDER**

WHEREAS, by order entered herein March 27, 2002, Defendant was ordered to take notice that the Commission would enter a Judgment Order subsequent to May 1, 2002, permanently enjoining Defendant from transacting the business of insurance in the Commonwealth of Virginia, unless on or before May 1, 2002, Defendant filed with the Clerk of the Commission a responsive pleading and a request for a hearing;

WHEREAS, as of the date of this order, Defendant has failed to file a responsive pleading to object to the entry of a Judgment Order and has not requested a hearing;

THEREFORE, IT IS ORDERED THAT:

(1) Defendant Home Warranty Plans, Inc., be, and it is hereby, permanently enjoined from transacting the business of insurance in the Commonwealth of Virginia; and

(2) The papers herein be placed in the file for ended causes.



**CASE NO. INS020037  
FEBRUARY 22, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

v.

LAWRENCEVILLE PROPERTY AND CASUALTY COMPANY,  
Defendant

**CONSENT ORDER**

WHEREAS, by letter filed herein, Lawrenceville Property and Casualty Company ("Defendant"), a corporation domiciled in the Commonwealth of Virginia and licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, consented to the issuance of an order in which Defendant agrees, effective as of the date hereof, and continuing until further order of the Commission, not to solicit or issue any new or renewal insurance policies or contracts in any jurisdiction, in accordance with applicable laws;

THEREFORE, IT IS ORDERED THAT Defendant shall not issue any new contracts or policies of insurance and shall not renew any contracts or policies of insurance, in accordance with applicable law, in all jurisdictions in which Defendant is licensed or otherwise authorized to transact the business of insurance until further order of the Commission.

**CASE NO. INS020037  
MARCH 6, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

v.

LAWRENCEVILLE PROPERTY AND CASUALTY COMPANY,  
Defendant

**CONSENT ORDER**

WHEREAS, by letter filed herein, Lawrenceville Property and Casualty Company ("Defendant"), a corporation domiciled in the Commonwealth of Virginia and licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, agreed to the entry by the Commission of a consent order, the terms of which are set forth in the ordering paragraph below.

THEREFORE, IT IS ORDERED THAT Defendant, without prior written approval of the Commission, and until further order of the Commission, shall not:

- (1) sell assets or business in force or transfer property, except in the ordinary course of business;
- (2) hypothecate, encumber, or pledge any of Defendant's assets, property or business in force;
- (3) lend its funds;
- (4) disburse funds, other than for normal operating expenses and in the ordinary course of business;
- (5) incur debt except in the ordinary course of business to unaffiliated parties;
- (6) make any sale, purchase, exchange, loan, extension of credit, or investment in the MIIX Group, Incorporated ("MIIX") or any of its affiliates that results in actual or contingent exposure to loss of any of the company's assets;
- (7) enter into new or modify existing reinsurance treaties or agreements with MIIX or any of its affiliates, either directly or indirectly;
- (8) commute any reinsurance treaty or agreement;
- (9) enter into any new or modify any existing service contract or cost-sharing arrangement;
- (10) remove or change any of Defendant's existing directors or officers except that Defendant may fill the open position of Chief Financial Officer (CFO) without the prior written approval of the Commission;
- (11) pay any dividend or any other distribution to Defendant's stockholder;
- (12) enter into any transactions relating to federal tax allocation agreements with MIIX or any of its affiliates, either directly or indirectly; or
- (13) merge or consolidate with another company.

**CASE NO. INS020038  
APRIL 3, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
UNITED HEALTHCARE OF VIRGINIA, INC.,  
Defendant

**SETTLEMENT ORDER**

IT APPEARING from a market conduct examination performed by the Bureau of Insurance that Defendant, duly licensed by the Commission to transact the business of a health maintenance organization in the Commonwealth of Virginia, in certain instances, violated §§ 38.2-510 A 5, 38.2-510 A 15, 38.2-3407.15 C, 38.2-3412.1:01 C and 38.2-4306.1 of the Code of Virginia, as well as 14 VAC 5-210-90 B 1 b;

IT FURTHER APPEARING that the Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-4316 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations;

IT FURTHER APPEARING that Defendant has been advised of its right to a hearing in this matter, whereupon Defendant has made an offer of settlement to the Commission wherein Defendant has tendered to the Commonwealth of Virginia the sum of thirteen thousand dollars (\$13,000), waived its right to a hearing, and agreed to the entry by the Commission of a cease and desist order; and

IT FURTHER APPEARING that the Bureau of Insurance has recommended that the Commission accept the offer of settlement of Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia,

IT IS ORDERED THAT:

- (1) The offer of Defendant in settlement of the matter set forth herein be, and it is hereby, accepted;
- (2) Defendant cease and desist from any conduct which constitutes a violation of §§ 38.2-510 A 5, 38.2-510 A 15, 38.2-3407.15 C, 38.2-3412.1:01 or 38.2-4306.1 of the Code of Virginia, or 14 VAC 5-210-90 B 1 b; and
- (3) The papers herein be placed in the file for ended causes.

**CASE NO. INS020041  
MARCH 27, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
FEDERATED MUTUAL INSURANCE COMPANY,  
Defendant

**SETTLEMENT ORDER**

IT APPEARING from a market conduct examination performed by the Bureau of Insurance that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, in certain instances, violated §§ 38.2-3407.15 B 1, 38.2-3407.15 B 2, 38.2-3407.15 B 3, 38.2-3407.15 B 4, 38.2-3407.15 B 5, 38.2-3407.15 B 6, 38.2-3407.15 B 7, and 38.2-3407.15 B 9 of the Code of Virginia;

IT FURTHER APPEARING that the Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations;

IT FURTHER APPEARING that Defendant has been advised of its right to a hearing in this matter, whereupon Defendant has made an offer of settlement to the Commission wherein Defendant has tendered to the Commonwealth of Virginia the sum of twelve thousand dollars (\$12,000) and waived its right to a hearing; and

IT FURTHER APPEARING that the Bureau of Insurance has recommended that the Commission accept the offer of settlement of Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia,

IT IS ORDERED THAT:

- (1) The offer of Defendant in settlement of the matter set forth herein be, and it is hereby, accepted; and
- (2) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2002-00044  
JUNE 21, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
SONJI R. RUDOLPH,  
Defendant

**JUDGMENT ORDER**

By Order entered herein on April 12, 2002, Defendant was ordered to appear in the Commission's Courtroom on May 7, 2002, and show cause, if any, why Defendant should not be subject to a fine or other penalty for failing to produce certain documents to the Bureau of Insurance in violation of a Commission Order, specifically the Commission's subpoena issued March 5, 2002.

On May 3, 2002, the Chief Hearing Examiner, appointed pursuant to § 12.1-31 of the Code of Virginia to take the evidence in this case, continued the hearing on the Rule to Show Cause until June 5, 2002.

On June 5, 2002, a hearing was conducted in which the Bureau of Insurance appeared represented by counsel, and Defendant failed to appear despite having been personally served with notice of the hearing.

At the conclusion of the hearing, the Chief Hearing Examiner issued her Report, in which she found that Defendant was in violation of the Commission's subpoena for failing to produce the documents as ordered. Accordingly, the Chief Hearing Examiner recommended, pursuant to § 12.1-33 of the Code of Virginia, that Defendant be fined five thousand dollars (\$5,000) for failure to comply with a Commission order, plus one thousand dollars (\$1,000) per day beginning one day after the entry of the Commission's judgment order in this proceeding, until such time as Defendant fully satisfies the subpoena issued by the Commission.

UPON CONSIDERATION of the Rule to Show Cause, the evidence presented at the hearing, and the Chief Hearing Examiner's Report, the Commission adopts the findings of fact and recommendations made by the Chief Hearing Examiner in her Report.

THEREFORE, IT IS ORDERED THAT:

- (1) Pursuant to § 12.1-33 of the Code of Virginia, Defendant is fined in the amount of five thousand dollars (\$5,000) for her failure to obey a Commission order;
- (2) Pursuant to § 12.1-33 of the Code of Virginia, Defendant shall be fined one thousand dollars (\$1,000) per day beginning the day following the entry of this Order and continuing until Defendant fully complies with the subpoena issued by the Commission on March 5, 2002; and
- (3) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2002-00047  
MAY 16, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
METROPOLITAN LIFE INSURANCE COMPANY,  
Defendant

**AMENDED SETTLEMENT ORDER**

IT APPEARING from a market conduct examination performed by the Bureau of Insurance that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, in certain instances, violated §§ 38.2-3407.15 B 1, 38.2-3407.15 B 2, 38.2-3407.15 B 3, 38.2-3407.15 B 4, 38.2-3407.15 B 7, and 38.2-3407.15 B 8 of the Code of Virginia;

IT FURTHER APPEARING that the Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations;

IT FURTHER APPEARING that Defendant has been advised of its right to a hearing in this matter, whereupon Defendant has made an offer of settlement to the Commission wherein Defendant has tendered to the Commonwealth of Virginia the sum of nine thousand dollars (\$9,000) and waived its right to a hearing; and

IT FURTHER APPEARING that the Bureau of Insurance has recommended that the Commission accept the offer of settlement of Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia,

IT IS ORDERED THAT:

- (1) The offer of Defendant in settlement of the matter set forth herein be, and it is hereby, accepted; and
- (2) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2002-00048  
AUGUST 9, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
UNITED AMERICAN INSURANCE COMPANY,  
Defendant

**SETTLEMENT ORDER**

Based on an investigation and subsequent allegations by the Bureau of Insurance, it appears that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, in certain instances, violated § 38.2-3407.14 of the Code of Virginia by failing to provide sixty day's written notice to its policyholders, contract holders, or subscribers, as appropriate (collectively, "policyholders"), of Defendant's intent to increase by more than thirty-five percent the annual premium charged for coverage under this section.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations.

Defendant has been advised of its right to a hearing in this matter, whereupon Defendant has made an offer of settlement to the Commission wherein Defendant has (1) tendered to the Commonwealth of Virginia the sum of ten thousand dollars (\$10,000); (2) waived its right to a hearing; (3) agreed to the entry by the Commission of a cease and desist order; (4) has provided written documentation of the number of affected policyholders and their corresponding form numbers, the affecting policyholders being any and all Virginia policyholders for whom a rate increase greater than 35% was applied without a full sixty-day advance notification, on or after July 1, 1999, the effective date of the statute; (5) has corrected its information system to fully comply with Code of Virginia §38.2-3407.14; (6) agreed to further reimburse, within sixty days of the date of this order, all affected policyholders the amount by which any premium increase applied to their policies exceeded 35%, for the entire period for which no notice, or insufficient notice was provided; and (6) agreed to provide to the Bureau of Insurance for its review prior to distribution, a draft of the letter that will accompany the reimbursements to affected policyholders, in which it should be noted that the reimbursement is the result of an audit conducted by the Bureau of Insurance.

The Bureau of Insurance has recommended that the Commission accept the offer of settlement of Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia.

THE COMMISSION, having considered the record herein, the offer of settlement of Defendant, and the recommendation of the Bureau of Insurance, is of the opinion that Defendant's offer should be accepted.

IT IS THEREFORE ORDERED THAT:

- (1) The offer of Defendant in settlement of the matter set forth herein be, and it is hereby, accepted;
- (2) Defendant shall fully comply with the aforesaid terms and undertakings of the settlement;
- (3) Defendant shall cease and desist from any conduct which constitutes a violation of § 38.2-3407.14 of the Code of Virginia; and
- (4) The Commission shall retain jurisdiction in this matter for all purposes, including the institution of a show cause proceeding, or taking such other action it deems appropriate, in the event that Defendant fails to comply with the terms and undertakings of the settlement set forth herein.

**CASE NO. INS-2002-00049  
APRIL 30, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
PENINSULA HEALTH CARE, INC.,  
Defendant

**SETTLEMENT ORDER**

IT APPEARING from a market conduct examination performed by the Bureau of Insurance that Defendant, duly licensed by the Commission to transact the business of a health maintenance organization in the Commonwealth of Virginia, in certain instances, violated §§ 38.2-503, 38.2-1812 A, 38.2-1833, and 38.2-3407.4 of the Code of Virginia, as well as 14 VAC 5-210-70 C 3;

IT FURTHER APPEARING that the Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-4316 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations;

IT FURTHER APPEARING that Defendant has been advised of its right to a hearing in this matter, whereupon Defendant, without admitting any violation of Virginia law, has made an offer of settlement to the Commission wherein Defendant has tendered to the Commonwealth of Virginia the sum of eight thousand dollars (\$8,000), waived its right to a hearing, and agreed to the entry by the Commission of a cease and desist order; and

IT FURTHER APPEARING that the Bureau of Insurance has recommended that the Commission accept the offer of settlement of Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia,

IT IS ORDERED THAT:

- (1) The offer of Defendant in settlement of the matter set forth herein be, and it is hereby, accepted;
- (2) Defendant cease and desist from any conduct which constitutes a violation of §§ 38.2-503, 38.2-1812 A, 38.2-1833, or 38.2-3407.4 of the Code of Virginia, or 14 VAC 5-210-70 C 3; and
- (3) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2002-00050  
APRIL 12, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
FIDELITY & GUARANTY LIFE INSURANCE COMPANY,  
Defendant

**SETTLEMENT ORDER**

IT APPEARING from an investigation and subsequent allegations by the Bureau of Insurance that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, in certain instances, violated § 38.2-610 of the Code of Virginia by failing to give to applicants for insurance written notice of an adverse underwriting decision in the form approved by the Commission;

IT FURTHER APPEARING that the Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations;

IT FURTHER APPEARING that Defendant has been advised of its right to a hearing in this matter, whereupon Defendant has made an offer of settlement to the Commission wherein Defendant has tendered to the Commonwealth of Virginia the sum of fifteen thousand dollars (\$15,000), waived its right to a hearing, and agreed to the entry by the Commission of a cease and desist order; and

IT FURTHER APPEARING that the Bureau of Insurance has recommended that the Commission accept the offer of settlement of Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia,

IT IS ORDERED THAT:

- (1) The offer of Defendant in settlement of the matter set forth herein be, and it is hereby, accepted;
- (2) Defendant cease and desist from any conduct which constitutes a violation of § 38.2-610 of the Code of Virginia; and
- (3) The papers herein be placed in the file for ended causes.

**CASE NO. INS020051  
MARCH 18, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

Ex Parte, In re: Approval of a regulatory settlement agreement by and between Life Insurance Company of Georgia and Southland Life Insurance Company, and the Insurance Commissioner for the State of Georgia, for and on behalf of the State of Georgia and the Virginia Bureau of Insurance, among others

**ORDER APPROVING SETTLEMENT AGREEMENT**

ON A FORMER DAY came the Bureau of Insurance ("the Bureau"), by counsel, and requested (i) Commission approval and acceptance of a certain multi-state Regulatory Settlement Agreement and Stipulation of Settlement dated February 28, 2002 ("the Agreement"), a copy of which is attached hereto and made a part hereof, by and between the Insurance Commissioner for the State of Georgia, for and on behalf of the State of Georgia and the Bureau, among others, and Life Insurance Company of Georgia, a foreign insurer domiciled in the State of Georgia and licensed by the Bureau to transact the business of insurance in the Commonwealth of Virginia and Southland Life Insurance Company, a foreign insurer domiciled in the State of Texas and licensed by the Bureau to transact the business of insurance in the Commonwealth of Virginia, and (ii) authority to execute any documents attendant to the Agreement necessary to evidence the Commission's acceptance of the Agreement;

AND THE COMMISSION, having considered the terms of the Agreement together with the recommendation of the Bureau that the Commission approve and accept the Agreement, is of the opinion, finds, and ORDERS that (i) the Agreement be, and it is hereby, APPROVED AND ACCEPTED and (ii) the Commissioner of Insurance be, and he is hereby authorized to execute any attendant documents necessary to evidence the Commission's approval and acceptance of the Agreement.

NOTE: A copy of Attachment A entitled "Regulatory Settlement Agreement" is on file and may be examined at the State Corporation Commission, Clerk's Office, Document Control Center, Tyler Building, First Floor, 1300 East Main Street, Richmond, Virginia.

**CASE NO. INS020059  
MARCH 27, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

v.  
NEW YORK LIFE AND HEALTH INSURANCE COMPANY,  
Defendant

**ORDER TO TAKE NOTICE**

WHEREAS, § 38.2-1040 of the Code of Virginia provides, inter alia, that the Commission may suspend or revoke the license of any insurance company to transact the business of insurance in the Commonwealth of Virginia whenever the Commission finds that the company is insolvent, or is in a condition that any further transaction of business in this Commonwealth is hazardous to its policyholders, creditors, and public in this Commonwealth;

WHEREAS, New York Life and Health Insurance Company, a foreign corporation domiciled in the State of Delaware and licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia ("Defendant"), is required to maintain minimum capital of \$1,000,000 and minimum surplus of \$3,000,000;

WHEREAS, the 2001 Annual Statement of Defendant filed with the Commission's Bureau of Insurance, indicates capital of \$2,500,000, and surplus of \$940,894;

WHEREAS, by affidavit of Brian J. Kost, vice president and controller of New York Life and Health Insurance Company, dated March 1, 2002, and filed on March 22, 2002, with the Clerk of the Commission, Mr. Kost requests on behalf of Aetna, Inc., Defendant's parent corporation, that the Bureau agree to a voluntary suspension of Defendant's certificate of authority to engage in the business of insurance in Virginia;

THEREFORE, IT IS ORDERED that Defendant TAKE NOTICE that the Commission shall enter an order subsequent to April 8, 2002, suspending the license of Defendant to transact the business of insurance in the Commonwealth of Virginia unless on or before April 8, 2002, Defendant files with the Clerk of the Commission, Document Control Center, P.O. Box 2118, Richmond, Virginia 23218, a request for a hearing before the Commission with respect to the proposed suspension of Defendant's license.

**CASE NO. INS-2002-00059  
APRIL 16, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

v.

NEW YORK LIFE AND HEALTH INSURANCE COMPANY,  
Defendant

**ORDER SUSPENDING LICENSE**

WHEREAS, for the reasons stated in the Order to Take Notice entered herein March 27, 2002, Defendant was ordered to take notice that the Commission would enter an order subsequent to April 8, 2002, suspending the license of Defendant to transact the business of insurance in the Commonwealth of Virginia unless on or before April 8, 2002, Defendant filed with the Clerk of the Commission a request for a hearing before the Commission to contest the proposed suspension of Defendant's license;

WHEREAS, as set forth in the Order to Take Notice, Defendant's consent to the suspension of its license is evidenced by the affidavit filed on March 22, 2002, with the Clerk of the Commission; and

WHEREAS, as of the date of this Order, Defendant has not filed a request to be heard before the Commission with respect to the proposed suspension of Defendant's license;

THEREFORE, IT IS ORDERED THAT:

- (1) Pursuant to § 38.2-1040 of the Code of Virginia, the license of Defendant to transact the business of insurance in the Commonwealth of Virginia be, and it is hereby, **SUSPENDED**;
- (2) Defendant shall issue no new contracts or policies of insurance in the Commonwealth of Virginia until further order of the Commission;
- (3) The appointments of Defendant's agents to act on behalf of Defendant in the Commonwealth of Virginia be, and they are hereby, **SUSPENDED**;
- (4) Defendant's agents shall transact no new insurance business on behalf of Defendant in the Commonwealth of Virginia until further order of the Commission;
- (5) The Bureau of Insurance shall cause an attested copy of this Order to be sent to each of Defendant's agents appointed to act on behalf of Defendant in the Commonwealth of Virginia as notice of the suspension of such agent's appointment; and
- (6) The Bureau of Insurance shall cause notice of the suspension of Defendant's license to be published in the manner set forth in § 38.2-1043 of the Code of Virginia.

**CASE NO. INS-2002-00060  
APRIL 29, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

**Ex Parte:** In the matter of Adopting Revisions to the Rules Governing the Implementation of the Individual Accident and Sickness Insurance Minimum Standards Act

**ORDER TO TAKE NOTICE**

WHEREAS, § 12.1-13 of the Code of Virginia provides that the Commission shall have the power to promulgate rules and regulations in the enforcement and administration of all laws within its jurisdiction, and § 38.2-223 of the Code of Virginia provides that the Commission may issue any rules and regulations necessary or appropriate for the administration and enforcement of Title 38.2 of the Code of Virginia;

WHEREAS, the rules and regulations issued by the Commission pursuant to § 38.2-223 of the Code of Virginia are set forth in Title 14 of the Virginia Administrative Code;

WHEREAS, pursuant to 5 VAC 5-20-100, an application was filed with the Commission on March 8, 2002, by Stephen D. Rosenthal, Esquire, which proposed revisions to Chapter 140 of Title 14 of the Virginia Administrative Code entitled "Rules Governing the Implementation of the Individual Accident and Sickness Insurance Minimum Standards Act," which amend the rules at 14 VAC 5-140-20, 14 VAC 5-140-30, 14 VAC 5-140-40, 14 VAC 5-140-50, 14 VAC 5-140-60, 14 VAC 5-140-70, 14 VAC 5-140-80, and 14 VAC 5-140-90;

WHEREAS, the proposed revisions define and clarify what is necessary for coverage to be considered "limited benefit health insurance coverage";

WHEREAS, the proposed revisions also include certain nonsubstantive "clean up" changes to the aforementioned Rules;

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

WHEREAS, the Bureau of Insurance has no objection to the proposed revisions; and

WHEREAS, the Commission is of the opinion that the proposed revisions should be considered for adoption with a proposed effective date of July 1, 2002;

THEREFORE, IT IS ORDERED THAT:

(1) The proposed revisions to the "Rules Governing the Implementation of the Individual Accident and Sickness Insurance Minimum Standards Act," which amend the rules at 14 VAC 5-140-20, 14 VAC 5-140-30, 14 VAC 5-140-40, 14 VAC 5-140-50, 14 VAC 5-140-60, 14 VAC 5-140-70, 14 VAC 5-140-80, and 14 VAC 5-140-90 be attached hereto and made a part hereof;

(2) All interested persons who desire to comment in support of or in opposition to, or to request a hearing to oppose the adoption of, the proposed revisions shall file such comments or hearing request on or before May 30, 2002, in writing with the Clerk of the Commission, Document Control Center, P.O. Box 2118, Richmond, Virginia 23218 and shall refer to Case No. INS-2002-00060;

(3) If no written request for a hearing on the proposed revisions is filed on or before May 30, 2002, the Commission, upon consideration of any comments submitted in support of or in opposition to the proposed revisions, may adopt the revisions proposed by the Bureau of Insurance;

(4) AN ATTESTED COPY hereof, together with a copy of the proposed revisions, shall be sent by the Clerk of the Commission to Stephen D. Rosenthal, Esquire, Troutman Sanders Mays & Valentine LLP, P.O. Box 1122, Richmond, Virginia 23218-1122; and to the Bureau of Insurance in care of Deputy Commissioner Gerald A. Milsky, who forthwith shall give further notice of the proposed adoption of the revisions to the rules by mailing a copy of this Order, together with a draft of the proposed revisions, to all insurers and health services plans licensed to write accident and sickness insurance in the Commonwealth of Virginia; and by forwarding a copy of this Order, together with a draft of the proposed revisions, to the Virginia Registrar of Regulations for appropriate publication in the Virginia Register of Regulations; and

(5) The Bureau of Insurance shall file with the Clerk of the Commission an affidavit of compliance with the notice requirements of paragraph (4) above.

NOTE: A copy of Attachment A entitled "Rules Governing the Implementation of the Individual Accident and Sickness Insurance Minimum Standards Act" is on file and may be examined at the State Corporation Commission, Clerk's Office, Document Control Center, Tyler Building, First Floor, 1300 East Main Street, Richmond, Virginia.

**CASE NO. INS-2002-00060**  
**JUNE 7, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

Ex Parte: In the matter of Adopting Revisions to the Rules Governing the Implementation of the Individual Accident and Sickness Insurance Minimum Standards Act

**ORDER ADOPTING REVISIONS TO RULES**

WHEREAS, by order entered herein April 29, 2002, all interested persons were ordered to take notice that the Commission would consider the entry of an order subsequent to May 30, 2002, adopting revisions proposed by Stephen D. Rosenthal, Esquire, to the Commission's Rules Governing the Implementation of the Individual Accident and Sickness Insurance Minimum Standards Act to define and clarify what is necessary for coverage to be considered "limited benefit health insurance coverage" and to make non-substantive revisions to certain language in the Rules, unless on or before May 30, 2002, any person objecting to the adoption of the proposed revisions filed a request for a hearing with the Clerk of the Commission;

WHEREAS, the April 29, 2002, Order also required all interested persons to file their comments in support of or in opposition to the proposed revisions on or before May 30, 2002;

WHEREAS, as of the date of this Order, no request for a hearing has been filed with the Clerk of the Commission;

WHEREAS, as of the date of this Order, no comments have been filed with the Clerk of the Commission;

WHEREAS, the Bureau has no objection to the proposed revisions; and

THE COMMISSION, having considered the proposed revisions and the Bureau's position, is of the opinion that the attached proposed revisions should be adopted;

THEREFORE, IT IS ORDERED THAT:

(1) The revisions to Chapter 140 of Title 14 of the Virginia Administrative Code entitled "Rules Governing the Implementation of the Individual Accident and Sickness Insurance Minimum Standards Act," which amend the rules at 14 VAC 5-140-20, 14 VAC 5-140-30, 14 VAC 5-140-40, 14 VAC 5-140-50, 14 VAC 5-140-60, 14 VAC 5-140-70, 14 VAC 5-140-80, and 14 VAC 5-140-90, and which are attached hereto and made a part hereof, should be, and they are hereby, ADOPTED to be effective July 1, 2002;



(2) AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to the Bureau of Insurance in care of Deputy Commissioner Gerald A. Milsky, who forthwith shall give further notice of the adoption of the revisions to the rules by mailing a copy of this Order, together with a clean copy of the revised rules, to all insurers and health services plans licensed to write accident and sickness insurance in the Commonwealth of Virginia; and by forwarding a copy of this Order, including a copy of the attached revised rules, to the Virginia Registrar of Regulations for appropriate publication in the Virginia Register of Regulations; and

(3) The Bureau of Insurance shall file with the Clerk of the Commission an affidavit of compliance with the notice requirements of paragraph (2) above.

NOTE: A copy of Attachment A entitled "Rules Governing the Implementation of the Individual Accident and Sickness Insurance Minimum Standards Act" is on file and may be examined at the State Corporation Commission, Clerk's Office, Document Control Center, Tyler Building, First Floor, 1300 East Main Street, Richmond, Virginia.

**CASE NO. INS-2002-00062  
JULY 30, 2002**

PETITION OF  
DOUBLETREE CONDOMINIUM ASSOCIATION, INC.

For review of HOW Insurance Company, Home Warranty Corporation, and Home Owners Warranty Corporation Deputy Receiver's Determination of Appeal

**ORDER**

On October 14, 1994, the Circuit Court of Richmond, Virginia, entered an order appointing the State Corporation Commission ("Commission") the Receiver of HOW Insurance Company ("HOWIC"), Home Warranty Corporation ("HWC"), and Home Owners Warranty Corporation ("HOW") (collectively "HOW Companies" or "HOW"). The receivership order granted the Commission the authority to proceed with the rehabilitation or liquidation of the HOW Companies and established a receivership appeal procedure to govern appeals and challenges to decisions rendered by the receiver or the receiver's duly authorized representatives.

On July 31, 2001, Doubletree Condominium Association, Inc., ("Petitioner") filed a Petition for Review ("Petition") with the Deputy Receiver of the HOW Companies. The Petition contested a Determination of Appeal issued in Appeal No. 1153 on June 29, 2001, whereby the Deputy Receiver denied Petitioner's claim for Major Structural Defect coverage under its warranty insurance policy to certain condominium units located in Glassboro, New Jersey. On August 6, 2001, the Deputy Receiver forwarded the Petition to the Commission, and it was filed with the Clerk of the Commission on August 15, 2001.

By Order dated March 22, 2002, the Commission docketed the Petition, assigned the matter to a Hearing Examiner, and directed the Deputy Receiver to file an answer or other responsive pleading to the Petition on or before May 3, 2002.

On May 3, 2002, the Deputy Receiver, by counsel, filed a Motion to Dismiss and Answer to Petition. In its Motion to Dismiss, the Deputy Receiver contends, among other things, that Petitioner fails to assert a claim on which relief under the HOW Program may be granted and should be dismissed based upon the following: (i) the Petition was not filed in accordance with the requirements of the Receivership Appeal Procedure since it was not filed with the Commission by the thirtieth day following the date shown on the Determination of Appeal; and (ii) Petitioner's allegations are insufficient to support a claim for Major Structural Defect under the HOW insurance/warranty coverage.

Petitioner filed no response to the Deputy Receiver's Motion to Dismiss.

After reviewing the filings presented in the case and the applicable law, the Hearing Examiner issued his Report on June 20, 2002. Therein, the Hearing Examiner made the following findings and recommendations:

(1) Section C.1 of the Receivership Appeal Procedure requires appeals of the Deputy Receiver's Determination of Appeal to be filed with the Commission by the thirtieth day following the date shown on the Determination of Appeal;

(2) The Commission received Petitioner's Petition on August 15, 2001, more than thirty (30) days after the Deputy Receiver issued his Determination of Appeal on June 29, 2001;

(3) Petitioner's claim is time-barred by the express terms of Section C.1 of the Receivership Appeal Procedure; and

(4) The Commission should enter an order granting the Deputy Receiver's Motion to Dismiss, affirming the Deputy Receiver's Determination of Appeal, and dismissing the Petition with prejudice.

Upon consideration of the filings submitted and the Report of the Hearing Examiner, the Commission is of the opinion and so finds that the Hearing Examiner's findings and recommendations should be adopted.

Accordingly, IT IS ORDERED THAT:

(1) The Deputy Receiver's Motion to Dismiss be, and it is hereby, GRANTED;

(2) The Petition for Review of Doubletree Condominium Association, Inc., be, and it is hereby, DENIED;

- (3) The Determination of Appeal issued by the Deputy Receiver in Appeal No. 1153 on June 29, 2001, be, and it is hereby, **AFFIRMED**; and
- (4) The case is dismissed, and the papers herein shall be passed to the file for ended causes.

**CASE NO. INS-2002-00062  
OCTOBER 15, 2002**

PETITION OF  
DOUBLETREE CONDOMINIUM ASSOCIATION, INC.

For review of HOW Insurance Company, Home Warranty Corporation and Home Owners Warranty Corporation Deputy Receiver's Determination of Appeal

**ORDER**

On October 14, 1994, the Circuit Court of Richmond, Virginia, entered an order appointing the State Corporation Commission ("Commission") the Receiver of HOW Insurance Company ("HOWIC"), Home Warranty Corporation ("HWC"), and Home Owners Warranty Corporation ("HOW") (collectively "HOW Companies" or "HOW"). The receivership order granted the Commission the authority to proceed with the rehabilitation or liquidation of the HOW Companies and established a receivership appeal procedure to govern appeals and challenges to decisions rendered by the receiver or the receiver's duly authorized representatives.

On July 31, 2001, Doubletree Condominium Association, Inc., ("Petitioner") filed a Petition for Review ("Petition") with the Deputy Receiver of the HOW Companies. The Petition contested a Determination of Appeal issued in Appeal No. 1153 on June 29, 2001, whereby the Deputy Receiver denied Petitioner's claim for Major Structural Defect coverage under its warranty insurance policy to certain condominium units located in Glassboro, New Jersey. On August 6, 2001, the Deputy Receiver forwarded the Petition to the Commission, and it was filed with the Clerk of the Commission on August 15, 2001.

By Order dated March 22, 2002, the Commission docketed the Petition, assigned the matter to a Hearing Examiner, and directed the Deputy Receiver to file an answer or other responsive pleading to the Petition on or before May 3, 2002.

On May 3, 2002, the Deputy Receiver, by counsel, filed a Motion to Dismiss and Answer to Petition. In its Motion to Dismiss, the Deputy Receiver contends, among other things, that Petitioner fails to assert a claim on which relief under the HOW Program may be granted and should be dismissed based upon the following: (i) the Petition was not filed in accordance with the requirements of the Receivership Appeal Procedure since it was not filed with the Commission by the thirtieth day following the date shown on the Determination of Appeal; and (ii) Petitioner's allegations are insufficient to support a claim for Major Structural Defect under the HOW insurance/warranty coverage.

Petitioner filed no response to the Deputy Receiver's Motion to Dismiss.

After reviewing the filings presented in the case and the applicable law, the Hearing Examiner issued his Report on June 20, 2002. Therein, the Hearing Examiner made the following findings and recommendations:

- (1) Section C.1 of the Receivership Appeal Procedure requires appeals of the Deputy Receiver's Determination of Appeal to be filed with the Commission by the thirtieth day following the date shown on the Determination of Appeal;
- (2) The Commission received the Petitioner's Petition on August 15, 2002, more than thirty (30) days after the Deputy Receiver issued his Determination of Appeal on June 29, 2001;
- (3) Petitioner's claim is time-barred by the express terms of Section C.1 of the Receivership Appeal Procedure; and
- (4) The Commission should enter an order granting the Deputy Receiver's Motion to Dismiss, affirming the Deputy Receiver's Determination of Appeal, and dismissing the Petition with prejudice.

Upon consideration of the filings submitted and the Report of the Hearing Examiner, the Commission is of the opinion and so finds that the Hearing Examiner's findings and recommendations should be adopted.

Accordingly, IT IS ORDERED THAT:

- (1) The Deputy Receiver's Motion to Dismiss be, and it is hereby, **GRANTED**;
- (2) The Petition for Review of Doubletree Condominium Association, Inc., be, and it is hereby, **DENIED**;
- (3) The Determination of Appeal issued by the Deputy Receiver in Appeal No. 1153 on June 29, 2001, be, and it is hereby, **AFFIRMED**; and
- (4) The case is dismissed, and the papers herein shall be passed to the file for ended causes.

**CASE NO. INS-2002-00064  
APRIL 30, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
LAURA LEE BOOTH,  
Defendant

**ORDER REVOKING LICENSE**

IT APPEARING from an investigation by the Bureau of Insurance that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia as an insurance agent, in certain instances, violated §§ 38.2-512, 38.2-1826 A, and 38.2-3103 of the Code of Virginia by making false statements or representations on or relative to an application for an insurance policy for the purpose of obtaining a fee or commission, by failing to report within thirty days to the Commission and to every insurer for which she is appointed any change in her residence or name, and by attempting to secure life and health insurance policies on individuals who were not in an insurable condition by means of misrepresentation;

IT FURTHER APPEARING that the Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1831 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations;

IT FURTHER APPEARING that Defendant has been notified of Defendant's right to a hearing before the Commission in this matter by certified letter dated February 14, 2002, and mailed to the Defendant's address shown in the records of the Bureau of Insurance;

IT FURTHER APPEARING that Defendant, having been advised in the aforesaid manner of her right to a hearing in this matter, has failed to request a hearing and has not otherwise communicated with the Bureau of Insurance;

IT FURTHER APPEARING that the Bureau of Insurance, upon Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of Defendant's licenses to transact the business of insurance in the Commonwealth of Virginia as an insurance agent; and

THE COMMISSION is of the opinion and finds that Defendant has violated §§ 38.2-512, 38.2-1826 A, and 38.2-3103 of the Code of Virginia by making false statements or representations on or relative to an application for an insurance policy for the purpose of obtaining a fee or commission, by failing to report within thirty days to the Commission and to every insurer for which she is appointed any change in her residence or name, and by attempting to secure life and health insurance policies on individuals who were not in an insurable condition by means of misrepresentation;

THEREFORE, IT IS ORDERED THAT:

- (1) The licenses of Defendant to transact the business of insurance as an agent in the Commonwealth of Virginia be, and they are hereby, REVOKED;
- (2) All appointments issued under said licenses be, and they are hereby, VOID;
- (3) Defendant transact no further business in the Commonwealth of Virginia as an insurance agent;
- (4) Defendant shall not apply to the Commission to be licensed as an insurance agent in the Commonwealth of Virginia prior to two (2) years from the date of this Order;
- (5) The Bureau of Insurance cause a copy of this Order to be sent to every insurance company for which Defendant holds an appointment to act as an insurance agent in the Commonwealth of Virginia; and
- (6) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2002-00066  
APRIL 9, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
UNICARE LIFE & HEALTH INSURANCE COMPANY,  
Defendant

**SETTLEMENT ORDER**

IT APPEARING from an investigation and subsequent allegations by the Bureau of Insurance that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, in a certain instance, violated 14 VAC 5-234-40 C by failing to file timely with the Commission Defendant's Primary Small Employer New Business Report;

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IT FURTHER APPEARING that the Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violation;

IT FURTHER APPEARING that Defendant has been advised of its right to a hearing in this matter, whereupon Defendant has made an offer of settlement to the Commission wherein Defendant has tendered to the Commonwealth of Virginia the sum of five thousand dollars (\$5,000), waived its right to a hearing, and agreed to the entry by the Commission of a cease and desist order; and

IT FURTHER APPEARING that the Bureau of Insurance has recommended that the Commission accept the offer of settlement of Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia,

IT IS ORDERED THAT:

- (1) The offer of Defendant in settlement of the matter set forth herein be, and it is hereby, accepted;
- (2) Defendant cease and desist from any conduct which constitutes a violation of 14 VAC 5-234-40 C; and
- (3) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2002-00068  
APRIL 22, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
KAISER FOUNDATION HEALTH PLAN OF THE MID-ATLANTIC STATES, INC.,  
Defendant

**SETTLEMENT ORDER**

IT APPEARING from a market conduct examination performed by the Bureau of Insurance that Defendant, duly licensed by the Commission to transact the business of a health maintenance organization in the Commonwealth of Virginia, in certain instances, violated §§ 38.2-3407.15 B 1, 38.2-3407.15 B 2, 38.2-3407.15 B 3, 38.2-3407.15 B 4, 38.2-3407.15 B 5, 38.2-3407.15 B 6, 38.2-3407.15 B 7, 38.2-3407.15 B 8, and 38.2-3407.15 B 9 of the Code of Virginia;

IT FURTHER APPEARING that the Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-4316 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations;

IT FURTHER APPEARING that Defendant has been advised of its right to a hearing in this matter, whereupon Defendant has made an offer of settlement to the Commission wherein Defendant has tendered to the Commonwealth of Virginia the sum of nine thousand dollars (\$9,000) and waived its right to a hearing; and

IT FURTHER APPEARING that the Bureau of Insurance has recommended that the Commission accept the offer of settlement of Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia,

IT IS ORDERED THAT:

- (1) The offer of Defendant in settlement of the matter set forth herein be, and it is hereby, accepted; and
- (2) The papers herein be placed in the file for ended causes.

**CASE NOS. INS020070, INS020087, and INS020086  
APRIL 3, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

v.

SOURCEONE GROUP, INC.,  
SOURCEONE, INC.,  
and  
PAYROLL SERVICES OF VIRGINIA, INC.,  
Defendants

**ORDER TO TAKE NOTICE**

WHEREAS, § 38.2-220 of the Code of Virginia provides that the Commission shall have the powers of a court of equity to issue temporary and permanent injunctions restraining acts which violate or attempt to violate the provisions of Title 38.2 of the Code of Virginia;

WHEREAS, § 38.2-1921.1 of the Code of Virginia provides that a professional employer organization may aggregate its coemployees under a single employer plan for the purpose of providing employee benefits provided that the professional employer organization meets the regulatory licensure and filing requirements promulgated by the Commission for fully insured multiple employer welfare arrangements;

WHEREAS, the Commission's Rules Governing Multiple Employer Welfare Arrangements are set forth in Chapter 410 of Title 14 of the Virginia Administrative Code;

WHEREAS, 14 VAC 5-410-40 A requires not fully insured multiple employer welfare arrangements that operate in Virginia to become licensed as an insurance company, health maintenance organization, health services plan, or dental or optometric services plan;

WHEREAS, 14 VAC 5-410-40 B requires fully insured multiple employer welfare arrangements that operate in Virginia to make certain informational filings with the Commission; and

WHEREAS, based on an investigation and subsequent allegations by the Bureau of Insurance, it appears that Defendants, which are professional employer organizations domiciled in Virginia, are operating multiple employer welfare arrangements in the Commonwealth of Virginia without first complying with the sections of the Commission's Rules Governing Multiple Employer Welfare Arrangements as set forth above;

THEREFORE, IT IS ORDERED that Defendants TAKE NOTICE that the Commission shall enter an order subsequent to April 15, 2002, permanently enjoining Defendants from operating multiple employer welfare arrangements in the Commonwealth of Virginia, unless on or before April 15, 2002, Defendants file with the Clerk of the Commission, Document Control Center, P.O. Box 2118, Richmond, Virginia 23218, a responsive pleading and a request for a hearing.

**CASE NOS. INS-2002-00070, INS-2002-00087, and INS-2002-00086  
NOVEMBER 27, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

v.

SOURCEONE GROUP, INC.,  
SOURCEONE, INC.,  
and  
PAYROLL SERVICES OF VIRGINIA, INC.,  
Defendants

**FINAL ORDER**

On April 3, 2002, the Commission issued an Order to Take Notice against Defendants based on allegations by the Bureau of Insurance that Defendants were operating multiple employer welfare arrangements in the Commonwealth of Virginia without complying with 14 VAC 5-410-40 A and 14 VAC 5-410-40 B of the Commission's Rules Governing Multiple Employer Welfare Arrangements.

Defendants were ordered to take notice that the Commission would enter an order subsequent to April 15, 2002, permanently enjoining Defendants from operating multiple employer welfare arrangements in the Commonwealth of Virginia, unless on or before April 15, 2002, Defendants filed with the Clerk of the Commission a responsive pleading and a request for a hearing.

On April 19, 2002, Defendants, by counsel, filed a motion stating that they were in the process of taking certain actions requested by the Bureau of Insurance and requesting that the Commission annul the case generally. The Bureau of Insurance did not object to the granting of a general continuance. Accordingly, the Commission continued this matter generally on April 23, 2002.

Based on the Bureau of Insurance's subsequent investigation of Defendants, it appears that SourceOne Group, Inc. violated 14 VAC 5-410-40 A, 14 VAC 5-410-40 B, 14 VAC 5-410-40 C, and 14 VAC 5-410-40 D of the Commission's Rules Governing Multiple Employer Welfare Arrangements. It

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also appears from such investigation that SourceOne, Inc. and Payroll Services of Virginia, Inc. did not commit any violations of the Commission's Rules Governing Multiple Employer Welfare Arrangements.

The Commission is authorized by §§ 38.2-218 and 38.2-219 of the Code of Virginia to impose certain monetary penalties and issue cease and desist orders upon a finding by the Commission, after notice and opportunity to be heard, that SourceOne Group, Inc. has committed the aforesaid violations.

SourceOne Group, Inc. has been advised of its right to a hearing in this matter, whereupon SourceOne Group, Inc., without admitting any violation of Virginia law, has made an offer of settlement to the Commission wherein SourceOne Group, Inc. has tendered to the Commonwealth of Virginia the sum of ten thousand dollars (\$10,000), waived its right to a hearing, and agreed to the entry by the Commission of a cease and desist order.

The Bureau of Insurance has recommended that the Commission accept the offer of settlement of SourceOne Group, Inc. pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia.

The Commission, having considered the record herein, the offer of settlement of SourceOne Group, Inc., and the recommendation of the Bureau of Insurance, is of the opinion that SourceOne Group, Inc.'s offer should be accepted.

IT IS THEREFORE ORDERED THAT:

- (1) The offer of SourceOne Group, Inc. in settlement of the matter set forth herein be, and it is hereby, accepted;
- (2) SourceOne Group, Inc. cease and desist from any conduct which constitutes a violation of 14 VAC 5-410-40 A, 14 VAC 5-410-40 B, 14 VAC 5-410-40 C, or 14 VAC 5-410-40 D of the Commission's Rules Governing Multiple Employer Welfare Arrangements; and
- (3) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2002-00072  
MAY 16, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

v.  
MELISA LYNN DAVIS,  
Defendant

**ORDER REVOKING LICENSE**

IT APPEARING from an investigation by the Bureau of Insurance that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia as a surplus lines broker, in a certain instance, violated § 38.2-4806 D of the Code of Virginia by failing to file timely with the Commission the quarterly report summarizing the business transacted by Defendant for the fourth quarter of 2001;

IT FURTHER APPEARING that Defendant has been notified of Defendant's right to a hearing before the Commission in this matter by certified letters dated March 22, 2002, and April 12, 2002, respectively, and mailed to the Defendant's address shown in the records of the Bureau of Insurance;

IT FURTHER APPEARING that Defendant, having been advised in the aforesaid manner of her right to a hearing in this matter, has failed to request a hearing and has not otherwise communicated with the Bureau of Insurance;

IT FURTHER APPEARING that the Bureau of Insurance, upon Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of Defendant's licenses to transact the business of insurance in the Commonwealth of Virginia as an insurance agent and a surplus lines broker; and

THE COMMISSION is of the opinion and finds that Defendant has violated § 38.2-4806 D of the Code of Virginia by failing to file timely with the Commission the quarterly report summarizing the business transacted by Defendant for the fourth quarter of 2001;

THEREFORE, IT IS ORDERED THAT:

- (1) The licenses of Defendant to transact the business of insurance as an agent and a surplus lines broker in the Commonwealth of Virginia be, and they are hereby, REVOKED;
- (2) All appointments issued under said licenses be, and they are hereby, VOID;
- (3) Defendant transact no further business in the Commonwealth of Virginia as an insurance agent or a surplus lines broker;
- (4) Defendant shall not apply to the Commission to be licensed as an insurance agent or a surplus lines broker in the Commonwealth of Virginia prior to two (2) years from the date of this Order;

(5) The Bureau of Insurance cause a copy of this Order to be sent to every insurance company for which Defendant holds an appointment to act as an insurance agent or a surplus lines broker in the Commonwealth of Virginia; and

(6) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2002-00073  
MAY 3, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

v.

AMERICAN NATIONAL INSURANCE COMPANY, AMERICAN NATIONAL LIFE INSURANCE COMPANY OF TEXAS,  
AMERICAN REPUBLIC INSURANCE COMPANY, CONSECO MEDICAL INSURANCE COMPANY,  
FIDELITY SECURITY LIFE INSURANCE COMPANY, GRAPHIC ARTS BENEFIT CORPORATION,  
THE MEGA LIFE AND HEALTH INSURANCE COMPANY, MID-WEST NATIONAL LIFE INSURANCE COMPANY OF TENNESSEE,  
PHILADELPHIA AMERICAN LIFE INSURANCE COMPANY, PIONEER LIFE INSURANCE COMPANY,  
TRANSAMERICA LIFE INSURANCE COMPANY (Formerly PFL Life Insurance Company),  
WASHINGTON NATIONAL INSURANCE COMPANY,  
and  
WORLD INSURANCE COMPANY,  
Defendants

**SETTLEMENT ORDER**

IT APPEARING from a target market conduct examination performed by the Bureau of Insurance that Defendants, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, in certain instances, violated §§ 38.2-3407.15 B 1, 38.2-3407.15 B 2, 38.2-3407.15 B 3, 38.2-3407.15 B 4, 38.2-3407.15 B 5, 38.2-3407.15 B 6, 38.2-3407.15 B 7, and 38.2-3407.15 B 9 of the Code of Virginia;

IT FURTHER APPEARING that the Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke Defendants' licenses upon a finding by the Commission, after notice and opportunity to be heard, that Defendants have committed the aforesaid alleged violations;

IT FURTHER APPEARING that Defendants have been advised of their right to a hearing in this matter, whereupon Alliance PPO, LLC, on behalf of Defendants, has made an offer of settlement to the Commission wherein Alliance PPO, LLC, on behalf of Defendants, has tendered to the Commonwealth of Virginia the sum of one hundred three thousand two hundred dollars (\$103,200), and each Defendant has waived its right to a hearing;

IT FURTHER APPEARING that the offer of Alliance PPO, LLC, on behalf of Defendants, does not constitute an admission of any violation of Virginia law or regulation by Defendants or other Alliance payors that have used Alliance PPO provider contracts in Virginia. The Bureau represents that this settlement constitutes a full and final settlement and release of Alliance PPO, LLC, Defendants, and other Alliance payors that have used Alliance PPO provider contracts in Virginia, except Avemco Insurance Company, for all issues involving, directly or indirectly, the target market conduct examination of the Virginia Fair Business Practice Act, which was conducted on all carriers who used the Alliance PPO network of providers, including those carriers that did not submit an Alliance provider contract during the examination as their most commonly used contract. The Bureau further represents that this settlement includes all issues that were raised, or could have been raised, by the Bureau during such target market conduct examination; and

IT FURTHER APPEARING that the Bureau of Insurance has recommended that the Commission accept the offer of settlement of Alliance PPO, LLC, on behalf of Defendants, pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia,

IT IS ORDERED THAT:

- (1) The offer of Alliance PPO, LLC, on behalf of Defendants, in settlement of the matter set forth herein be, and it is hereby, accepted; and
- (2) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2002-00076  
JUNE 13, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

v.

TRUSTMARK INSURANCE COMPANY,  
THE GUARDIAN LIFE INSURANCE COMPANY OF AMERICA,  
GENERAL AMERICAN LIFE INSURANCE COMPANY,  
and  
GE GROUP LIFE ASSURANCE COMPANY,  
Defendants

**SETTLEMENT ORDER**

IT APPEARING from a target market conduct examination performed by the Bureau of Insurance that Defendants, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, in certain instances, violated §§ 38.2-3407.15 B 1, 38.2-3407.15 B 2, 38.2-3407.15 B 3, 38.2-3407.15 B 4, 38.2-3407.15 B 7, and 38.2-3407.15 B 8 of the Code of Virginia;

IT FURTHER APPEARING that the Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke Defendants' licenses upon a finding by the Commission, after notice and opportunity to be heard, that Defendants have committed the aforesaid alleged violations;

IT FURTHER APPEARING that Defendants have been advised of their right to a hearing in this matter, whereupon Private Healthcare Systems, Inc., on behalf of Defendants, has made an offer of settlement to the Commission wherein Private Healthcare Systems, Inc., on behalf Defendants, has tendered to the Commonwealth of Virginia the sum of thirty thousand dollars (\$30,000), and each Defendant has waived its right to a hearing; and

IT FURTHER APPEARING that the Bureau of Insurance has recommended that the Commission accept the offer of settlement of Private Healthcare Systems, Inc., on behalf of Defendants, pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia,

IT IS ORDERED THAT:

- (1) The offer of Private Healthcare Systems, Inc., on behalf of Defendants, in settlement of the matter set forth herein be, and it is hereby, accepted; and
- (2) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2002-00076  
JULY 12, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

v.

TRUSTMARK INSURANCE COMPANY,  
THE GUARDIAN LIFE INSURANCE COMPANY OF AMERICA,  
GENERAL AMERICAN LIFE INSURANCE COMPANY,  
and  
GE GROUP LIFE ASSURANCE COMPANY,  
Defendants

**CORRECTING ORDER**

In the Settlement Order entered herein June 13, 2002, the third paragraph, set forth on page 2 of the order, provides in part as follows: "Private Healthcare Systems, Inc., on behalf of Defendants, has tendered to the Commonwealth of Virginia the sum of thirty thousand dollars (\$30,000)." In fact, each Defendant tendered the sum of seven thousand five hundred dollars (\$7,500); therefore, it is necessary to correct the language in the third paragraph of the order.

IT IS THEREFORE ORDERED THAT:

- (1) The language of the third paragraph of the Settlement Order entered herein June 13, 2002, shall be deleted in its entirety, and the following language shall be inserted in its place and stead:

IT FURTHER APPEARING that Defendants have been advised of their right to a hearing in this matter, whereupon each Defendant has made an offer of settlement to the Commission wherein each Defendant has tendered to the Commonwealth of Virginia the sum of seven thousand five hundred dollars (\$7,500), and each Defendant has waived its right to a hearing; and;

- (2) All other provisions of the Settlement Order entered June 13, 2002, shall remain in full force and effect.



**CASE NO. INS-2002-00077  
JULY 25, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
AVEMCO INSURANCE COMPANY,  
Defendant

**SETTLEMENT ORDER**

Based on a target market conduct examination performed by the Bureau of Insurance, it appears that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, in certain instances, violated §§ 38.2-3407.15 B 1, 38.2-3407.15 B 2, 38.2-3407.15 B 3, 38.2-3407.15 B 4, 38.2-3407.15 B 5, 38.2-3407.15 B 6, 38.2-3407.15 B 7, and 38.2-3407.15 B 9 of the Code of Virginia.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations.

Defendant has been advised of its right to a hearing in this matter, whereupon Defendant has made an offer of settlement to the Commission wherein Defendant has tendered to the Commonwealth of Virginia the sum of twelve thousand dollars (\$12,000) and waived its right to a hearing.

The Bureau of Insurance has recommended that the Commission accept the offer of settlement of Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia.

THE COMMISSION, having considered the record herein, the offer of settlement of Defendant, and the recommendation of the Bureau of Insurance, is of the opinion that Defendant's offer should be accepted.

IT IS THEREFORE ORDERED THAT:

- (1) The offer of Defendant in settlement of the matter set forth herein be, and it is hereby, accepted; and
- (2) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2002-00080  
MAY 16, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
NEW ENGLAND LIFE INSURANCE COMPANY,  
Defendant

**SETTLEMENT ORDER**

IT APPEARING from a market conduct examination performed by the Bureau of Insurance that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, in certain instances, violated §§ 38.2-3407.15 B 1, 38.2-3407.15 B 2, 38.2-3407.15 B 3, 38.2-3407.15 B 4, 38.2-3407.15 B 7, and 38.2-3407.15 B 8 of the Code of Virginia;

IT FURTHER APPEARING that the Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations;

IT FURTHER APPEARING that Defendant has been advised of its right to a hearing in this matter, whereupon Defendant has made an offer of settlement to the Commission wherein Defendant has tendered to the Commonwealth of Virginia the sum of nine thousand dollars (\$9,000) and waived its right to a hearing; and

IT FURTHER APPEARING that the Bureau of Insurance has recommended that the Commission accept the offer of settlement of Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia,

IT IS ORDERED THAT:

- (1) The offer of Defendant in settlement of the matter set forth herein be, and it is hereby, accepted; and
- (2) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2002-00082  
MAY 9, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

v.  
FORTIS INSURANCE COMPANY, FORTIS BENEFITS INSURANCE COMPANY,  
and  
JOHN ALDEN LIFE INSURANCE COMPANY,  
Defendants

**SETTLEMENT ORDER**

IT APPEARING from a market conduct examination performed by the Bureau of Insurance that Defendants, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, in certain instances, violated §§ 38.2-3407.15 B 1, 38.2-3407.15 B 2, 38.2-3407.15 B 3, 38.2-3407.15 B 4, 38.2-3407.15 B 7, and 38.2-3407.15 B 8 of the Code of Virginia;

IT FURTHER APPEARING that the Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke Defendants' licenses upon a finding by the Commission, after notice and opportunity to be heard, that Defendants have committed the aforesaid alleged violations;

IT FURTHER APPEARING that Defendants have been advised of their right to a hearing in this matter, whereupon Fortis Insurance Company, on behalf of all Defendants, without admitting any violation of Virginia law, has made an offer of settlement to the Commission wherein Fortis Insurance Company, on behalf of all Defendants, has tendered to the Commonwealth of Virginia the sum of twenty-seven thousand dollars (\$27,000) and waived their right to a hearing; and

IT FURTHER APPEARING that the Bureau of Insurance has recommended that the Commission accept the offer of settlement of Defendants pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia,

IT IS ORDERED THAT:

- (1) The offer of Defendants in settlement of the matter set forth herein be, and it is hereby, accepted; and
- (2) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2002-00084  
APRIL 9, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

v.  
STATE CAPITAL INSURANCE COMPANY,  
Defendant

**IMPAIRMENT ORDER**

WHEREAS, State Capital Insurance Company, a foreign corporation domiciled in the State of North Carolina and licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia ("Defendant"), is required to maintain minimum capital of \$1,000,000 and minimum surplus of \$3,000,000;

WHEREAS, § 38.2-1036 of the Code of Virginia provides, *inter alia*, that if the Commission finds an impairment of the required minimum surplus of any foreign insurer, the Commission may order the insurer to eliminate the impairment and restore the minimum surplus to the amount required by law and may prohibit the insurer from issuing any new policies in the Commonwealth of Virginia while the impairment of its surplus exists;

WHEREAS, the 2001 Annual Statement of Defendant, dated December 31, 2001, and filed with the Commission's Bureau of Insurance, indicates capital of \$3,500,000, and surplus of \$4,155,720;

WHEREAS, Defendant reported a credit for unsecured reinsurance recoverable from Northwestern National Casualty Company in the amount of \$31,139,323;

WHEREAS, taking credit for reinsurance ceded from an unauthorized reinsurer is not permitted under 14 VAC 5-300-60;

WHEREAS, Defendant's reported surplus should be adjusted in the amount of such \$31,139,323, resulting in an adjusted surplus amount at December 31, 2001, of negative \$26,983,603;

IT IS ORDERED THAT, on or before July 10, 2002, Defendant eliminate the impairment in its surplus and restore the same to at least \$3,000,000 and advise the Commission of the accomplishment thereof by affidavit of Defendant's president or other authorized officer.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

IT IS FURTHER ORDERED that Defendant shall issue no new contracts or policies of insurance in the Commonwealth of Virginia while the impairment of Defendant's surplus exists and until further order of the Commission.

**CASE NO. INS-2002-00084  
AUGUST 2, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
STATE CAPITAL INSURANCE COMPANY,  
Defendant

**ORDER TO TAKE NOTICE**

Pursuant to § 38.2-1040 of the Code of Virginia, the Commission may suspend or revoke the license of any insurance company to transact the business of insurance in the Commonwealth of Virginia whenever the Commission finds that the company is insolvent, or is in a condition that any further transaction of business in this Commonwealth is hazardous to its policyholders, creditors, and public in this Commonwealth.

State Capital Insurance Company, a foreign corporation domiciled in the State of North Carolina ("Defendant"), is licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia.

By Order entered herein April 9, 2002, Defendant was ordered to eliminate the impairment in its surplus and restore the same to at least \$3,000,000 and advise the Commission of the accomplishment thereof by affidavit of Defendant's president or other authorized officer on or before July 10, 2002.

As of the date of this Order, Defendant has failed to file an affidavit with the Commission which states that it has eliminated the impairment in its surplus.

IT IS THEREFORE ORDERED that Defendant TAKE NOTICE that the Commission shall enter an order subsequent to August 9, 2002, suspending the license of Defendant to transact the business of insurance in the Commonwealth of Virginia unless on or before August 9, 2002, Defendant files with the Clerk of the Commission, Document Control Center, P.O. Box 2118, Richmond, Virginia 23218, a request for a hearing before the Commission with respect to the proposed suspension of Defendant's license.

**CASE NO. INS-2002-00084  
AUGUST 12, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
STATE CAPITAL INSURANCE COMPANY,  
Defendant

**ORDER SUSPENDING LICENSE**

For the reasons stated in an order entered herein August 2, 2002, Defendant was ordered to take notice that the Commission would enter an order subsequent to August 9, 2002, suspending the license of Defendant to transact the business of insurance in the Commonwealth of Virginia unless on or before August 9, 2002, Defendant filed with the Clerk of the Commission a request for a hearing before the Commission to contest the proposed suspension of Defendant's license.

As of the date of this Order, Defendant has not filed a request to be heard before the Commission with respect to the proposed suspension of Defendant's license.

IT IS THEREFORE ORDERED THAT:

(1) Pursuant to § 38.2-1040 of the Code of Virginia, the license of Defendant to transact the business of insurance in the Commonwealth of Virginia be, and it is hereby, SUSPENDED;

(2) Defendant shall issue no new contracts or policies of insurance in the Commonwealth of Virginia until further order of the Commission;

(3) The appointments of Defendant's agents to act on behalf of Defendant in the Commonwealth of Virginia be, and they are hereby, SUSPENDED;

(4) Defendant's agents shall transact no new insurance business on behalf of Defendant in the Commonwealth of Virginia until further order of the Commission;

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

(5) The Bureau of Insurance shall cause an attested copy of this Order to be sent to each of Defendant's agents appointed to act on behalf of Defendant in the Commonwealth of Virginia as notice of the suspension of such agent's appointment; and

(6) The Bureau of Insurance shall cause notice of the suspension of Defendant's license to be published in the manner set forth in § 38.2-1043 of the Code of Virginia.

**CASE NO. INS020085  
APRIL 5, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
NORTHWESTERN NATIONAL CASUALTY COMPANY,  
Defendant

**IMPAIRMENT ORDER**

WHEREAS, Northwestern National Casualty Company, a foreign corporation domiciled in the State of Wisconsin and licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia ("Defendant"), is required to maintain minimum capital of \$1,000,000 and minimum surplus of \$3,000,000;

WHEREAS, § 38.2-1036 of the Code of Virginia provides, inter alia, that if the Commission finds an impairment of the required minimum surplus of any foreign insurer, the Commission may order the insurer to eliminate the impairment and restore the minimum surplus to the amount required by law and may prohibit the insurer from issuing any new policies in the Commonwealth of Virginia while the impairment of its surplus exists; and

WHEREAS, the Annual Statement of Defendant, dated December 31, 2001, and filed with the Commission's Bureau of Insurance, indicates capital of \$3,500,000, and surplus of \$1,731,328;

IT IS ORDERED that, on or before July 10, 2002, Defendant eliminate the impairment in its surplus and restore the same to at least \$3,000,000 and advise the Commission of the accomplishment thereof by affidavit of Defendant's president or other authorized officer.

IT IS FURTHER ORDERED that Defendant shall issue no new contracts or policies of insurance in the Commonwealth of Virginia while the impairment of Defendant's surplus exists and until further order of the Commission.

**CASE NO. INS-2002-00085  
JULY 26, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
NORTHWESTERN NATIONAL CASUALTY COMPANY,  
Defendant

**ORDER TO TAKE NOTICE**

Pursuant to § 38.2-1040 of the Code of Virginia, the Commission may suspend or revoke the license of any insurance company to transact the business of insurance in the Commonwealth of Virginia whenever the Commission finds that the company is insolvent, or is in a condition that any further transaction of business in this Commonwealth is hazardous to its policyholders, creditors, and public in this Commonwealth.

Northwestern National Casualty Company, a foreign corporation domiciled in the State of Wisconsin ("Defendant"), is licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia.

By order entered herein April 5, 2002, Defendant was ordered to eliminate the impairment in its surplus and restore the same to at least \$3,000,000 and advise the Commission of the accomplishment thereof by affidavit of Defendant's president or other authorized officer on or before July 10, 2002.

As of the date of this Order, Defendant has failed to file an affidavit with the Commission which states that it has eliminated the impairment in its surplus.

IT IS THEREFORE ORDERED that Defendant TAKE NOTICE that the Commission shall enter an order subsequent to August 7, 2002, suspending the license of Defendant to transact the business of insurance in the Commonwealth of Virginia unless on or before August 7, 2002, Defendant files with the Clerk of the Commission, Document Control Center, P.O. Box 2118, Richmond, Virginia 23218, a request for a hearing before the Commission with respect to the proposed suspension of Defendant's license.

**CASE NO. INS-2002-00085  
AUGUST 9, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

v.

NORTHWESTERN NATIONAL CASUALTY COMPANY,  
Defendant

**ORDER SUSPENDING LICENSE**

For the reasons stated in an order entered herein July 26, 2002, Defendant was ordered to take notice that the Commission would enter an order subsequent to August 7, 2002, suspending the license of Defendant to transact the business of insurance in the Commonwealth of Virginia unless on or before August 7, 2002, Defendant filed with the Clerk of the Commission a request for a hearing before the Commission to contest the proposed suspension of Defendant's license.

As of the date of this Order, Defendant has not filed a request to be heard before the Commission with respect to the proposed suspension of Defendant's license.

IT IS THEREFORE ORDERED THAT:

(1) Pursuant to § 38.2-1040 of the Code of Virginia, the license of Defendant to transact the business of insurance in the Commonwealth of Virginia be, and it is hereby, **SUSPENDED**;

(2) Defendant shall issue no new contracts or policies of insurance in the Commonwealth of Virginia until further order of the Commission;

(3) The appointments of Defendant's agents to act on behalf of Defendant in the Commonwealth of Virginia be, and they are hereby, **SUSPENDED**;

(4) Defendant's agents shall transact no new insurance business on behalf of Defendant in the Commonwealth of Virginia until further order of the Commission;

(5) The Bureau of Insurance shall cause an attested copy of this Order to be sent to each of Defendant's agents appointed to act on behalf of Defendant in the Commonwealth of Virginia as notice of the suspension of such agent's appointment; and

(6) The Bureau of Insurance shall cause notice of the suspension of Defendant's license to be published in the manner set forth in § 38.2-1043 of the Code of Virginia.

**CASE NO. INS-2002-00088  
MAY 17, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

v.

COMBINED INSURANCE COMPANY OF AMERICA,  
Defendant

**SETTLEMENT ORDER**

IT APPEARING from a market conduct examination performed by the Bureau of Insurance that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, in certain instances, violated subsection 1 of § 38.2-502, and §§ 38.2-503, 38.2-510 A 2, 38.2-510 A 4, 38.2-511, 38.2-316 A, 38.2-316 B, 38.2-316 C, 38.2-613 A, 38.2-1812 A, 38.2-1822 A, 38.2-1833 A, 38.2-1834 C, 38.2-3115 B, 38.2-3407.1 B, and 38.2-3407.4 of the Code of Virginia, as well as 14 VAC 5-40-60 B, 14 VAC 5-70-140, 14 VAC 5-90-50 A, 14 VAC 5-90-60 A 7, 14 VAC 5-90-90 C, 14 VAC 5-90-110, 14 VAC 5-90-130, 14 VAC 5-90-160, 14 VAC 5-90-170 A, 14 VAC 5-400-30, 14 VAC 5-400-50 A, 14 VAC 5-400-60 A 7, 14 VAC 5-400-70 A, and 14 VAC 5-400-70 D;

IT FURTHER APPEARING that the Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations;

IT FURTHER APPEARING that Defendant has been advised of its right to a hearing in this matter, whereupon Defendant has made an offer of settlement to the Commission wherein Defendant has tendered to the Commonwealth of Virginia the sum of twenty-seven thousand dollars (\$27,000) and waived its right to a hearing; and

IT FURTHER APPEARING that the Bureau of Insurance has recommended that the Commission accept the offer of settlement of Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia,

IT IS ORDERED THAT:

- (1) The offer of Defendant in settlement of the matter set forth herein be, and it is hereby, accepted; and
- (2) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2002-00102  
JUNE 10, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

v.  
AETNA U.S. HEALTHCARE, INC.,  
AETNA LIFE INSURANCE COMPANY,  
PRUDENTIAL HEALTH CARE PLAN, INC.,  
and  
THE PRUDENTIAL INSURANCE COMPANY OF AMERICA,  
Defendants

**SETTLEMENT ORDER**

IT APPEARING from a market conduct examination performed by the Bureau of Insurance that Defendants, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, in certain instances, violated §§ 38.2-3407.15 B 1, 38.2-3407.15 B 2, 38.2-3407.15 B 3, 38.2-3407.15 B 4, 38.2-3407.15 B 5, 38.2-3407.15 B 6, 38.2-3407.15 B 7, 38.2-3407.15 B 8, and 38.2-3407.15 B 9 of the Code of Virginia;

IT FURTHER APPEARING that the Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke Defendants' licenses upon a finding by the Commission, after notice and opportunity to be heard, that Defendants have committed the aforesaid alleged violations

IT FURTHER APPEARING that Defendants have been advised of their right to a hearing in this matter, whereupon Defendants have made an offer of settlement to the Commission wherein Defendants have tendered to the Commonwealth of Virginia the sum of fifty thousand dollars (\$50,000) and waived their right to a hearing; and

IT FURTHER APPEARING that the Bureau of Insurance has recommended that the Commission accept the offer of settlement of Defendants pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia,

IT IS ORDERED THAT:

- (1) The offer of Defendants in settlement of the matter set forth herein be, and it is hereby, accepted; and
- (2) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2002-00103  
JUNE 25, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

v.  
BENCHMARK INSURANCE COMPANY,  
Defendant

**SETTLEMENT ORDER**

IT APPEARING from a target market conduct examination performed by the Bureau of Insurance that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, in certain instances, violated §§ 38.2-3407.15 B 1, 38.2-3407.15 B 2, 38.2-3407.15 B 3, 38.2-3407.15 B 4, 38.2-3407.15 B 5, 38.2-3407.15 B 6, 38.2-3407.15 B 7, 38.2-3407.15 B 8, and 38.2-3407.15 B 9 of the Code of Virginia;

IT FURTHER APPEARING that the Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations;

IT FURTHER APPEARING that Defendant has been advised of its right to a hearing in this matter, whereupon Defendant has made an offer of settlement to the Commission wherein Defendant has tendered to the Commonwealth of Virginia the sum of nine thousand dollars (\$9,000) and waived its right to a hearing; and

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

IT FURTHER APPEARING that the Bureau of Insurance has recommended that the Commission accept the offer of settlement of Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia,

IT IS ORDERED THAT:

- (1) The offer of Defendant in settlement of the matter set forth herein be, and it is hereby, accepted; and
- (2) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2002-00104  
APRIL 30, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

v.

UNITED WISCONSIN LIFE INSURANCE COMPANY,  
Defendant

**SETTLEMENT ORDER**

IT APPEARING from a market conduct examination performed by the Bureau of Insurance that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, in certain instances, violated §§ 38.2-3407.15 B 1, 38.2-3407.15 B 2, 38.2-3407.15 B 3, 38.2-3407.15 B 4, 38.2-3407.15 B 5, 38.2-3407.15 B 6, 38.2-3407.15 B 7, and 38.2-3407.15 B 9 of the Code of Virginia;

IT FURTHER APPEARING that the Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations;

IT FURTHER APPEARING that Defendant has been advised of its right to a hearing in this matter, whereupon Defendant has made an offer of settlement to the Commission wherein Defendant has tendered to the Commonwealth of Virginia the sum of twelve thousand dollars (\$12,000), waived its right to a hearing, and agreed to the entry by the Commission of a cease and desist order; and

IT FURTHER APPEARING that the Bureau of Insurance has recommended that the Commission accept the offer of settlement of Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia,

IT IS ORDERED THAT:

- (1) The offer of Defendant in settlement of the matter set forth herein be, and it is hereby, accepted;
- (2) Defendant cease and desist from any conduct which constitutes a violation of §§ 38.2-3407.15 B 1, 38.2-3407.15 B 2, 38.2-3407.15 B 3, 38.2-3407.15 B 4, 38.2-3407.15 B 5, 38.2-3407.15 B 6, 38.2-3407.15 B 7, or 38.2-3407.15 B 9 of the Code of Virginia; and
- (3) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2002-00106  
APRIL 16, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

v.

SOUND SETTLEMENT, INC.,  
Defendant

**ORDER REVOKING LICENSE**

IT APPEARING from an investigation by the Bureau of Insurance that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, in certain instances, violated § 38.2-1809 of the Code of Virginia, as well as 14 VAC 5-395-70, by failing to make records available promptly upon request for examination by the Commission or its employees, and by failing to make all escrow, closing, or settlement records available promptly upon request for examination by the Bureau;

IT FURTHER APPEARING that the Commission is authorized by § 6.1-2.27 of the Code of Virginia to impose certain monetary penalties and to suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations of Chapter 1.3 (§ 6.1-2.19 et seq.) of Title 6.1 of the Code of Virginia;

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IT FURTHER APPEARING that the Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1831 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations;

IT FURTHER APPEARING that Defendant has been notified of Defendant's right to a hearing before the Commission in this matter by certified letter dated March 11, 2002, and mailed to the Defendant's address shown in the records of the Bureau of Insurance;

IT FURTHER APPEARING that Defendant, having been advised in the aforesaid manner of its right to a hearing in this matter, has failed to request a hearing and has not otherwise communicated with the Bureau of Insurance;

IT FURTHER APPEARING that the Bureau of Insurance, upon Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of Defendant's licenses to transact the business of insurance in the Commonwealth of Virginia as an insurance agent; and

THE COMMISSION is of the opinion and finds that Defendant has violated § 38.2-1809 of the Code of Virginia, as well as 14 VAC 5-395-70, by failing to make records available promptly upon request for examination by the Commission or its employees, and by failing to make all escrow, closing, or settlement records available promptly upon request for examination by the Bureau;

THEREFORE, IT IS ORDERED THAT:

- (1) The licenses of Defendant to transact the business of insurance as an agent in the Commonwealth of Virginia be, and they are hereby, REVOKED;
- (2) All appointments issued under said licenses be, and they are hereby, VOID;
- (3) Defendant transact no further business in the Commonwealth of Virginia as an insurance agent;
- (4) Defendant shall not apply to the Commission to be licensed as an insurance agent in the Commonwealth of Virginia prior to two (2) years from the date of this Order;
- (5) The Bureau of Insurance shall cause a copy of this Order to be sent to every insurance company for which Defendant holds an appointment to act as an insurance agent in the Commonwealth of Virginia; and
- (6) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2002-00107  
APRIL 16, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

Ex Parte: In the matter of Adopting Revisions to the Rules Governing Settlement Agents

**ORDER TO TAKE NOTICE**

WHEREAS, § 12.1-13 of the Code of Virginia provides that the Commission shall have the power to promulgate rules and regulations in the enforcement and administration of all laws within its jurisdiction, and § 6.1-2.25 of the Code of Virginia provides that the Commission may issue any rules and regulations necessary to carry out the provisions of the Consumer Real Estate Settlement Protection Act (§ 6.1-2.19 et seq. of the Code of Virginia);

WHEREAS, the rules and regulations issued by the Commission pursuant to § 6.1-2.25 of the Code of Virginia are set forth in Title 14 of the Virginia Administrative Code;

WHEREAS, the Bureau of Insurance has submitted to the Commission proposed revisions to Chapter 395 of Title 14 of the Virginia Administrative Code entitled "Rules Governing Settlement Agents," which amend the rules at 14 VAC 5-395-20, 14 VAC 5-395-30, 14 VAC 5-395-40, 14 VAC 5-395-50, and 14 VAC 5-395-60; and

WHEREAS, the Commission is of the opinion that the proposed revisions should be considered for adoption with a proposed effective date of June 3, 2002;

THEREFORE, IT IS ORDERED THAT:

- (1) The proposed revisions to the "Rules Governing Settlement Agents," which amend the rules at 14 VAC 5-395-20, 14 VAC 5-395-30, 14 VAC 5-395-40, 14 VAC 5-395-50, and 14 VAC 5-395-60, be attached hereto and made a part hereof;
- (2) All interested persons who desire to comment in support of or in opposition to, or to request a hearing to oppose the adoption of, the proposed revisions shall file such comments or hearing request on or before May 28, 2002, in writing with the Clerk of the Commission, Document Control Center, P.O. Box 2118, Richmond, Virginia 23218 and shall refer to Case No. INS-2002-00107;



## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

(3) If no written request for a hearing on the proposed revisions is filed on or before May 28, 2002, the Commission, upon consideration of any comments submitted in support of or in opposition to the proposed revisions, may adopt the revisions proposed by the Bureau of Insurance;

(4) AN ATTESTED COPY hereof, together with a copy of the proposed revisions, shall be sent by the Clerk of the Commission to the Virginia State Bar, the Virginia Real Estate Board, the Virginia Land Title Association, the Bureau of Financial Institutions in care of Senior Counsel Jonathan B. Orne, and the Bureau of Insurance in care of Deputy Commissioner Mary M. Bannister, who forthwith shall give further notice of the proposed adoption of the revisions to the rules by mailing a copy of this Order, together with a draft of the proposed revisions, to all title insurance companies, title insurance agents, and title insurance agencies licensed in the Commonwealth of Virginia; and by forwarding a copy of this Order, together with a draft of the proposed revisions, to the Virginia Registrar of Regulations for appropriate publication in the Virginia Register of Regulations; and

(5) The Bureau of Insurance shall file with the Clerk of the Commission an affidavit of compliance with the notice requirements of paragraph (4) above.

NOTE: A copy of Attachment A entitled "Rules Governing Settlement Agents" is on file and may be examined at the State Corporation Commission, Clerk's Office, Document Control Center, Tyler Building, First Floor, 1300 East Main Street, Richmond, Virginia.

**CASE NO. INS-2002-00107  
APRIL 24, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

Ex Parte: In the matter of Adopting Revisions to the Rules Governing Settlement Agents

**CORRECTING ORDER**

In the Order to Take Notice entered herein April 16, 2002, in lines 8 through 10 on page 3 of the Order, there is a reference to "all title insurance companies, title insurance agents, and title insurance agencies licensed in the Commonwealth of Virginia." The correct reference, however, should be "all title insurance companies, title settlement agents, and title settlement agencies licensed in the Commonwealth of Virginia."

THEREFORE, IT IS ORDERED THAT:

- (1) The reference in lines 8 through 10 on page 3 of the Order to Take Notice entered April 16, 2002, shall be corrected to read "all title insurance companies, title settlement agents, and title settlement agencies licensed in the Commonwealth of Virginia;" and
- (2) All other provisions of the Order to Take Notice entered April 16, 2002, shall remain in full force and effect.

**CASE NO. INS-2002-00107  
MAY 30, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

Ex Parte: In the matter of Adopting Revisions to the Rules Governing Settlement Agents

**ORDER ADOPTING REVISIONS TO RULES**

WHEREAS, by Order entered herein April 16, 2002, all interested persons were ordered to take notice that the Commission would consider the entry of an order subsequent to May 28, 2002, adopting revisions proposed by the Bureau of Insurance to the Commission's Rules Governing Settlement Agents unless on or before May 28, 2002, any person objecting to the adoption of the proposed revisions filed a request for a hearing with the Clerk of the Commission;

WHEREAS, the Order also required all interested persons to file their comments in support of or in opposition to the proposed revisions on or before May 28, 2002;

WHEREAS, as of the date of this Order, no request for a hearing has been filed with the Clerk of the Commission;

WHEREAS, as of the date of this Order, no comments have been filed with the Clerk of the Commission;

WHEREAS, the Bureau has recommended that the proposed revisions be adopted;

THE COMMISSION, having considered the proposed revisions and the Bureau's recommendation, is of the opinion that the attached proposed revisions should be adopted;

THEREFORE, IT IS ORDERED THAT:

(1) The revisions to Chapter 395 of Title 14 of the Virginia Administrative Code entitled "Rules Governing Settlement Agents," which amend the rules at 14 VAC 5-395-20, 14 VAC 5-395-30, 14 VAC 5-395-40, 14 VAC 5-395-50, and 14 VAC 5-395-60, and which are attached hereto and made a part hereof, should be, and they are hereby, ADOPTED to be effective June 3, 2002;

(2) AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to the Bureau of Insurance in care of Deputy Commissioner Mary M. Bannister, who forthwith shall give further notice of the adoption of the revisions to the rules by mailing a copy of this Order, together with a copy of the revised rules, to all title insurance companies, title settlement agents, and title settlement agencies licensed in the Commonwealth of Virginia; and by forwarding a copy of this Order, including a copy of the attached revised rules, to the Virginia Registrar of Regulations for appropriate publication in the Virginia Register of Regulations; and

(3) The Bureau of Insurance shall file with the Clerk of the Commission an affidavit of compliance with the notice requirements of paragraph (2) above.

NOTE: A copy of Attachment A entitled "Chapter 395. Rules Governing Settlement Agents" is on file and may be examined at the State Corporation Commission, Clerk's Office, Document Control Center, Tyler Building, First Floor, 1300 East Main Street, Richmond, Virginia.

**CASE NO. INS-2002-00108  
AUGUST 2, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

v.

MUTUAL OF OMAHA INSURANCE COMPANY,  
UNITED OF OMAHA LIFE INSURANCE COMPANY,  
and  
UNITED WORLD LIFE INSURANCE COMPANY,  
Defendants

**SETTLEMENT ORDER**

Based on a target market conduct examination performed by the Bureau of Insurance, it appears that Defendants, each of which is duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, in certain instances, violated §§ 38.2-3407.15 B 1, 38.2-3407.15 B 2, 38.2-3407.15 B 3, 38.2-3407.15 B 4, 38.2-3407.15 B 5, 38.2-3407.15 B 6, 38.2-3407.15 B 7, and 38.2-3407.15 B 9 of the Code of Virginia.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke Defendants' licenses upon a finding by the Commission, after notice and opportunity to be heard, that Defendants have committed the aforesaid alleged violations.

Defendants have been advised of their right to a hearing in this matter, whereupon Mutual of Omaha Insurance Company, on behalf of all Defendants, has made an offer of settlement to the Commission wherein Mutual of Omaha Insurance Company, on behalf of all Defendants, has tendered to the Commonwealth of Virginia the sum of twenty-five thousand eight hundred dollars (\$25,800) and waived their right to a hearing.

The Bureau of Insurance has recommended that the Commission accept the offer of settlement of Defendants pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia.

THE COMMISSION, having considered the record herein, the offer of settlement of Defendants, and the recommendation of the Bureau of Insurance, is of the opinion that Defendants' offer should be accepted.

IT IS THEREFORE ORDERED THAT:

- (1) The offer of Defendants in settlement of the matter set forth herein be, and it is hereby, accepted; and
- (2) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2002-00112  
MAY 21, 2002**

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

v.

EMPLOYERS HEALTH INSURANCE COMPANY,

Defendant

**SETTLEMENT ORDER**

IT APPEARING from a target market conduct examination performed by the Bureau of Insurance that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, in certain instances, violated §§ 38.2-3407.15 B 1, 38.2-3407.15 B 2, 38.2-3407.15 B 3, 38.2-3407.15 B 4, 38.2-3407.15 B 5, 38.2-3407.15 B 6, 38.2-3407.15 B 7, 38.2-3407.15 B 8, and 38.2-3407.15 B 9 of the Code of Virginia;

IT FURTHER APPEARING that the Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations;

IT FURTHER APPEARING that Defendant has been advised of its right to a hearing in this matter, whereupon Defendant has made an offer of settlement to the Commission wherein Defendant has tendered to the Commonwealth of Virginia the sum of thirteen thousand five hundred dollars (\$13,500) and waived its right to a hearing; and

IT FURTHER APPEARING that the Bureau of Insurance has recommended that the Commission accept the offer of settlement of Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia,

IT IS ORDERED THAT:

- (1) The offer of Defendant in settlement of the matter set forth herein be, and it is hereby, accepted; and
- (2) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2002-00113  
JULY 9, 2002**

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

v.

M.D. INDIVIDUAL PRACTICE ASSOCIATION, INC.,

Defendant

**SETTLEMENT ORDER**

Based on a market conduct examination performed by the Bureau of Insurance, it appears that Defendant, duly licensed by the Commission to transact the business of health maintenance organization in the Commonwealth of Virginia, in certain instances, violated subsection 1 of § 38.2-502 and §§ 38.2-316 B, 38.2-316 C, 38.2-503, 38.2-510, 38.2-1318 C, 38.2-3407.15 C, 38.2-4306 A 2, 38.2-4306.1, 38.2-4312, and 38.2-5804 A of the Code of Virginia, as well as 14 VAC 5-90-50 A, 14 VAC 5-90-50 B, 14 VAC 5-90-60 A, 14 VAC 5-90-130 A, 14 VAC 5-90-170 A, and 14 VAC 5-210-70 B 2.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-4316 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations.

Defendant has been advised of its right to a hearing in this matter, whereupon Defendant has made an offer of settlement to the Commission wherein Defendant has tendered to the Commonwealth of Virginia the sum of twelve thousand dollars (\$12,000), waived its right to a hearing, and agreed to the entry by the Commission of a cease and desist order.

The Bureau of Insurance has recommended that the Commission accept the offer of settlement of Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia.

IT IS THEREFORE ORDERED THAT:

- (1) The offer of Defendant in settlement of the matter set forth herein be, and it is hereby, accepted;

(2) Defendant cease and desist from any conduct which constitutes a violation of subsection 1 of § 38.2-502 or §§ 38.2-316 B, 38.2-316 C, 38.2-503, 38.2-510, 38.2-1318 C, 38.2-3407.15 C, 38.2-4306 A 2, 38.2-4306.1, 38.2-4312, or 38.2-5804 A of the Code of Virginia, or 14 VAC 5-90-50 A, 14 VAC 5-90-50 B, 14 VAC 5-90-60 A, 14 VAC 5-90-130 A, 14 VAC 5-90-170 A, or 14 VAC 5-210-70 B 2; and

(3) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2002-00117  
MAY 13, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

Ex Parte: In the matter of Adopting Revisions to the Rules Governing Accelerated Benefits Provisions

**ORDER TO TAKE NOTICE**

WHEREAS, § 12.1-13 of the Code of Virginia provides that the Commission shall have the power to promulgate rules and regulations in the enforcement and administration of all laws within its jurisdiction, and § 38.2-223 of the Code of Virginia provides that the Commission may issue any rules and regulations necessary or appropriate for the administration and enforcement of Title 38.2 of the Code of Virginia;

WHEREAS, the rules and regulations issued by the Commission pursuant to § 38.2-223 of the Code of Virginia are set forth in Title 14 of the Virginia Administrative Code;

WHEREAS, the Bureau of Insurance has submitted to the Commission proposed revisions to Chapter 70 of Title 14 of the Virginia Administrative Code entitled "Rules Governing Accelerated Benefits Provisions," which amend the rules at 14 VAC 5-70-10, 14 VAC 5-70-20, 14 VAC 5-70-30, 14 VAC 5-70-40, 14 VAC 5-70-80, and 14 VAC 5-70-130;

WHEREAS, the proposed revisions reflect the addition of § 38.2-3115.1 of the Code of Virginia enacted by the General Assembly in its 2002 session, which is effective July 1, 2002, and provides that insurers may include a policy provision for accelerated payment of life insurance benefits to the insured during his lifetime under certain conditions; and

WHEREAS, the Commission is of the opinion that the proposed revisions should be considered for adoption with an effective date of July 1, 2002;

THEREFORE, IT IS ORDERED THAT:

(1) The proposed revisions to the "Rules Governing Accelerated Benefits Provisions," which amend the rules at 14 VAC 5-70-10, 14 VAC 5-70-20, 14 VAC 5-70-30, 14 VAC 5-70-40, 14 VAC 5-70-80, and 14 VAC 5-70-130, be attached hereto and made a part hereof;

(2) All interested persons who desire to comment in support of or in opposition to, or to request a hearing to oppose the adoption of, the proposed revisions shall file such comments or hearing request on or before June 12, 2002, in writing with the Clerk of the Commission, Document Control Center, P.O. Box 2118, Richmond, Virginia 23218 and shall refer to Case No. INS-2002-00117;

(3) If a written request for a hearing on the proposed revisions is filed on or before June 12, 2002, the Commission shall conduct a hearing in the Commission's Courtroom, 2<sup>nd</sup> Floor, Tyler Building, 1300 East Main Street, Richmond, Virginia 23219 at 10:30 a.m. on June 18, 2002, to consider the adoption of the attached proposed revisions proposed by the Bureau of Insurance with an effective date of July 1, 2002;

(4) If no written request for a hearing on the proposed revisions is filed on or before June 12, 2002, the Commission, upon consideration of any comments submitted in support of or in opposition to the proposed revisions, may adopt the revisions proposed by the Bureau of Insurance;

(5) AN ATTESTED COPY hereof, together with a copy of the proposed revisions, shall be sent by the Clerk of the Commission to the Bureau of Insurance in care of Deputy Commissioner Gerald A. Milsky, who forthwith shall give further notice of the proposed adoption of the revisions to the rules by mailing a copy of this Order, together with a draft of the proposed revisions, to all life and health insurers, fraternal benefit societies, cooperative non-profit life benefit companies or mutual assessment life, accident and sickness insurers licensed by the Commission to write life insurance in the Commonwealth of Virginia; and by forwarding a copy of this Order, together with a draft of the proposed revisions, to the Virginia Registrar of Regulations for appropriate publication in the Virginia Register of Regulations; and

(6) The Bureau of Insurance shall file with the Clerk of the Commission an affidavit of compliance with the notice requirements of paragraph (5) above.

NOTE: A copy of Attachment A entitled "Chapter 70. rules Governing Accelerated Benefits Provisions" is on file and may be examined at the State Corporation Commission, Clerk's Office, Document Control Center, Tyler Building, First Floor, 1300 East Main Street, Richmond, Virginia.

**CASE NO. INS-2002-00117  
JUNE 21, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

Ex Parte: In the matter of Adopting Revisions to the Rules Governing Accelerated Benefits Provisions

**ORDER ADOPTING REVISIONS TO RULES**

By order entered herein May 13, 2002, all interested persons were ordered to take notice that the Commission would consider the entry of an order subsequent to June 12, 2002, adopting revisions proposed by the Bureau of Insurance to the Commission's Rules Governing Accelerated Benefits Provisions to reflect the addition of § 38.2-3115.1 of the Code of Virginia enacted by the General Assembly in its 2002 session, unless on or before June 12, 2002, any person objecting to the adoption of the proposed revisions filed a request for a hearing with the Clerk of the Commission.

The May 13, 2002, Order also required all interested persons to file their comments in support of or in opposition to the proposed revisions on or before June 12, 2002.

As of the date of this Order, no request for a hearing has been filed with the Clerk of the Commission, and, as of the date of this Order, no comments have been filed with the Clerk of the Commission.

The Bureau has recommended that the proposed revisions be adopted; and

THE COMMISSION, having considered the proposed revisions and the Bureau's recommendation, is of the opinion that the proposed revisions should be adopted.

THEREFORE, IT IS ORDERED THAT:

(1) The revisions to Chapter 70 of Title 14 of the Virginia Administrative Code entitled "Rules Governing Accelerated Benefits Provisions," which amend the rules at 14 VAC 5-70-10, 14 VAC 5-70-20, 14 VAC 5-70-30, 14 VAC 5-70-40, 14 VAC 5-70-80, and 14 VAC 5-70-130, and which are attached hereto and made a part hereof, should be, and they are hereby, ADOPTED to be effective July 1, 2002.

(2) AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to the Bureau of Insurance in care of Deputy Commissioner Gerald A. Milsky, who forthwith shall give further notice of the adoption of the revisions to the rules by mailing a copy of this Order, together with a clean copy of the revised rules, to all life and health insurers, fraternal benefit societies, cooperative non-profit life benefit companies, and mutual assessment life, accident and sickness insurers licensed by the Commission to write life insurance in the Commonwealth of Virginia; and by forwarding a copy of this Order, including a copy of the attached revised rules, to the Virginia Registrar of Regulations for appropriate publication in the Virginia Register of Regulations.

(3) On or before July 1, 2002, the Commission's Division of Information Resources shall make available this Order and the attached revised rules on the Commission's website, <http://www.state.va.us.scc.caseinfo.orders.htm>.

(4) The Bureau of Insurance shall file with the Clerk of the Commission an affidavit of compliance with the notice requirements of paragraph (2) above.

NOTE: A copy of Attachment A entitled "Rules Governing Accelerated Benefits Provisions" is on file and may be examined at the State Corporation Commission, Clerk's Office, Document Control Center, Tyler Building, First Floor, 1300 East Main Street, Richmond, Virginia.

**CASE NO. INS-2002-00118  
OCTOBER 23, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

Ex Parte: In the matter of Adopting Revisions to the Rules Governing Long-Term Care Insurance

**ORDER TO TAKE NOTICE**

Section 12.1-13 of the Code of Virginia provides that the Commission shall have the power to promulgate rules and regulations in the enforcement and administration of all laws within its jurisdiction, and § 38.2-223 of the Code of Virginia provides that the Commission may issue any rules and regulations necessary or appropriate for the administration and enforcement of Title 38.2 of the Code of Virginia.

The rules and regulations issued by the Commission pursuant to § 38.2-223 of the Code of Virginia are set forth in Title 14 of the Virginia Administrative Code.

The Bureau of Insurance (the "Bureau") has submitted to the Commission proposed revisions to Chapter 200 of Title 14 of the Virginia Administrative Code entitled "Rules Governing Long-Term Care Insurance," which amend the rules at 14 VAC 5-200-20, 14 VAC 5-200-30, 14 VAC 5-200-40, 14 VAC 5-200-60, 14 VAC 5-200-75, 14 VAC 5-200-150, and 14 VAC 5-200-200, and propose new rules to be designated as 14 VAC 5-200-77 and 14 VAC 5-200-153.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

The proposed revisions carry out those provisions of House Bill 1125, adopted by the General Assembly in its 2002 Session, that amended § 38.2-5206 of the Code of Virginia to require the Commission to adopt standards regarding the initial filing requirements and premium rate schedule increases similar to those set forth in the model long-term care regulation developed by the National Association of Insurance Commissioners.

The Bureau has recommended to the Commission that the proposed revisions should be considered for adoption with an effective date of April 1, 2003.

The Bureau also has recommended to the Commission that a hearing should be held to consider the proposed revisions, and the Commission is of the opinion that a hearing should be held to consider the proposed revisions.

## THEREFORE, IT IS ORDERED THAT:

(1) The proposed revisions to the "Rules Governing Long-Term Care Insurance," which amend the rules at 14 VAC 5-200-20, 14 VAC 5-200-30, 14 VAC 5-200-40, 14 VAC 5-200-60, 14 VAC 5-200-75, 14 VAC 5-200-150, and 14 VAC 5-200-200, and propose new rules to be designated as 14 VAC 5-200-77 and 14 VAC 5-200-153, be attached hereto and made a part hereof.

(2) All interested persons TAKE NOTICE that the Commission shall conduct a hearing in the Commission's Courtroom, 2<sup>nd</sup> Floor, Tyler Building, 1300 East Main Street, Richmond, Virginia 23219 at 10:00 a.m. on December 4, 2002, to consider the adoption of the revisions proposed by the Bureau of Insurance with an effective date of April 1, 2003.

(3) On or before November 22, 2002, any person desiring to comment in support of or in opposition to the proposed revisions shall file such comments in writing with the Clerk of the Commission, Document Control Center, P.O. Box 2118, Richmond, Virginia 23218.

(4) On or before November 22, 2002, any person intending to appear and be heard at the hearing on the proposed revisions shall file written notice of his intention to do so, which notice shall include his comments in support of or in opposition to the proposed revisions, with the Clerk of the Commission at the address set forth in the preceding paragraph.

(5) All filings made under paragraph (3) or (4) shall contain a reference to Case No. INS-2002-00118.

(6) AN ATTESTED COPY hereof, together with a copy of the proposed revisions, shall be sent by the Clerk of the Commission to the Bureau of Insurance in care of Deputy Commissioner Gerald A. Milsky, who forthwith shall give further notice of the proposed adoption of the revisions to the rules by mailing a copy of this Order, together with the attached proposed revisions, to all insurers licensed by the Commission to write long-term care insurance in the Commonwealth of Virginia.

(7) The Commission's Division of Information Resources forthwith shall cause a copy of this Order, together with the attached proposed revisions, to be forwarded to the Virginia Registrar of Regulations for appropriate publication in the Virginia Register of Regulations.

(8) On or before October 29, 2002, the Commission's Division of Information Resources shall make available this Order and the attached proposed revisions on the Commission's website, <http://www.state.va.us/scc/caseinfo/orders.htm>.

(9) The Bureau of Insurance shall file with the Clerk of the Commission an affidavit of compliance with the notice requirements of paragraph (6) above.

NOTE: A copy of Attachment A entitled "Rules Governing Long-Term Care Insurance" is on file and may be examined at the State Corporation Commission, Clerk's Office, Document Control Center, Tyler Building, First Floor, 1300 East Main Street, Richmond, Virginia.

**CASE NO. INS-2002-00118  
NOVEMBER 26, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

Ex Parte: In the matter of Adopting Revisions to the Rules Governing Long-Term Care Insurance

**ORDER CANCELING HEARING AND ADOPTING REVISIONS TO RULES**

By Order to Take Notice entered herein October 23, 2002, revisions proposed by the Commission's Bureau of Insurance (the "Bureau") to Chapter 200 of Title 14 of the Virginia Administrative Code entitled "Rules Governing Long-Term Care Insurance," to be effective April 1, 2003, were submitted for comment to all insurers licensed by the Commission to write long-term care insurance in the Commonwealth of Virginia. The proposed revisions also were submitted for comment to interested parties designated by the Bureau.

The Order to Take Notice provided that comments in support of or in opposition to the proposed revisions were required to be filed with the Clerk of the Commission on or before November 22, 2002.

The Order to Take Notice also provided that a hearing would be held on December 4, 2002, to consider the adoption of the revisions proposed by the Bureau, and that any person intending to appear and be heard at such hearing must file written notice of such intent, including his comments in support of or in opposition to the proposed revisions, with the Clerk of the Commission on or before November 22, 2002.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

Metropolitan Life Insurance Company timely filed a comment with the Clerk of the Commission on November 22, 2002, wherein it noted that a cross-reference to the Code of Virginia, which appeared in two sections of the proposed revisions, was incorrect. The Bureau has reviewed the proposed revisions, agrees there was an incorrect cross-reference, and has corrected such cross-reference.

The Commission, having considered the proposed revisions, the filed comment and the Bureau's response thereto, is of the opinion that the hearing previously scheduled for December 4, 2002, should be canceled, and that the attached revisions to the rules should be adopted.

## THEREFORE, IT IS ORDERED THAT:

(1) The hearing previously scheduled for December 4, 2002, be, and the same is hereby, CANCELED.

(2) The revisions to the "Rules Governing Long-Term Care Insurance," which amend the rules at 14 VAC 5-200-20, 14 VAC 5-200-30, 14 VAC 5-200-40, 14 VAC 5-200-60, 14 VAC 5-200-75, 14 VAC 5-200-150, and 14 VAC 5-200-200, and propose new rules to be designated as 14 VAC 5-200-77 and 14 VAC 5-200-153, and which are attached hereto and made a part hereof, should be, and they are hereby, ADOPTED to be effective April 1, 2003.

(3) AN ATTESTED COPY hereof, together with a copy of the attached revisions, shall be sent by the Clerk of the Commission to the Bureau of Insurance in care of Deputy Commissioner Gerald A. Milsky, who forthwith shall give further notice of the adoption of the revisions to the rules by mailing a copy of this Order, together with a clean copy of the revised rules, to all insurers licensed by the Commission to write long-term care insurance in the Commonwealth of Virginia and interested parties designated by the Bureau of Insurance.

(4) The Commission's Division of Information Resources forthwith shall cause a copy of this Order, together with the attached revisions, to be forwarded to the Virginia Registrar of Regulations for appropriate publication in the Virginia Register of Regulations.

(5) On or before December 3, 2002, the Commission's Division of Information Resources shall make available this Order and the attached revisions on the Commission's website, <http://www.state.va.us/scc/caseinfo/orders.htm>.

(6) The Bureau of Insurance shall file with the Clerk of the Commission an affidavit of compliance with the notice requirements of paragraph (3) above.

NOTE: A copy of Attachment A entitled "Rules Governing Long-Term Care Insurance" is on file and may be examined at the State Corporation Commission, Clerk's Office, Document Control Center, Tyler Building, First Floor, 1300 East Main Street, Richmond, Virginia.

**CASE NO. INS-2002-00120  
JUNE 7, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

Ex Parte: In the matter of Adopting Rules Governing Aboveground Storage Tank and Pipeline Operators Group Self-Insurance Pools

**ORDER TO TAKE NOTICE**

WHEREAS, § 12.1-13 of the Code of Virginia provides that the Commission shall have the power to promulgate rules and regulations in the enforcement and administration of all laws within its jurisdiction, and § 38.2-223 of the Code of Virginia provides that the Commission may issue any rules and regulations necessary or appropriate for the administration and enforcement of Title 38.2 of the Code of Virginia;

WHEREAS, the rules and regulations issued by the Commission pursuant to § 38.2-223 of the Code of Virginia are set forth in Title 14 of the Virginia Administrative Code;

WHEREAS, the Bureau of Insurance has submitted to the Commission proposed rules to be designated Chapter 385 of Title 14 of the Virginia Administrative Code and entitled "Rules Governing Aboveground Storage Tank and Pipeline Operators Group Self-Insurance Pools," and which include the rules at 14 VAC 5-385-10 through 14 VAC 5-385-150;

WHEREAS, the proposed rules set forth the requirements for the approval and monitoring of aboveground storage tank and pipeline operators group self-insurance pools pursuant to §§ 62.1-44.34:12 and 62.1-44.34:16 of the Code of Virginia; and

WHEREAS, the Commission is of the opinion that the proposed rules should be considered for adoption with an effective date of October 1, 2002;

## THEREFORE, IT IS ORDERED THAT:

(1) The proposed rules to be designated Chapter 385 of Title 14 of the Virginia Administrative Code and entitled "Rules Governing Aboveground Storage Tank and Pipeline Operators Group Self-Insurance Pools," and which include the rules at 14 VAC 5-385-10 through 14 VAC 5-385-150, be attached hereto and made a part hereof;

(2) All interested persons who desire to comment in support of or in opposition to, or to request a hearing to oppose the adoption of, the proposed rules shall file such comments or hearing request on or before September 3, 2002, in writing with the Clerk of the Commission, Document Control Center, P.O. Box 2118, Richmond, Virginia 23218 and shall refer to Case No. INS-2002-00120;

(3) If no written request for a hearing on the proposed rules is filed on or before September 3, 2002, the Commission, upon consideration of any comments submitted in support of or in opposition to the proposed rules, may adopt the rules proposed by the Bureau of Insurance;

(4) AN ATTESTED COPY hereof, together with a copy of the proposed rules, shall be sent by the Clerk of the Commission to the Bureau of Insurance in care of Deputy Commissioner Douglas C. Stolte, who forthwith shall give further notice of the proposed adoption of the rules by mailing a copy of this Order, together with a draft of the proposed rules, to all persons on the attached list; and by forwarding a copy of this Order, together with a draft of the proposed rules, to the Virginia Registrar of Regulations for appropriate publication in the Virginia Register of Regulations; and

(5) The Bureau of Insurance shall file with the Clerk of the Commission an affidavit of compliance with the notice requirements of paragraph (4) above.

NOTE: A copy of Attachment A entitled "Rules Governing Aboveground Storage Tank and Pipeline Operators Group Self-Insurance Pools" is on file and may be examined at the State Corporation Commission, Clerk's Office, Document Control Center, Tyler Building, First Floor, 1300 East Main Street, Richmond, Virginia.

**CASE NO. INS-2002-00120  
SEPTEMBER 10, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

Ex Parte: In the matter of Adopting Rules Governing Aboveground Storage Tank and Pipeline Operators Group Self-Insurance Pools

**ORDER ADOPTING RULES**

By order entered herein June 7, 2002, all interested persons were ordered to take notice that the Commission would consider the entry of an order subsequent to September 3, 2002, adopting rules proposed by the Bureau of Insurance (the "Bureau"), designated as Chapter 385 of Title 14 of the Virginia Administrative Code and entitled "Rules Governing Aboveground Storage Tank and Pipeline Operators Group Self-Insurance Pools," and which include the rules at 14 VAC 5-385-10 through 14 VAC 5-385-150, unless on or before September 3, 2002, any person objecting to the adoption of the proposed rules filed a request for a hearing with the Clerk of the Commission.

The June 7, 2002, Order also required all interested persons to file their comments in support of or in opposition to the proposed rules on or before September 3, 2002.

As of the date of this Order, no request for a hearing has been filed with the Clerk of the Commission, and, as of the date of this Order, no comments have been filed with the Clerk of the Commission.

The Bureau has recommended that the proposed rules be adopted; and

THE COMMISSION, having considered the proposed rules and the Bureau's recommendation, is of the opinion that the proposed rules should be adopted.

THEREFORE, IT IS ORDERED THAT:

(1) The rules set forth in Chapter 385 of Title 14 of the Virginia Administrative Code entitled "Rules Governing Aboveground Storage Tank and Pipeline Operators Group Self-Insurance Pools," which include the rules at 14 VAC 5-385-10 through 14 VAC 5-385-150, and which are attached hereto and made a part hereof, should be, and they are hereby, ADOPTED to be effective October 1, 2002.

(2) AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to the Bureau of Insurance in care of Deputy Commissioner Douglas C. Stolte, who forthwith shall give further notice of the adoption of the rules by mailing a copy of this Order, including a copy of the attached rules, to all persons on the attached list.

(3) The Commission's Division of Information Resources forthwith shall cause a copy of this Order, including a copy of the attached rules, to be forwarded to the Virginia Registrar of Regulations for appropriate publication in the Virginia Register of Regulations.

(4) On or before September 16, 2002, the Commission's Division of Information Resources shall make available this Order and the attached rules on the Commission's website, <http://www.state.va.us/scc/caseinfo/orders.htm>.

(5) The Bureau of Insurance shall file with the Clerk of the Commission an affidavit of compliance with the notice requirements of paragraph (2) above.

NOTE: A copy of Attachment A entitled "Rules Governing Aboveground Storage Tank and Pipeline Operators Group Self-Insurance Pools" is on file and may be examined at the State Corporation Commission, Clerk's Office, Document Control Center, Tyler Building, First Floor, 1300 East Main Street, Richmond, Virginia.



**CASE NO. INS-2002-00126  
JUNE 6, 2002**

COMMONWEALTH OF VIRGINIA, ex rel.  
STATE CORPORATION COMMISSION

Ex Parte, In re: Approval of a regulatory settlement agreement by and between Union National Life Insurance Company, United Insurance Company of America, and The Reliable Life Insurance Company, and the Insurance Commissioner for the State of Illinois, for and on behalf of the State of Illinois, the Virginia Bureau of Insurance and the Insurance Regulators of each of the states in the United States and the District of Columbia

**ORDER APPROVING SETTLEMENT AGREEMENT**

ON THIS DAY came the Bureau of Insurance ("the Bureau"), by counsel, and requested (i) Commission approval and acceptance of a certain multi-state Regulatory Settlement Agreement dated May 2, 2002 and the Stipulation of Settlement having been agreed to as of February 28, 2002 ("the Agreement"), a copy of which is attached hereto and made a part hereof, by and between the Insurance Commissioner for the State of Illinois, for and on behalf of the State of Illinois, the Bureau, and the Insurance Regulators of each of the states in the United States and the District of Columbia, and United Insurance Company of America, a foreign insurer domiciled in the State of Illinois and licensed to transact the business of insurance in the Commonwealth of Virginia, The Reliable Life Insurance Company, a foreign insurer domiciled in the State of Missouri and licensed to transact the business of insurance in the Commonwealth of Virginia, and Union National Life Insurance Company, a foreign insurer domiciled in the State of Louisiana and a party to the settlement in other participating states, but not licensed to transact the business of insurance in the Commonwealth of Virginia, and (ii) authority to execute any documents attendant to the Agreement necessary to evidence the Commission's acceptance of the Agreement;

AND THE COMMISSION, having considered the terms of the Agreement together with the recommendation of the Bureau that the Commission approve and accept the Agreement, is of the opinion, finds, and ORDERS that (i) the Agreement be, and it is hereby, APPROVED AND ACCEPTED and (ii) the Commissioner of Insurance be, and he is hereby authorized to execute any attendant documents necessary to evidence the Commission's approval and acceptance of the Agreement.

NOTE: A copy of the Agreement is on file and may be examined at the State Corporation Commission, Clerk's Office, Document Control Center, Tyler Building, First Floor, 1300 East Main Street, Richmond, Virginia.

**CASE NO. INS-2002-00127  
MAY 14, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
HIGHLANDS INSURANCE COMPANY,  
Defendant

**ORDER TO TAKE NOTICE**

WHEREAS, § 38.2-1040 of the Code of Virginia provides, inter alia, that the Commission may suspend or revoke the license of any insurance company to transact the business of insurance in the Commonwealth of Virginia whenever the Commission finds that the company is insolvent, or is in a condition that any further transaction of business in this Commonwealth is hazardous to its policyholders, creditors, and public in this Commonwealth;

WHEREAS, Highlands Insurance Company, a foreign corporation domiciled in the State of Texas ("Defendant"), is licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia;

WHEREAS, the Annual Statement of Defendant, dated December 31, 2001, and filed with the Commission's Bureau of Insurance, indicates surplus as regards policyholders of \$25,450,467;

WHEREAS, Defendant's surplus as regards policyholders at December 31, 2000, was \$127,405,556, a decline of 80% from December 31, 2000, to December 31, 2001;

WHEREAS, it appears that Defendant's surplus as regards policyholders at December 31, 2001, is at its mandatory control level risk-based capital;

WHEREAS, Defendant's percentage of net premiums written for the year ended December 31, 2001 to surplus as regards policyholders is 1,219%; and

WHEREAS, the Bureau of Insurance has recommended that the license of Defendant to transact the business of insurance in the Commonwealth of Virginia be suspended for the reason that the foregoing indicates that any further transaction of the business of insurance by Defendant in the Commonwealth of Virginia may be hazardous to its policyholders, creditors, and public in this Commonwealth;

THEREFORE, IT IS ORDERED that Defendant TAKE NOTICE that the Commission shall enter an order subsequent to May 28, 2002, suspending the license of Defendant to transact the business of insurance in the Commonwealth of Virginia unless on or before May 28, 2002, Defendant files with the Clerk of the Commission, Document Control Center, P.O. Box 2118, Richmond, Virginia 23218, a request for a hearing before the Commission with respect to the proposed suspension of Defendant's license.

**CASE NO. INS-2002-00127  
MAY 21, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
HIGHLANDS INSURANCE COMPANY,  
Defendant

**CORRECTING ORDER**

In the Order to Take Notice entered herein May 14, 2002, the fourth paragraph, set forth on page 2 of the order, reads as follows: "WHEREAS, Defendant's surplus as regards policyholders at December 31, 2000, was \$127,405,556, a decline of 80% from December 31, 2000, to December 31, 2001." The following language, however, inadvertently was not included in the paragraph: "and at December 31, 2001, was \$25,450,467,"

THEREFORE, IT IS ORDERED THAT:

- (1) The fourth paragraph, set forth on page 2 of the Order to Take Notice entered May 14, 2002, shall be corrected to read "WHEREAS, Defendant's surplus as regards policyholders at December 31, 2000, was \$127,405,556, and at December 31, 2001, was \$25,450,467, a decline of 80% from December 31, 2000, to December 31, 2001";
- (2) All other provisions of the Order to Take Notice entered herein May 14, 2002, shall remain in full force and effect.

**CASE NO. INS-2002-00127  
JUNE 10, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
HIGHLANDS INSURANCE COMPANY,  
Defendant

**ORDER SUSPENDING LICENSE**

WHEREAS, for the reasons stated in an order entered herein May 14, 2002, Defendant was ordered to take notice that the Commission would enter an order subsequent to May 28, 2002, suspending the license of Defendant to transact the business of insurance in the Commonwealth of Virginia unless on or before May 28, 2002, Defendant filed with the Clerk of the Commission a request for a hearing before the Commission to contest the proposed suspension of Defendant's license; and

WHEREAS, as of the date of this Order, Defendant has not filed a request to be heard before the Commission with respect to the proposed suspension of Defendant's license;

THEREFORE, IT IS ORDERED THAT:

- (1) Pursuant to § 38.2-1040 of the Code of Virginia, the license of Defendant to transact the business of insurance in the Commonwealth of Virginia be, and it is hereby, **SUSPENDED**;
- (2) Defendant shall issue no new contracts or policies of insurance in the Commonwealth of Virginia until further order of the Commission;
- (3) The appointments of Defendant's agents to act on behalf of Defendant in the Commonwealth of Virginia be, and they are hereby, **SUSPENDED**;
- (4) Defendant's agents shall transact no new insurance business on behalf of Defendant in the Commonwealth of Virginia until further order of the Commission;
- (5) The Bureau of Insurance shall cause an attested copy of this Order to be sent to each of Defendant's agents appointed to act on behalf of Defendant in the Commonwealth of Virginia as notice of the suspension of such agent's appointment; and
- (6) The Bureau of Insurance shall cause notice of the suspension of Defendant's license to be published in the manner set forth in § 38.2-1043 of the Code of Virginia.

**CASE NO. INS-2002-00131  
JULY 19, 2002**

APPLICATION OF  
ANTHEM, INC.  
and  
TRIGON HEALTHCARE, INC.,  
Applicants

**FINAL ORDER**

On May 31, 2002, Anthem, Inc. ("Anthem"), a corporation domiciled in the State of Indiana, and Trigon Healthcare, Inc. ("Trigon"), a corporation domiciled in the Commonwealth of Virginia (collectively "Applicants") filed a Form A Application for Approval of Acquisition of Control of or Merger with a Domestic Insurer or Health Maintenance Organization ("Form A") with the State Corporation Commission ("Commission") for approval, pursuant to § 38.2-1326 of the Code of Virginia, of Anthem's proposed acquisition of Trigon.<sup>1</sup> Entities subject to regulation by the Commission within the Trigon group and affected by the acquisition include: Trigon Insurance Company, Trigon Health and Life Insurance Company, HealthKeepers, Inc., Priority Health Care, Inc., and Peninsula Health Care, Inc. (collectively referred to as the "insurers"). The Commission entered an Order Scheduling Public Hearing on June 4, 2002, in which a hearing date of July 10, 2002, was set.

On June 28, 2002, the Division of Consumer Counsel, Office of the Attorney General, provided its notice of intent to participate in this matter, pursuant to the Commission's Scheduling Order in this case and Rule 5 VAC 5-20-30 of the Commission's Rules of Practice and Procedure. On July 10, 2002, this matter came before the Commission for hearing.

Pursuant to § 38.2-1326 of the Code of Virginia, the Commission will hereby approve Anthem's proposed acquisition of the insurers. The bases listed in § 38.2-1326 of the Code of Virginia for disapproval of an acquisition have not been shown to exist in this case.

The Commission also has the authority, pursuant to § 38.2-1327 of the Code of Virginia, to impose in its order any conditions, stipulations, or provisions, which the Commission determines to be necessary to protect the interests of the policyholders and enrollees of the insurers and the public. While the Commission will only impose one condition, the Commission believes it is appropriate to remind Anthem of the statutory and regulatory requirements to which the acquired insurers are subject pursuant to Virginia law.

The Commission believes it is in the best interest of policyholders, enrollees, and the public that certain operations and services be conducted by Anthem in the Commonwealth of Virginia. The Commission hereby will require that Anthem cause to be provided through the acquired insurers the following services from offices located in the Commonwealth of Virginia unless the Bureau of Insurance gives its prior written approval that these services may be provided outside the Commonwealth of Virginia: claims processing and case management, customer service, actuarial, underwriting, marketing, quality management, community relations, distribution management, sales, provider services, medical management, and network development.

If Anthem seeks, either directly or through any of the acquired insurers, the written approval of the Bureau of Insurance for an exception to the foregoing requirement (an "Exception Transaction"), it shall provide written notice to the Bureau of Insurance using the appropriate forms specified in the Commission's Rules and Regulations, as applicable to the transaction. The Bureau of Insurance's substantive review of the Exception Transaction and the procedures and standards applicable to the application for approval and review shall be governed by the relevant provisions of Title 38.2, including, but not limited to, §§ 38.2-1330 and 38.2-1331 of the Code of Virginia.

This condition is imposed on those Anthem-affiliated entities that, subsequent to the approval of this application, are subject to the authority and jurisdiction of this Commission.

Trigon Insurance Company currently provides a number of high-level contact persons for the Bureau of Insurance. These senior level officials have been accessible and available to the Bureau of Insurance. The Commission fully expects this level of communication and cooperation to continue after the acquisition is completed.

The Commission will also require that, upon the completion of the acquisition, the acquired insurers will comply with all applicable Virginia laws and regulations, including, but not limited to, the Ethics and Fairness in Carrier Business Practices Act, § 38.2-3407.15 of the Code of Virginia, and the Unfair Claim Settlement Practices Act, § 38.2-510 of the Code of Virginia, and associated regulations. As part of Anthem's responsibilities under Virginia law, subsequent to the consummation of the acquisition, it must cause to be maintained a medical director licensed to practice medicine in the Commonwealth of Virginia for all of its entities performing utilization review in accordance with Article 1.2 of Chapter 5 of Title 32.1 of the Code of Virginia.

The Commission has the authority, and will continue to have the authority, to obtain timely access to the accounts, records, documents, and transactions affecting the affairs of those entities subject to the Commission's jurisdiction upon the completion of the acquisition.

Accordingly, **IT IS HEREBY ORDERED THAT:**

(1) The Application for Approval of Acquisition of Control of or Merger with a Domestic Insurer or Health Maintenance Organization by Anthem and Trigon is approved;

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<sup>1</sup> Anthem and Trigon jointly applied to have Anthem acquire Trigon Insurance Company d/b/a Trigon Blue Cross Blue Shield and Trigon Health and Life Insurance Company, domestic insurers licensed to transact the business of insurance in the Commonwealth of Virginia and affiliated with Trigon, and Trigon's affiliated and licensed domestic health maintenance organizations (HealthKeepers, Inc., Peninsula Health Care, Inc., and Priority Health Care, Inc.) through the proposed merger of Trigon Healthcare, Inc., with and into AI Sub Acquisition Corp., a corporation domiciled in the State of Indiana and a direct wholly owned subsidiary of Anthem.

(2) Anthem cause to be provided through the acquired insurers the following services from offices located in the Commonwealth of Virginia upon the consummation of the acquisition unless the Bureau of Insurance gives its prior written approval that these services may be provided outside the Commonwealth of Virginia: claims processing and case management, customer service, actuarial, underwriting, marketing, quality management, community relations, distribution management, sales, provider services, medical management, and network development; and

(3) There being nothing further to come before the Commission, this matter is dismissed.

**CASE NO. INS-2002-00133**  
**JUNE 13, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
LEGION INSURANCE COMPANY,  
Defendant

**ORDER TO TAKE NOTICE**

WHEREAS, § 38.2-1038 of the Code of Virginia provides, *inter alia*, that the Commission may suspend or revoke the license of any insurance company to transact the business of insurance in the Commonwealth of Virginia whenever the Commission finds that the company is in a condition that any further transaction of business in this Commonwealth is hazardous to its policyholders, creditors, and public in this Commonwealth;

WHEREAS, § 38.2-1040 of the Code of Virginia provides, *inter alia*, that the Commission may suspend or revoke the license of any insurance company to transact the business of insurance in the Commonwealth of Virginia whenever the Commission finds that the company has violated any law of this Commonwealth;

WHEREAS, Legion Insurance Company, a foreign corporation domiciled in the Commonwealth of Pennsylvania ("Defendant"), is licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia;

WHEREAS, by a Petition of Rehabilitation filed by the Insurance Commissioner of the Commonwealth of Pennsylvania and subsequently by an Order of Rehabilitation entered March 28, 2002, by the Commonwealth Court of Pennsylvania, Case No. 183 MD 2002, Defendant was placed in rehabilitation, effective April 1, 2002, and the Insurance Commissioner of the Commonwealth of Pennsylvania was appointed as Rehabilitator of Defendant and directed to oversee the operations of Defendant for the purposes of conservation, management, and rehabilitation;

WHEREAS, pursuant to § 38.2-1301 of the Code of Virginia, Defendant was required to file its March 31, 2002 quarterly statement with the Bureau on or before May 15, 2002;

WHEREAS, as of the date of this Order, Defendant has failed to file such quarterly statement with the Bureau;

WHEREAS, the Bureau of Insurance has recommended that, based on the foregoing, the license of Defendant to transact the business of insurance in the Commonwealth of Virginia be suspended; and

THEREFORE, IT IS ORDERED that Defendant TAKE NOTICE that the Commission shall enter an order subsequent to June 20, 2002, suspending the license of Defendant to transact the business of insurance in the Commonwealth of Virginia unless on or before June 20, 2002, Defendant files with the Clerk of the Commission, Document Control Center, P.O. Box 2118, Richmond, Virginia 23218, a request for hearing before the Commission with respect to the proposed suspension of Defendant's license.

**CASE NO. INS-2002-00133**  
**JUNE 27, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
LEGION INSURANCE COMPANY,  
Defendant

**ORDER SUSPENDING LICENSE**

In an order entered herein June 13, 2002, Defendant was ordered to take notice that, based on Defendant having been placed in rehabilitation effective April 1, 2002, by the Commonwealth Court of Pennsylvania and Defendant's failure to timely file its March 31, 2002 quarterly statement with the Commission, the Commission would enter an order subsequent to June 20, 2002, suspending the license of Defendant to transact the business of insurance in the Commonwealth of Virginia unless on or before June 20, 2002, Defendant filed with the Clerk of the Commission a request for a hearing before the Commission to contest the proposed suspension of Defendant's license.

As of the date of this Order, Defendant has not filed a request to be heard before the Commission with respect to the proposed suspension of Defendant's license.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

THEREFORE, IT IS ORDERED THAT:

- (1) Pursuant to § 38.2-1040 of the Code of Virginia, the license of Defendant to transact the business of insurance in the Commonwealth of Virginia be, and it is hereby, SUSPENDED;
- (2) Defendant shall issue no new contracts or policies of insurance in the Commonwealth of Virginia until further order of the Commission;
- (3) The appointments of Defendant's agents to act on behalf of Defendant in the Commonwealth of Virginia be, and they are hereby, SUSPENDED;
- (4) Defendant's agents shall transact no new insurance business on behalf of Defendant in the Commonwealth of Virginia until further order of the Commission;
- (5) The Bureau of Insurance shall cause an attested copy of this Order to be sent to each of Defendant's agents appointed to act on behalf of Defendant in the Commonwealth of Virginia as notice of the suspension of such agent's appointment; and
- (6) The Bureau of Insurance shall cause notice of the suspension of Defendant's license to be published in the manner set forth in § 38.2-1043 of the Code of Virginia.

**CASE NO. INS-2002-00134  
JUNE 13, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
VILLANOVA INSURANCE COMPANY,  
Defendant

**ORDER TO TAKE NOTICE**

WHEREAS, § 38.2-1038 of the Code of Virginia provides, *inter alia*, that the Commission may suspend or revoke the license of any insurance company to transact the business of insurance in the Commonwealth of Virginia whenever the Commission finds that the company is in a condition that any further transaction of business in this Commonwealth is hazardous to its policyholders, creditors, and public in this Commonwealth;

WHEREAS, § 38.2-1040 of the Code of Virginia provides, *inter alia*, that the Commission may suspend or revoke the license of any insurance company to transact the business of insurance in the Commonwealth of Virginia whenever the Commission finds that the company has violated any law of this Commonwealth;

WHEREAS, Villanova Insurance Company, a foreign corporation domiciled in the Commonwealth of Pennsylvania ("Defendant"), is licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia;

WHEREAS, by a Petition of Rehabilitation filed by the Insurance Commissioner of the Commonwealth of Pennsylvania and subsequently by an Order of Rehabilitation entered March 28, 2002, by the Commonwealth Court of Pennsylvania, Case No. 182 MD 2002, Defendant was placed in rehabilitation, effective April 1, 2002, and the Insurance Commissioner of the Commonwealth of Pennsylvania was appointed as Rehabilitator of Defendant and directed to oversee the operations of Defendant for the purposes of conservation, management, and rehabilitation;

WHEREAS, pursuant to § 38.2-1301 of the Code of Virginia, Defendant was required to file its March 31, 2002 quarterly statement with the Bureau on or before May 15, 2002;

WHEREAS, as of the date of this Order, Defendant has failed to file such quarterly statement with the Bureau;

WHEREAS, the Bureau of Insurance has recommended that, based on the foregoing, the license of Defendant to transact the business of insurance in the Commonwealth of Virginia be suspended; and

THEREFORE, IT IS ORDERED that Defendant TAKE NOTICE that the Commission shall enter an order subsequent to June 20, 2002, suspending the license of Defendant to transact the business of insurance in the Commonwealth of Virginia unless on or before June 20, 2002, Defendant files with the Clerk of the Commission, Document Control Center, P.O. Box 2118, Richmond, Virginia 23218, a request for hearing before the Commission with respect to the proposed suspension of Defendant's license.

**CASE NO. INS-2002-00134  
JUNE 27, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
VILLANOVA INSURANCE COMPANY,  
Defendant

**ORDER SUSPENDING LICENSE**

In an order entered herein June 13, 2002, Defendant was ordered to take notice that, based on Defendant having been placed in rehabilitation effective April 1, 2002, by the Commonwealth Court of Pennsylvania and Defendant's failure to timely file its March 31, 2002 quarterly statement with the Commission, the Commission would enter an order subsequent to June 20, 2002, suspending the license of Defendant to transact the business of insurance in the Commonwealth of Virginia unless on or before June 20, 2002, Defendant filed with the Clerk of the Commission a request for a hearing before the Commission to contest the proposed suspension of Defendant's license.

As of the date of this Order, Defendant has not filed a request to be heard before the Commission with respect to the proposed suspension of Defendant's license.

THEREFORE, IT IS ORDERED THAT:

- (1) Pursuant to § 38.2-1040 of the Code of Virginia, the license of Defendant to transact the business of insurance in the Commonwealth of Virginia be, and it is hereby, **SUSPENDED**;
- (2) Defendant shall issue no new contracts or policies of insurance in the Commonwealth of Virginia until further order of the Commission;
- (3) The appointments of Defendant's agents to act on behalf of Defendant in the Commonwealth of Virginia be, and they are hereby, **SUSPENDED**;
- (4) Defendant's agents shall transact no new insurance business on behalf of Defendant in the Commonwealth of Virginia until further order of the Commission;
- (5) The Bureau of Insurance shall cause an attested copy of this Order to be sent to each of Defendant's agents appointed to act on behalf of Defendant in the Commonwealth of Virginia as notice of the suspension of such agent's appointment; and
- (6) The Bureau of Insurance shall cause notice of the suspension of Defendant's license to be published in the manner set forth in § 38.2-1043 of the Code of Virginia.

**CASE NO. INS-2002-00137  
JUNE 21, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
NORTH CENTRAL LIFE INSURANCE COMPANY,  
Defendant

**SETTLEMENT ORDER**

IT APPEARING from an investigation and subsequent allegations by the Bureau of Insurance that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, in certain instances, violated § 38.2-610 of the Code of Virginia by failing to give to applicants for insurance written notice of an adverse underwriting decision in the form approved by the Commission;

IT FURTHER APPEARING that the Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations;

IT FURTHER APPEARING that Defendant has been advised of its right to a hearing in this matter, whereupon Defendant has made an offer of settlement to the Commission wherein Defendant has tendered to the Commonwealth of Virginia the sum of twenty thousand dollars (\$20,000), waived its right to a hearing, and agreed to the entry by the Commission of a cease and desist order; and

IT FURTHER APPEARING that the Bureau of Insurance has recommended that the Commission accept the offer of settlement of Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia,

IT IS ORDERED THAT:

- (1) The offer of Defendant in settlement of the matter set forth herein be, and it is hereby, accepted;

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

- (2) Defendant cease and desist from any conduct which constitutes a violation of § 38.2-610 of the Code of Virginia; and
- (3) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2002-00139**  
**JULY 31, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
ALLSTATE INSURANCE COMPANY,  
Defendant

**SETTLEMENT ORDER**

Based on an investigation and subsequent allegations by the Bureau of Insurance, it appears that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, violated § 38.2-604 of the Code of Virginia by failing to provide proper notice of insurance information practices to applicants or policyholders in connection with insurance transactions.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations.

Defendant has been advised of its right to a hearing in this matter, whereupon Defendant, without admitting any violation of Virginia law, has made an offer of settlement to the Commission wherein Defendant has tendered to the Commonwealth of Virginia the sum of ten thousand dollars (\$10,000), waived its right to a hearing, and agreed to the entry by the Commission of a cease and desist order.

The Bureau of Insurance has recommended that the Commission accept the offer of settlement of Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia.

THE COMMISSION, having considered the record herein, the offer of settlement of Defendant, and the recommendation of the Bureau of Insurance, is of the opinion that Defendant's offer should be accepted.

IT IS THEREFORE ORDERED THAT:

- (1) The offer of Defendant in settlement of the matter set forth herein be, and it is hereby, accepted;
- (2) Defendant cease and desist from any conduct which constitutes a violation of § 38.2-604 of the Code of Virginia; and
- (3) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2002-00142**  
**JULY 8, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
SETTLERS LIFE INSURANCE COMPANY,  
Defendant

**SETTLEMENT ORDER**

Based on a market conduct examination performed by the Bureau of Insurance, it appears that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, in certain instances, violated §§ 38.2-503, 38.2-316 A, 38.2-316 C, 38.2-315 B, 38.2-3407.1 and 38.2-3407.4 A of the Code of Virginia, as well as 14 VAC 5-40-40 A 1, 14 VAC 5-40-40 F 1, 14 VAC 5-400-50 A, 14 VAC 5-400-50 C, 14 VAC 5-400-60 A, and 14 VAC 5-400-60 B.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations.

Defendant has been advised of its right to a hearing in this matter, whereupon Defendant has made an offer of settlement to the Commission wherein Defendant has tendered to the Commonwealth of Virginia the sum of eleven thousand dollars (\$11,000), waived its right to a hearing, and agreed to the entry by the Commission of a cease and desist order.

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

The Bureau of Insurance has recommended that the Commission accept the offer of settlement of Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia.

IT IS THEREFORE ORDERED THAT:

- (1) The offer of Defendant in settlement of the matter set forth herein be, and it is hereby, accepted;
- (2) Defendant cease and desist from any conduct which constitutes a violation of §§ 38.2-503, 38.2-316 A, 38.2-316 C, 38.2-3115 B, 38.2-3407.1 or 38.2-3407.4 A of the Code of Virginia, or 14 VAC 5-40-40 A 1, 14 VAC 5-40-40 F 1, 14 VAC 5-400-50 A, 14 VAC 5-400-50 C, 14 VAC 5-400-60 A, and 14 VAC 5-400-60 B; and
- (3) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2002-00143  
JULY 12, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
PRINCIPAL LIFE INSURANCE COMPANY,  
Defendant

**SETTLEMENT ORDER**

Based on a target market conduct examination performed by the Bureau of Insurance, it appears that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, in certain instances, violated §§ 38.2-3407.15 B 1, 38.2-3407.15 B 2, 38.2-3407.15 B 3, 38.2-3407.15 B 4, 38.2-3407.15 B 5, 38.2-3407.15 B 6, 38.2-3407.15 B 7, and 38.2-3407.15 B 9 of the Code of Virginia.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations.

Defendant has been advised of its right to a hearing in this matter, whereupon Defendant has made an offer of settlement to the Commission wherein Defendant has tendered to the Commonwealth of Virginia the sum of twelve thousand dollars (\$12,000), and waived its right to a hearing.

The Bureau of Insurance has recommended that the Commission accept the offer of settlement of Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia.

THE COMMISSION, having considered the record herein, the offer of settlement of Defendant, and the recommendation of the Bureau of Insurance, is of the opinion that Defendant's offer should be accepted.

IT IS THEREFORE ORDERED THAT:

- (1) The offer of Defendant in settlement of the matter set forth herein be, and it is hereby, accepted; and
- (2) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2002-00149  
JULY 11, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
GOLDEN RULE INSURANCE COMPANY,  
Defendant

**SETTLEMENT ORDER**

Based on a target market conduct examination performed by the Bureau of Insurance, it appears that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, in certain instances, violated §§ 38.2-3407.15 B 1, 38.2-3407.15 B 2, 38.2-3407.15 B 3, 38.2-3407.15 B 4, 38.2-3407.15 B 5, 38.2-3407.15 B 6, 38.2-3407.15 B 7, and 38.2-3407.15 B 9 of the Code of Virginia.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations.



## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

Defendant has been advised of its right to a hearing in this matter, whereupon Defendant has made an offer of settlement to the Commission wherein Defendant has tendered to the Commonwealth of Virginia the sum of twelve thousand dollars (\$12,000), and waived its right to a hearing.

The Bureau of Insurance has recommended that the Commission accept the offer of settlement of Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia.

THE COMMISSION, having considered the record herein, the offer of settlement of Defendant, and the recommendation of the Bureau of Insurance, is of the opinion that Defendant's offer should be accepted.

IT IS THEREFORE ORDERED THAT:

- (1) The offer of Defendant in settlement of the matter set forth herein be, and it is hereby, accepted; and
- (2) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2002-00149  
JULY 18, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
GOLDEN RULE INSURANCE COMPANY,  
Defendant

**VACATING ORDER**

GOOD CAUSE having been shown, the Settlement Order entered herein July 11, 2002, is hereby vacated.

**CASE NO. INS-2002-00149  
JULY 18, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
GOLDEN RULE INSURANCE COMPANY,  
Defendant

**AMENDED SETTLEMENT ORDER**

Based on a target market conduct examination performed by the Bureau of Insurance, it appears that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, in certain instances, violated §§ 38.2-3407.15 B 1, 38.2-3407.15 B 2, 38.2-3407.15 B 3, 38.2-3407.15 B 4, 38.2-3407.15 B 5, 38.2-3407.15 B 6, 38.2-3407.15 B 7, and 38.2-3407.15 B 9 of the Code of Virginia by failing to require the preferred provider networks with which it contracts to include in their provider contracts specific provisions requiring the Defendant to adhere to and comply with the minimum fair business standards required therein.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations.

Defendant has been advised of its right to a hearing in this matter, whereupon Defendant, without admitting any violation of Virginia law, has made an offer of settlement to the Commission wherein Defendant has tendered to the Commonwealth of Virginia the sum of twelve thousand dollars (\$12,000) and waived its right to a hearing.

The Bureau of Insurance has recommended that the Commission accept the offer of settlement of Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia.

THE COMMISSION, having considered the record herein, the offer of settlement of Defendant, and the recommendation of the Bureau of Insurance, is of the opinion that Defendant's offer should be accepted.

IT IS THEREFORE ORDERED THAT:

- (1) The offer of Defendant in settlement of the matter set forth herein be, and it is hereby, accepted; and
- (2) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2002-00160  
SEPTEMBER 3, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
SHAWN SARAH ALLICOCK,  
Defendant

**ORDER REVOKING LICENSE**

Based on an investigation by the Bureau of Insurance, it appears that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia as a surplus lines broker, in a certain instance, violated § 38.2-4806 D of the Code of Virginia by failing to file timely with the Commission the quarterly report summarizing the business transacted by Defendant for the first quarter of 2002.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1831 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and to suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violation.

Defendant has been notified of her right to a hearing before the Commission in this matter by certified letters dated June 12, 2002, and July 15, 2002, respectively, and mailed to Defendant's address shown in the records of the Bureau of Insurance.

Defendant, having been advised in the aforesaid manner of her right to a hearing in this matter, has failed to request a hearing and has not otherwise communicated with the Bureau of Insurance.

The Bureau of Insurance, upon Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of Defendant's licenses to transact the business of insurance in the Commonwealth of Virginia as an insurance agent and a surplus lines broker.

THE COMMISSION is of the opinion and finds that Defendant has violated § 38.2-4806 D of the Code of Virginia by failing to file timely with the Commission the quarterly report summarizing the business transacted by Defendant for the first quarter of 2002.

IT IS THEREFORE ORDERED THAT:

- (1) The licenses of Defendant to transact the business of insurance as an agent and a surplus lines broker in the Commonwealth of Virginia be, and they are hereby, REVOKED;
- (2) All appointments issued under said licenses be, and they are hereby, VOID;
- (3) Defendant transact no further business in the Commonwealth of Virginia as an insurance agent or a surplus lines broker;
- (4) Defendant shall not apply to the Commission to be licensed as an insurance agent or a surplus lines broker in the Commonwealth of Virginia prior to two (2) years from the date of this Order;
- (5) The Bureau of Insurance cause a copy of this Order to be sent to every insurance company for which Defendant holds an appointment to act as an insurance agent or a surplus lines broker in the Commonwealth of Virginia; and
- (6) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2002-00161  
SEPTEMBER 3, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
J. W. TERRILL, INC.,  
Defendant

**ORDER REVOKING LICENSE**

Based on an investigation by the Bureau of Insurance, it appears that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia as a surplus lines broker, in a certain instance, violated § 38.2-4806 D of the Code of Virginia by failing to file timely with the Commission the quarterly report summarizing the business transacted by Defendant for the first quarter of 2002.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1831 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and to suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violation.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

Defendant has been notified of its right to a hearing before the Commission in this matter by certified letters dated June 12, 2002, and July 15, 2002, respectively, and mailed to Defendant's address shown in the records of the Bureau of Insurance.

Defendant, having been advised in the aforesaid manner of its right to a hearing in this matter, has failed to request a hearing and has not otherwise communicated with the Bureau of Insurance.

The Bureau of Insurance, upon Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of Defendant's licenses to transact the business of insurance in the Commonwealth of Virginia as an insurance agent and a surplus lines broker.

THE COMMISSION is of the opinion and finds that Defendant has violated § 38.2-4806 D of the Code of Virginia by failing to file timely with the Commission the quarterly report summarizing the business transacted by Defendant for the first quarter of 2002.

## IT IS THEREFORE ORDERED THAT:

- (1) The licenses of Defendant to transact the business of insurance as an insurance agent and a surplus lines broker in the Commonwealth of Virginia be, and they are hereby, REVOKED;
- (2) All appointments issued under said licenses be, and they are hereby, VOID;
- (3) Defendant transact no further business in the Commonwealth of Virginia as an insurance agent or a surplus lines broker;
- (4) Defendant shall not apply to the Commission to be licensed as an insurance agent or a surplus lines broker in the Commonwealth of Virginia prior to two (2) years from the date of this Order;
- (5) The Bureau of Insurance cause a copy of this Order to be sent to every insurance company for which Defendant holds an appointment to act as an insurance agent or a surplus lines broker in the Commonwealth of Virginia; and
- (6) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2002-00163  
AUGUST 9, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

v.

THE CHARTER OAK FIRE INSURANCE COMPANY,  
THE TRAVELERS INDEMNITY COMPANY,  
THE TRAVELERS INDEMNITY COMPANY OF AMERICA,  
THE TRAVELERS INDEMNITY COMPANY OF CONNECTICUT,  
THE TRAVELERS INDEMNITY COMPANY OF ILLINOIS,  
and  
THE PHOENIX INSURANCE COMPANY,  
Defendants

**SETTLEMENT ORDER**

Based on an investigation and subsequent allegations by the Bureau of Insurance, it appears that Defendants, each of which is duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, violated § 38.2-231 A of the Code of Virginia by failing to deliver or mail to named insureds a written notice of cancellation or refusal to renew.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke Defendants' licenses upon a finding by the Commission, after notice and opportunity to be heard, that Defendants have committed the aforesaid alleged violations.

Defendants have been advised of their right to a hearing in this matter, whereupon The Travelers Insurance Group, on behalf of all Defendants, has made an offer of settlement to the Commission wherein The Travelers Insurance Group has tendered to the Commonwealth of Virginia the sum of six thousand dollars (\$6,000), waived their right to a hearing, and agreed to the entry by the Commission of a cease and desist order.

The Bureau of Insurance has recommended that the Commission accept the offer of settlement of Defendants pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia.

THE COMMISSION, having considered the record herein, the offer of settlement of Defendants, and the recommendation of the Bureau of Insurance, is of the opinion that Defendants' offer should be accepted.

## IT IS THEREFORE ORDERED THAT:

- (1) The offer of Defendants in settlement of the matter set forth herein be, and it is hereby, accepted;

- (2) Defendants cease and desist from any conduct which constitutes a violation of § 38.2-231 A of the Code of Virginia; and
- (3) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2002-00167  
JULY 12, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

Ex Parte: In the matter of Adopting Revisions to the Rules Governing Viatical Settlement Providers and Viatical Settlement Brokers

**ORDER TO TAKE NOTICE**

Section 12.1-13 of the Code of Virginia provides that the Commission shall have the power to promulgate rules and regulations in the enforcement and administration of all laws within its jurisdiction, and § 38.2-223 of the Code of Virginia provides that the Commission may issue any rules and regulations necessary or appropriate for the administration and enforcement of Title 38.2 of the Code of Virginia.

The rules and regulations issued by the Commission pursuant to § 38.2-223 of the Code of Virginia are set forth in Title 14 of the Virginia Administrative Code.

The Bureau of Insurance has submitted to the Commission proposed revisions to Chapter 71 of Title 14 of the Virginia Administrative Code entitled "Rules Governing Viatical Settlement Providers and Viatical Settlement Brokers," which amend the rules at 14 VAC 5-71-10 through 14 VAC 5-71-100.

The proposed revisions reflect the relocation of the viatical settlement broker licensing section from § 38.2-5702 to § 38.2-1865.1 of the Code of Virginia due to the passage of SB 913 by the General Assembly during its 2001 Session, which is effective September 1, 2002.

In addition, there are proposed revisions to filing dates and references to the Code of Virginia in 14 VAC 5-71-40 C, E, and F, proposed revisions to 14 VAC 5-71-70 A that are unrelated to SB 913, and numerous proposed nonsubstantive and "clean up" revisions to various sections.

The Commission is of the opinion that the proposed revisions submitted by the Bureau of Insurance should be considered for adoption with an effective date of September 1, 2002.

**IT IS THEREFORE ORDERED THAT:**

- (1) The proposed revisions to the "Rules Governing Viatical Settlement Providers and Viatical Settlement Brokers," which amend the rules at 14 VAC 5-71-10 through 14 VAC 5-71-100, be attached hereto and made a part hereof.
- (2) All interested persons who desire to comment in support of or in opposition to, or to request a hearing to oppose the adoption of, the proposed revisions shall file such comments or hearing request on or before August 27, 2002, in writing with the Clerk of the Commission, Document Control Center, P.O. Box 2118, Richmond, Virginia 23218 and shall refer to Case No. INS-2002-00167.
- (3) If no written request for a hearing on the proposed revisions is filed on or before August 27, 2002, the Commission, upon consideration of any comments submitted in support of or in opposition to the proposed revisions, may adopt the revisions proposed by the Bureau of Insurance.
- (4) AN ATTESTED COPY hereof, together with a copy of the proposed revisions, shall be sent by the Clerk of the Commission to the Bureau of Insurance in care of Deputy Commissioner Douglas C. Stolte, who forthwith shall give further notice of the proposed adoption of the revisions to the rules by mailing a copy of this Order, together with the proposed revisions, to all viatical settlement providers and viatical settlement brokers licensed by the Commission, and certain interested parties designated by the Bureau of Insurance.
- (5) The Commission's Division of Information Resources forthwith shall cause a copy of this Order, together with the proposed revisions, to be forwarded to the Virginia Registrar of Regulations for appropriate publication in the Virginia Register of Regulations.
- (6) On or before July 19, 2002, the Commission's Division of Information Resources shall make available this Order and the attached proposed revisions on the Commission's website, <http://www.state.va.us/scc/caseinfo/orders.htm>.
- (7) The Bureau of Insurance shall file with the Clerk of the Commission an affidavit of compliance with the notice requirements of paragraph (4) above.

NOTE: A copy of Attachment A entitled "Rules Governing Viatical Settlement Providers and Viatical Settlement Brokers" is on file and may be examined at the State Corporation Commission, Clerk's Office, Document Control Center, Tyler Building, First Floor, 1300 East Main Street, Richmond, Virginia.

**CASE NO. INS-2002-00167  
SEPTEMBER 3, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

Ex Parte: In the matter of Adopting Revisions to the Rules Governing Viatical Settlement Providers and Viatical Settlement Brokers

**ORDER ADOPTING REVISIONS TO RULES**

By Order to Take Notice entered herein July 12, 2002, all interested persons were ordered to take notice that subsequent to August 27, 2002, the Commission would consider the entry of an order adopting revisions proposed by the Bureau of Insurance to the Commission's Rules Governing Viatical Settlement Providers and Viatical Settlement Brokers, set forth in Chapter 71 of Title 14 of the Virginia Administrative Code, unless on or before August 27, 2002, any person objecting to the adoption of the proposed revisions filed a request for a hearing on the proposed revisions with the Clerk of the Commission. The proposed revisions reflect the relocation of the viatical settlement broker licensing section from § 38.2-5702 to § 38.2-1865.1 of the Code of Virginia due to the passage of Senate Bill 913 by the General Assembly during its 2001 Session, effective September 1, 2002.

The Order to Take Notice also required all interested persons to file their comments in support of or in opposition to the proposed revisions on or before August 27, 2002.

A hearing request was filed with the Clerk of the Commission (the "Clerk") on August 12, 2002, by Michael J. McNerney, on behalf of Mutual Benefits Corporation, a viatical settlement provider licensed by the Commission ("MBC"), and the Viatical and Life Settlement Association of America (the "VLSAA"). Mr. McNerney's request also stated that comments on behalf of MBC and the VLSAA in opposition to the proposed revisions would be filed in accordance with the Order to Take Notice.

Comments were filed with the Clerk on August 27, 2002, by the VLSAA. The VLSAA's comments were extensive and recommended in-depth substantive revisions to Chapter 71 in its entirety; however, they stated no specific objection to the proposed revisions themselves.

Comments also were filed with the Clerk on August 27, 2002, by the Life Settlement Institute (the "LSI"). The LSI stated that it is unopposed to the proposed revisions; however, it requested that the Commission revise Chapter 71 in a number of respects to take into account developments in the viatical settlement area that have occurred since the adoption of the Viatical Settlements Act, Chapter 57 (§ 38.2-5700 et seq.) of Title 38.2 of the Code of Virginia, in 1997.

The Bureau of Insurance (the "Bureau") has reviewed the filed comments and has filed its response with the Clerk's Office on September 3, 2002, recommending there be no amendments to the proposed revisions and the proposed revisions be adopted. The Bureau also responded that, at the present time, the Viatical Settlements Act does not allow the changes to Chapter 71 proposed in the comments of the VLSAA and the LSI.

The Bureau further recommended that the Commission deny Mr. McNerney's request for a hearing, on behalf of MBC and the VLSAA, because the basis for such request, as set forth in the comments filed by the VLSAA, exceeds the scope of the proposed revisions.

The Bureau also has recommended that the Commission not have a hearing on the proposed revisions because neither of the filed comments state any opposition to the proposed revisions, and the proposed revisions reflect changes that are required as a result of statutory changes effective September 1, 2002.

THE COMMISSION, having considered the proposed revisions, the filed comments, the hearing request on behalf of MBC and VLSAA, and the Bureau's response to the filed comments, is of the opinion that the attached proposed revisions should be adopted and that a hearing should not be held on the proposed revisions. As to the changes to Chapter 71 requested by the VLSAA and the LSI in their filed comments, the Commission is of the opinion that it would be more appropriate for such changes to be considered in a separate proceeding given the nature of the requested changes. To this end, the VLSAA and the LSI may file an application pursuant to 5 VAC 5-20-100 of the Commission's Rules of Practice and Procedure to request revisions to Chapter 71 as set forth in their filed comments.

THEREFORE, IT IS ORDERED THAT:

(1) The revisions to Chapter 71 of Title 14 of the Virginia Administrative Code entitled "Rules Governing Viatical Settlement Providers and Viatical Settlement Brokers," which amend the rules at 14 VAC 5-71-10 through 14 VAC 5-71-100, and which are attached hereto and made a part hereof, should be, and they are hereby, ADOPTED.

(2) The request for a hearing filed by Mr. Michael McNerney on behalf of Mutual Benefits Corporation and the Viatical and Life Settlement Association of America be, and it is hereby, DENIED.

(3) AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to the Bureau of Insurance in care of Deputy Commissioner Douglas C. Stolte, who forthwith shall give further notice of the adoption of the revisions to the rules by mailing a copy of this Order, including a copy of the attached revised rules, to all viatical settlement providers and viatical settlement brokers licensed by the Commission and certain interested parties designated by the Bureau of Insurance.

(4) The Commission's Division of Information Resources forthwith shall cause a copy of this Order, including a copy of the attached rules, to be forwarded to the Virginia Registrar of Regulations for appropriate publication in the Virginia Register of Regulations.

(5) On or before September 10, 2002, the Commission's Division of Information Resources shall make available this Order and the attached rules on the Commission's website, <http://www.state.va.us/scc/caseinfo/orders.htm>.

(6) The Bureau of Insurance shall file with the Clerk of the Commission an affidavit of compliance with the notice requirements of paragraph (3) above.

NOTE: A copy of Attachment A entitled "Rules Governing Viatical Settlement Providers and Viatical Settlement Brokers" is on file and may be examined at the State Corporation Commission, Clerk's Office, Document Control Center, Tyler Building, First Floor, 1300 East Main Street, Richmond, Virginia.

**CASE NO. INS-2002-00170  
JUNE 27, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

Ex Parte: In the matter of Adopting Revisions to the Rules Governing Health Maintenance Organizations

**ORDER TO TAKE NOTICE**

Section 12.1-13 of the Code of Virginia provides that the State Corporation Commission ("Commission") shall have the power to promulgate rules and regulations in the enforcement and administration of all laws within its jurisdiction, and § 38.2-223 of the Code of Virginia provides that the Commission may issue any rules and regulations necessary or appropriate for the administration and enforcement of Title 38.2 of the Code of Virginia.

The rules and regulations issued by the Commission pursuant to § 38.2-223 of the Code of Virginia are set forth in Title 14 of the Virginia Administrative Code.

The Bureau of Insurance has submitted to the Commission proposed revisions to Chapter 210 of Title 14 of the Virginia Administrative Code entitled "Rules Governing Health Maintenance Organizations," which amend the rules at 14 VAC 5-210-70 and 14 VAC 5-210-90.

The proposed revisions delete the mandatory maximum copayment requirements for health maintenance organizations and make them voluntary. The revisions clarify the various cost sharing arrangements which may be imposed for supplemental health care services, and clarifies the requirement for dental services resulting from an accident.

The Commission is of the opinion that the proposed revisions submitted by the Bureau of Insurance should be considered for adoption with an effective date of September 1, 2002.

THEREFORE, IT IS ORDERED THAT:

(1) The proposed revisions to the "Rules Governing Health Maintenance Organizations," which amend the rules at 14 VAC 5-210-70 and 14 VAC 5-210-90, be attached hereto and made a part hereof.

(2) All interested persons who desire to comment in support of or in opposition to, or to request a hearing to oppose the adoption of, the proposed revisions shall file such comments or hearing request on or before August 16, 2002, in writing with the Clerk of the Commission, Document Control Center, P.O. Box 2118, Richmond, Virginia 23218 and shall refer to Case No. INS-2002-00170.

(3) If no written request for a hearing on the proposed revisions is filed on or before August 16, 2002, the Commission, upon consideration of any comments submitted in support of or in opposition to the proposed revisions, may adopt the revisions proposed by the Bureau of Insurance.

(4) AN ATTESTED COPY hereof, together with a copy of the proposed revisions, shall be sent by the Clerk of the Commission to the Bureau of Insurance in care of Deputy Commissioner Gerald A. Milsky, who forthwith shall give further notice of the proposed adoption of the revisions to the rules by mailing a copy of this Order, together with the proposed revisions, to all persons licensed by the Commission to transact the business of a health maintenance organization.

(5) The Commission's Division of Information Resources forthwith shall cause a copy of this Order, together with the proposed revisions, to be forwarded to the Virginia Registrar of Regulations for appropriate publication in the Virginia Register of Regulations.

(6) On or before July 10, 2002, the Commission's Division of Information Resources shall make available this Order and the attached proposed revisions on the Commission's website, <http://www.state.va.us/scc/caseinfo/orders.htm>.

(7) The Bureau of Insurance shall file with the Clerk of the Commission an affidavit of compliance with the notice requirements of paragraph (4) above.

NOTE: A copy of Attachment A entitled "Rules Governing Health Maintenance Organizations" is on file and may be examined at the State Corporation Commission, Clerk's Office, Document Control Center, Tyler Building, First Floor, 1300 East Main Street, Richmond, Virginia.

**CASE NO. INS-2002-00170  
AUGUST 20, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

Ex Parte: In the matter of Adopting Revisions to the Rules Governing Health Maintenance Organizations

**ORDER ADOPTING REVISIONS TO RULES**

By order entered herein June 27, 2002, all interested persons were ordered to take notice that the Commission would consider the entry of an order subsequent to August 16, 2002, adopting certain revisions proposed by the Bureau of Insurance to the Commission's Rules Governing Health Maintenance Organizations effective September 1, 2002, unless on or before August 16, 2002, any person objecting to the adoption of the proposed revisions filed a request for a hearing with the Clerk of the Commission.

The Order to Take Notice also required all interested persons to file their comments in support of or in opposition to the proposed revisions on or before August 16, 2002.

The proposed revisions delete the mandatory maximum copayment requirements for health maintenance organizations and make them voluntary. The revisions also clarify the various cost sharing arrangements which may be imposed for supplemental health care services and the requirement for dental services resulting from an accident.

As of the date of this Order, no request for a hearing has been filed with the Clerk of the Commission, and, as of the date of this Order, no comments have been filed with the Clerk of the Commission.

The Bureau has recommended that the proposed revisions be adopted; and

THE COMMISSION, having considered the proposed revisions and the Bureau's recommendation, is of the opinion that the proposed revisions should be adopted.

THEREFORE, IT IS ORDERED THAT:

(1) The revisions to Chapter 210 of Title 14 of the Virginia Administrative Code entitled "Rules Governing Health Maintenance Organizations," which amend the rules at 14 VAC 5-210-70 and 14 VAC 5-210-90, and which are attached hereto and made a part hereof, should be, and they are hereby, ADOPTED to be effective September 1, 2002.

(2) AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to the Bureau of Insurance in care of Deputy Commissioner Gerald A. Milsky, who forthwith shall give further notice of the adoption of the revisions to the rules by mailing a copy of this Order, together with a clean copy of the revised rules, to all persons licensed by the Commission to transact the business of a health maintenance organization.

(3) The Commission's Division of Information Resources forthwith shall cause a copy of this Order, including a copy of the attached revised rules, to be forwarded to the Virginia Registrar of Regulations for appropriate publication in the Virginia Register of Regulations.

(4) On or before August 23, 2002, the Commission's Division of Information Resources shall make available this Order and the attached revised rules on the Commission's website, <http://www.state.va.us/scc/caseinfo/orders.htm>.

(5) The Bureau of Insurance shall file with the Clerk of the Commission an affidavit of compliance with the notice requirements of paragraph (2) above.

NOTE: A copy of Attachment A entitled "Rules Governing Health Maintenance Organizations" is on file and may be examined at the State Corporation Commission, Clerk's Office, Document Control Center, Tyler Building, First Floor, 1300 East Main Street, Richmond, Virginia.

**CASE NO. INS-2002-00171  
JULY 11, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

v.  
2-10 HOME BUYERS WARRANTY OF VIRGINIA, INC.,  
Defendant

**SETTLEMENT ORDER**

Based on a market conduct examination performed by the Bureau of Insurance, it appears that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, in certain instances, violated §§ 38.2-305 A, 38.2-2608, and 38.2-2612 of the Code of Virginia, as well as 14 VAC 5-400-30, 14 VAC 5-400-70 B, and 14 VAC 5-400-70 D.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations.

Defendant has been advised of its right to a hearing in this matter, whereupon Defendant, without admitting any violation of Virginia law, has made an offer of settlement to the Commission wherein Defendant has tendered to the Commonwealth of Virginia the sum of twelve thousand dollars (\$12,000), waived its right to a hearing, and agreed to the entry by the Commission of a cease and desist order.

The Bureau of Insurance has recommended that the Commission accept the offer of settlement of Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia.

THE COMMISSION, having considered the record herein, the offer of settlement of Defendant, and the recommendation of the Bureau of Insurance, is of the opinion that Defendant's offer should be accepted.

IT IS THEREFORE ORDERED THAT:

- (1) The offer of Defendant in settlement of the matter set forth herein be, and it is hereby, accepted;
- (2) Defendant cease and desist from any conduct which constitutes a violation of §§ 38.2-305 A, 38.2-2608, or 38.2-2612 of the Code of Virginia, or 14 VAC 5-400-30, 14 VAC 5-400-70 B, or 14 VAC 5-400-70 D; and
- (3) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2002-00172  
JULY 22, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

v.  
SAFECO INSURANCE COMPANY OF AMERICA,  
FIRST NATIONAL INSURANCE COMPANY OF AMERICA,  
and  
GENERAL INSURANCE COMPANY OF AMERICA,  
Defendants

**SETTLEMENT ORDER**

Based on a market conduct examination performed by the Bureau of Insurance, it appears that Defendants, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, in certain instances, violated the Code of Virginia and the Virginia Administrative Code as follows: SAFECO Insurance Company of America violated §§ 38.2-304, 38.2-305, 38.2-510 A 1, 38.2-604, 38.2-610, 38.2-1318, 38.2-1812, 38.2-1822, 38.2-1833, 38.2-1906 D, 38.2-2014, 38.2-2113, 38.2-2114, 38.2-2118, 38.2-2120, 38.2-2125, 38.2-2202, 38.2-2208, 38.2-2210, 38.2-2212, and 38.2-2220 of the Code of Virginia, as well as 14 VAC 5-400-30, 14 VAC 5-400-40 A, 14 VAC 5-400-50 C, and 14 VAC 5-400-70 D; First National Insurance Company of America violated §§ 38.2-304, 38.2-305, 38.2-510 A 1, 38.2-510 C, 38.2-604, 38.2-610, 38.2-1812, 38.2-1822, 38.2-1833, 38.2-1906 D, 38.2-2014, 38.2-2118, 38.2-2125, 38.2-2202, 38.2-2208, 38.2-2210, 38.2-2212, and 38.2-2220 of the Code of Virginia, as well as 14 VAC 5-400-30, 14 VAC 5-400-40 A, 14 VAC 5-400-50 C, 14 VAC 5-400-70 A, 14 VAC 5-400-70 D, and 14 VAC 5-400-80 D; General Insurance Company of America violated §§ 38.2-305, 38.2-510 A 1, 38.2-604, 38.2-610, 38.2-1812, 38.2-1822, 38.2-1833, 38.2-1906 D, 38.2-2014, 38.2-2202, 38.2-2208, 38.2-2210, 38.2-2212, and 38.2-2220 of the Code of Virginia, as well as 14 VAC 5-400-30, 14 VAC 5-400-40 A, 14 VAC 5-400-70 A, 14 VAC 5-400-70 D, and 14 VAC 5-400-80 D.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke Defendants' licenses upon a finding by the Commission, after notice and opportunity to be heard, that Defendants have committed the aforesaid alleged violations.

Defendants have been advised of their right to a hearing in this matter, whereupon Defendants, without admitting any violation of Virginia law, have made an offer of settlement to the Commission wherein Defendants have tendered to the Commonwealth of Virginia the sum of twenty eight thousand two hundred dollars (\$28,200) and waived their right to a hearing.

The Bureau of Insurance has recommended that the Commission accept the offer of settlement of Defendants pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia.

THE COMMISSION, having considered the record herein, the offer of settlement of Defendants, and the recommendation of the Bureau of Insurance, is of the opinion that Defendants' offer should be accepted.

IT IS THEREFORE ORDERED THAT:

- (1) The offer of Defendants in settlement of the matter set forth herein be, and it is hereby, accepted; and
- (2) The papers herein be placed in the file for ended causes.



**CASE NO. INS-2002-00173  
AUGUST 2, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

Ex Parte: In the matter of Adopting Revisions to the Rules Governing Minimum Standards for Medicare Supplement Policies

**ORDER TO TAKE NOTICE**

Section 12.1-13 of the Code of Virginia provides that the Commission shall have the power to promulgate rules and regulations in the enforcement and administration of all laws within its jurisdiction, and § 38.2-223 of the Code of Virginia provides that the Commission may issue any rules and regulations necessary or appropriate for the administration and enforcement of Title 38.2 of the Code of Virginia.

The rules and regulations issued by the Commission pursuant to § 38.2-223 of the Code of Virginia are set forth in Title 14 of the Virginia Administrative Code.

The Bureau of Insurance has submitted to the Commission proposed revisions to Chapter 170 of Title 14 of the Virginia Administrative Code entitled "Rules Governing Minimum Standards for Medicare Supplement Policies," which amend the rules at 14 VAC 5-170-20, 14 VAC 5-170-30, 14 VAC 5-170-60, 14 VAC 5-170-70, 14 VAC 5-170-105, 14 VAC 5-170-120, 14 VAC 5-170-130, 14 VAC 5-170-150, and 14 VAC 5-170-180.

The proposed revisions incorporate changes required by federal law pursuant to the Medicare, Medicaid, and SCHIP Benefits Improvement Benefits Improvement and Protection Act of 2000, clarify loss ratio requirements in 14 VAC 5-170-120 and 14 VAC 5-170-130, and reflect the 2002 deductible and co-payment amounts under Medicare.

The Commission is of the opinion that the proposed revisions submitted by the Bureau of Insurance should be considered for adoption with an effective date of October 24, 2002.

THEREFORE, IT IS ORDERED THAT:

(1) The proposed revisions to the "Rules Governing Minimum Standards for Medicare Supplement Policies," which amend the rules at 14 VAC 5-170-20, 14 VAC 5-170-30, 14 VAC 5-170-60, 14 VAC 5-170-70, 14 VAC 5-170-105, 14 VAC 5-170-120, 14 VAC 5-170-130, 14 VAC 5-170-150, and 14 VAC 5-170-180, be attached hereto and made a part hereof.

(2) All interested persons who desire to comment in support of or in opposition to, or to request a hearing to oppose the adoption of, the proposed revisions shall file such comments or hearing request on or before September 10, 2002, in writing with the Clerk of the Commission, Document Control Center, P.O. Box 2118, Richmond, Virginia 23218 and shall refer to Case No. INS-2002-00173.

(3) If no written request for a hearing on the proposed revisions is filed on or before September 10, 2002, the Commission, upon consideration of any comments submitted in support of or in opposition to the proposed revisions, may adopt the revisions proposed by the Bureau of Insurance.

(4) AN ATTESTED COPY hereof, together with a copy of the proposed revisions, shall be sent by the Clerk of the Commission to the Bureau of Insurance in care of Deputy Commissioner Gerald A. Milsky, who forthwith shall give further notice of the proposed adoption of the revisions to the rules by mailing a copy of this Order, together with the proposed revisions, to all insurers, health services plans, and health maintenance organizations licensed by the Commission to write Medicare supplement insurance in the Commonwealth of Virginia.

(5) The Commission's Division of Information Resources forthwith shall cause a copy of this Order, together with the proposed revisions, to be forwarded to the Virginia Registrar of Regulations for appropriate publication in the Virginia Register of Regulations.

(6) On or before August 9, 2002, the Commission's Division of Information Resources shall make available this Order and the attached proposed revisions on the Commission's website, <http://www.state.va.us/scc/caseinfo/orders.htm>.

(7) The Bureau of Insurance shall file with the Clerk of the Commission an affidavit of compliance with the notice requirements of paragraph (4) above.

NOTE: A copy of Attachment A entitled "Rules Governing Minimum Standards for Medicare Supplement Policies" is on file and may be examined at the State Corporation Commission, Clerk's Office, Document Control Center, Tyler Building, First Floor, 1300 East Main Street, Richmond, Virginia.

**CASE NO. INS-2002-00173  
OCTOBER 15, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

Ex Parte: In the matter of Adopting Revisions to the Rules Governing Minimum Standards for Medicare Supplement Policies

**ORDER ADOPTING REVISIONS TO RULES**

By Order to Take Notice entered herein August 2, 2002, all interested persons were ordered to take notice that subsequent to September 10, 2002, the Commission would consider the entry of an order adopting revisions proposed by the Bureau of Insurance to the Commission's Rules Governing Minimum Standards for Medicare Supplement Policies, set forth in Chapter 170 of Title 14 of the Virginia Administrative Code, unless on or before September 10, 2002, any person objecting to the adoption of the proposed revisions filed a request for a hearing on the proposed revisions with the Clerk of the Commission.

The proposed revisions incorporate changes required by federal law pursuant to the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000, clarify loss ratio requirements in 14 VAC 5-170-120 and 14 VAC 5-170-130, and reflect the 2002 deductible and co-payment amounts under Medicare.

The Order to Take Notice also required all interested persons to file their comments in support of or in opposition to the proposed revisions on or before September 10, 2002.

Golden Rule Insurance Company ("Golden Rule") and Physicians Mutual Insurance Company ("Physicians Mutual") filed comments with the Clerk's Office on September 10, 2002. Trigon Insurance Company ("Trigon") filed its comments with the Clerk's Office on September 11, 2002. Both Golden Rule and Trigon expressed concerns about the proposed revisions to 14 VAC 5-170-120 and 14 VAC 5-170-130, which would require insurers to meet their originally anticipated loss ratios. Physicians Mutual's comments suggested the deletion of certain language in 14 VAC 5-170-70 B 7 c and a second change that proposed to clarify certain language in that subdivision.

The Bureau of Insurance (the "Bureau") reviewed the filed comments and filed its response thereto with the Clerk's Office on October 8, 2002. The Bureau recommended that the proposed revisions with regard to loss ratio requirements in 14 VAC 5-170-120 and 14 VAC 5-170-130 not be adopted, but that otherwise, the proposed revisions be adopted. The Bureau noted in its response that, while the changes proposed by Physicians Mutual were credible, they had no significant impact on the actual meaning of the subdivision's text.

THE COMMISSION, having considered the proposed revisions, the filed comments, and the Bureau's response to and recommendations regarding the filed comments, is of the opinion that the attached revisions to the rules, which reflect the recommendations of the Bureau, should be adopted.

THEREFORE, IT IS ORDERED THAT:

(1) The revisions to Chapter 170 of Title 14 of the Virginia Administrative Code entitled "Rules Governing Minimum Standards for Medicare Supplement Policies," which amend the rules at 14 VAC 5-170-20, 14 VAC 5-170-30, 14 VAC 5-170-60, 14 VAC 5-170-70, 14 VAC 5-170-105, 14 VAC 5-170-120, 14 VAC 5-170-130, 14 VAC 5-170-150, and 14 VAC 5-170-180, and which are attached hereto and made a part hereof, should be, and they are hereby, ADOPTED to be effective October 24, 2002.

(2) AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to the Bureau of Insurance in care of Deputy Commissioner Gerald A. Milsky, who forthwith shall give further notice of the adoption of the revisions to the rules by mailing a copy of this Order, including a copy of the attached revised rules, to all insurers, health services plans, and health maintenance organizations licensed by the Commission to write Medicare supplement insurance in the Commonwealth of Virginia.

(3) The Commission's Division of Information Resources forthwith shall cause a copy of this Order, including a copy of the attached revised rules, to be forwarded to the Virginia Registrar of Regulations for appropriate publication in the Virginia Register of Regulations.

(4) On or before October 16, 2002, the Commission's Division of Information Resources shall make available this Order and the attached revised rules on the Commission's website, <http://www.state.va.us/scc/caseinfo/orders.htm>.

(5) The Bureau of Insurance shall file with the Clerk of the Commission an affidavit of compliance with the notice requirements of paragraph (2) above.

NOTE: A copy of Attachment A entitled "Rules Governing Minimum Standards for Medicare Supplement Policies" is on file and may be examined at the State Corporation Commission, Clerk's Office, Document Control Center, Tyler Building, First Floor, 1300 East Main Street, Richmond, Virginia.

**CASE NO. INS-2002-00175  
JULY 10, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

v.

MORELL BILINGUAL SETTLEMENTS, INC.,  
Defendant

**ORDER REVOKING LICENSE**

Based on an investigation by the Bureau of Insurance, it appears that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, in a certain instance, violated § 6.1-2.21 of the Code of Virginia by failing to provide the Commission with a copy of Defendant's analysis or audit report of its escrow account.

The Commission is authorized by § 6.1-2.27 of the Code of Virginia to impose certain monetary penalties and to suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violation of Chapter 1.3 (§ 6.1-2.19 *et seq.*) of Title 6.1 of the Code of Virginia.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1831 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and to suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violation.

Defendant has been notified of Defendant's right to a hearing before the Commission in this matter by certified letters dated May 6, 2002, May 24, 2002, and June 6, 2002, respectively, and mailed to the Defendant's address shown in the records of the Bureau of Insurance.

Defendant, having been advised in the above manner of its right to a hearing in this matter, has failed to request a hearing and has not otherwise communicated with the Bureau of Insurance.

The Bureau of Insurance, upon Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of Defendant's licenses to transact the business of insurance in the Commonwealth of Virginia as an insurance agent.

THE COMMISSION is of the opinion and finds that Defendant has violated § 6.1-2.21 of the Code of Virginia by failing to provide the Commission with a copy of Defendant's analysis or audit report of its escrow account.

IT IS THEREFORE ORDERED THAT:

(1) The licenses of Defendant to transact the business of insurance as an agent in the Commonwealth of Virginia be, and they are hereby, REVOKED;

(2) All appointments issued under said licenses be, and they are hereby, VOID;

(3) Defendant transact no further business in the Commonwealth of Virginia as an insurance agent;

(4) Defendant shall not apply to the Commission to be licensed as an insurance agent in the Commonwealth of Virginia prior to two (2) years from the date of this Order;

(5) The Bureau of Insurance shall cause a copy of this Order to be sent to every insurance company for which Defendant holds an appointment to act as an insurance agent in the Commonwealth of Virginia; and

(6) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2002-00176  
SEPTEMBER 6, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

v.

FIRST COLONY LIFE INSURANCE COMPANY,  
Defendant

**SETTLEMENT ORDER**

Based on a market conduct examination performed by the Bureau of Insurance, it appears that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, in certain instances, violated §§ 38.2-316 A, 38.2-316 C, 38.2-511, 38.2-1812 A, 38.2-1822 A, 38.2-1833 A, 38.2-1834 C, and 38.2-3115 B of the Code of Virginia, as well as 14 VAC 5-400-70 D.

ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations.

Defendant has been advised of its right to a hearing in this matter, whereupon Defendant has made an offer of settlement to the Commission wherein Defendant has tendered to the Commonwealth of Virginia the sum of thirty thousand dollars (\$30,000) and waived its right to a hearing.

The Bureau of Insurance has recommended that the Commission accept the offer of settlement of Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia.

THE COMMISSION, having considered the record herein, the offer of settlement of Defendant, and the recommendation of the Bureau of Insurance, is of the opinion that Defendant's offer should be accepted.

IT IS THEREFORE ORDERED THAT:

- (1) The offer of Defendant in settlement of the matter set forth herein be, and it is hereby, accepted; and
- (2) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2002-00185  
AUGUST 15, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
AMERICAN HOME SHIELD OF VIRGINIA, INC.,  
Defendant

**SETTLEMENT ORDER**

Based on an investigation and subsequent allegations by the Bureau of Insurance, it appears that Defendant, duly licensed by the Commission to transact the business of a home protection company in the Commonwealth of Virginia, in certain instances, violated §§ 38.2-1318 C and 38.2-1408 of the Code of Virginia by failing to provide to the Commission in the course of an examination convenient access at all reasonable hours to its books and records relating to the business and affairs of Defendant relevant to the examination, and by failing to obtain the required authorization or approval of its board of directors or other governing body or investment committee prior to making certain investments.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations.

Defendant has been advised of its right to a hearing in this matter, whereupon Defendant, without admitting any violation of Virginia law, has made an offer of settlement to the Commission wherein Defendant has tendered to the Commonwealth of Virginia the sum of six thousand dollars (\$6,000), waived its right to a hearing, and agreed to the entry by the Commission of a cease and desist order.

The Bureau of Insurance has recommended that the Commission accept the offer of settlement of Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia.

THE COMMISSION, having considered the record herein, the offer of settlement of Defendant, and the recommendation of the Bureau of Insurance, is of the opinion that Defendant's offer should be accepted.

IT IS THEREFORE ORDERED THAT:

- (1) The offer of Defendant in settlement of the matter set forth herein be, and it is hereby, accepted;
- (2) Defendant cease and desist from any conduct which constitutes a violation of § 38.2-1318 C or § 38.2-1408 of the Code of Virginia; and
- (3) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2002-00186  
AUGUST 16, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

v.

DOUGLAS C. SHELTON,  
Defendant

**ORDER REVOKING LICENSE**

Based on an investigation by the Bureau of Insurance, it appears that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, in certain instances, violated § 38.2-502 of the Code of Virginia by misrepresenting the benefits, advantages, conditions or terms of an insurance policy.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1831 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and to suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violation.

Defendant has been notified of his right to a hearing before the Commission in this matter by certified letters dated June 14, 2002 and July 16, 2002, respectively, and mailed to Defendant's address shown in the records of the Bureau of Insurance, and has failed to request a hearing and has not otherwise communicated with the Bureau of Insurance.

The Bureau of Insurance, upon Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of Defendant's licenses to transact the business of insurance in the Commonwealth of Virginia as an insurance agent.

THE COMMISSION is of the opinion and finds that Defendant has violated § 38.2-502 of the Code of Virginia by misrepresenting the benefits, advantages, conditions or terms of an insurance policy.

IT IS THEREFORE ORDERED THAT:

(1) The licenses of Defendant to transact the business of insurance as an agent in the Commonwealth of Virginia be, and they are hereby, REVOKED;

(2) All appointments issued under said licenses be, and they are hereby, VOID;

(3) Defendant transact no further business in the Commonwealth of Virginia as an insurance agent;

(4) Defendant shall not apply to the Commission to be licensed as an insurance agent in the Commonwealth of Virginia prior to two (2) years from the date of this Order;

(5) The Bureau of Insurance shall cause a copy of this Order to be sent to every insurance company for which Defendant holds an appointment to act as an insurance agent in the Commonwealth of Virginia; and

(6) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2002-00187  
JULY 24, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

Ex Parte: In the matter of Adopting Revisions to the Rules Governing Surplus Lines Insurance

**ORDER TO TAKE NOTICE**

Section 12.1-13 of the Code of Virginia provides that the Commission shall have the power to promulgate rules and regulations in the enforcement and administration of all laws within its jurisdiction, and § 38.2-223 of the Code of Virginia provides that the Commission may issue any rules and regulations necessary or appropriate for the administration and enforcement of Title 38.2 of the Code of Virginia.

The rules and regulations issued by the Commission pursuant to § 38.2-223 of the Code of Virginia are set forth in Title 14 of the Virginia Administrative Code.

The Bureau of Insurance has submitted to the Commission proposed revisions to Chapter 350 of Title 14 of the Virginia Administrative Code entitled "Rules Governing Surplus Lines Insurance," which amend the rules at 14 VAC 5-350-20, 14 VAC 5-350-30, 14 VAC 5-350-150, 14 VAC 5-350-160, and 14 VAC 5-350-210, repeal the rules at 14 VAC 5-350-40 through 14 VAC 5-350-80, 14 VAC 5-350-110 through 14 VAC 5-350-140, 14 VAC 5-350-170, and 14 VAC 5-350-180, propose new rules at 14 VAC 5-350-85, 14 VAC 5-350-95, 14 VAC 5-350-155, and 14 VAC 5-350-165, and delete Form SLB-1, Part 1, Form SLB-1, Part 2, and Form SLB-2.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

The proposed revisions reflect the relocation of the surplus lines broker licensing sections from Chapter 48 (§ 38.2-4801 et seq.) of Title 38.2 of the Code of Virginia to Article 5.1 (§ 38.2-1857.1 et seq.) of Chapter 18 of Title 38.2 of the Code of Virginia due to the passage of Senate Bill 913 by the General Assembly during its 2001 Session, which is effective September 1, 2002.

In addition, it is proposed that certain sections unrelated to Senate Bill 913 be relocated, which requires the applicable current sections to be repealed and replaced with new sections.

There also are proposed nonsubstantive and "clean up" revisions to various sections.

The Commission is of the opinion that the proposed revisions submitted by the Bureau of Insurance should be considered for adoption with an effective date of September 1, 2002.

## IT IS THEREFORE ORDERED THAT:

(1) The proposed revisions to the "Rules Governing Surplus Lines Insurance," which amend the rules at 14 VAC 5-350-20, 14 VAC 5-350-30, 14 VAC 5-350-150, 14 VAC 5-350-160, and 14 VAC 5-350-210, repeal the rules at 14 VAC 5-350-40 through 14 VAC 5-350-80, 14 VAC 5-350-110 through 14 VAC 5-350-140, 14 VAC 5-350-170, and 14 VAC 5-350-180, propose new rules at 14 VAC 5-350-85, 14 VAC 5-350-95, 14 VAC 5-350-155, and 14 VAC 5-350-165, and delete Form SLB-1, Part 1, Form SLB-1, Part 2, and Form SLB-2, be attached hereto and made a part hereof.

(2) All interested persons who desire to comment in support of or in opposition to, or to request a hearing to oppose the adoption of, the proposed revisions shall file such comments or hearing request on or before August 27, 2002, in writing with the Clerk of the Commission, Document Control Center, P.O. Box 2118, Richmond, Virginia 23218 and shall refer to Case No. INS-2002-00187.

(3) If no written request for a hearing on the proposed revisions is filed on or before August 27, 2002, the Commission, upon consideration of any comments submitted in support of or in opposition to the proposed revisions, may adopt the revisions proposed by the Bureau of Insurance.

(4) AN ATTESTED COPY hereof, together with a copy of the proposed revisions, shall be sent by the Clerk of the Commission to the Bureau of Insurance in care of Administrative Manager Brian P. Gaudiose, who forthwith shall give further notice of the proposed adoption of the revisions to the rules by mailing a copy of this Order, together with the proposed revisions, to all surplus lines brokers licensed by the Commission and certain interested parties designated by the Bureau of Insurance.

(5) The Commission's Division of Information Resources forthwith shall cause a copy of this Order, together with the proposed revisions, to be forwarded to the Virginia Registrar of Regulations for appropriate publication in the Virginia Register of Regulations.

(6) On or before July 31, 2002, the Commission's Division of Information Resources shall make available this Order and the attached proposed revisions on the Commission's website, <http://www.state.va.us/scc/caseinfo/orders.htm>.

(7) The Bureau of Insurance shall file with the Clerk of the Commission an affidavit of compliance with the notice requirements of paragraph (4) above.

NOTE: A copy of Attachment A entitled "Rules Governing Surplus Lines Insurance" is on file and may be examined at the State Corporation Commission, Clerk's Office, Document Control Center, Tyler Building, First Floor, 1300 East Main Street, Richmond, Virginia.

**CASE NO. INS-2002-00187  
AUGUST 28, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

Ex Parte: In the matter of Adopting Revisions to the Rules Governing Surplus Lines Insurance

**ORDER ADOPTING REVISIONS TO RULES**

By order entered herein July 24, 2002, all interested persons were ordered to take notice that the Commission would consider the entry of an order subsequent to August 27, 2002, adopting revisions proposed by the Bureau of Insurance to the Commission's Rules Governing Surplus Lines Insurance, set forth in Chapter 350 of Title 14 of the Virginia Administrative Code, to reflect the relocation of the surplus lines broker licensing sections from Chapter 48 (§ 38.2-4801 et seq.) of Title 38.2 of the Code of Virginia to Article 5.1 (§ 38.2-1857.1 et seq.) of Chapter 18 of Title 38.2 of the Code of Virginia due to the passage of Senate Bill 913 by the General Assembly during its 2001 Session, effective September 1, 2002, and other proposed revisions, unless on or before August 27, 2002, any person objecting to the adoption of the proposed rules filed a request for a hearing with the Clerk of the Commission.

The July 24, 2002, Order also required all interested persons to file their comments in support of or in opposition to the proposed revisions on or before August 27, 2002.

As of the date of this Order, no request for a hearing has been filed with the Clerk of the Commission, and, as of the date of this Order, no comments have been filed with the Clerk of the Commission.

The Bureau has recommended that the proposed revisions be adopted; and

THE COMMISSION, having considered the proposed revisions and the Bureau's recommendation, is of the opinion that the proposed revisions should be adopted.

THEREFORE, IT IS ORDERED THAT:

(1) The proposed revisions to Chapter 350 of Title 14 of the Virginia Administrative Code entitled "Rules Governing Surplus Lines Insurance," which amend the rules at 14 VAC 5-350-20, 14 VAC 5-350-30, 14 VAC 5-350-150, 14 VAC 5-350-160, and 14 VAC 5-350-210, repeal the rules at 14 VAC 5-350-40 through 14 VAC 5-350-80, 14 VAC 5-350-110 through 14 VAC 5-350-140, 14 VAC 5-350-170, and 14 VAC 5-350-180, propose new rules at 14 VAC 5-350-85, 14 VAC 5-350-95, 14 VAC 5-350-155, and 14 VAC 5-350-165, delete Form SLB-1, Part 1, Form SLB-1, Part 2, and Form SLB-2, and which are attached hereto and made a part hereof, should be, and they are hereby, ADOPTED to be effective September 1, 2002.

(2) AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to the Bureau of Insurance in care of Administrative Manager Brian P. Gaudiose, who forthwith shall give further notice of the adoption of the revisions to the rules by mailing a copy of this Order, including a copy of the attached revised rules, to all surplus lines brokers licensed by the Commission and certain parties designated by the Bureau of Insurance.

(3) The Commission's Division of Information Resources forthwith shall cause a copy of this Order, including a copy of the attached rules, to be forwarded to the Virginia Registrar of Regulations for appropriate publication in the Virginia Register of Regulations.

(4) On or before September 6, 2002, the Commission's Division of Information Resources shall make available this Order and the attached rules on the Commission's website, <http://www.state.va.us/scc/caseinfo/orders.htm>.

(5) The Bureau of Insurance shall file with the Clerk of the Commission an affidavit of compliance with the notice requirements of paragraph (2) above.

NOTE: A copy of Attachment A entitled "Rules Governing Surplus Lines Insurance" is on file and may be examined at the State Corporation Commission, Clerk's Office, Document Control Center, Tyler Building, First Floor, 1300 East Main Street, Richmond, Virginia.

**CASE NO. INS-2002-00188  
SEPTEMBER 10, 2002**

COMMONWEALTH OF VIRGINIA

At the relation of the  
STATE CORPORATION COMMISSION

v.

PRUDENTIAL HEALTH CARE PLAN, INC.,  
Defendant

**SETTLEMENT ORDER**

Based on an investigation and subsequent allegations by the Bureau of Insurance, it appears that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia as a health maintenance organization, in certain instances, violated §§ 38.2-510 A 5, 38.2-510 A 14, 38.2-1318 C, 38.2-3407.4 A, 38.2-3407.15 C, 38.2-3412.1:01, 38.2-4304 B, 38.2-4306.1, 38.2-5804 A, 38.2-5805 C 8, and 38.2-5805 C 10 of the Code of Virginia, as well as 14 VAC 5-210-70 C.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-4316 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations.

Defendant has been advised of its right to a hearing in this matter, whereupon Defendant has made an offer of settlement to the Commission wherein Defendant has tendered to the Commonwealth of Virginia the sum of nineteen thousand dollars (\$19,000), waived its right to a hearing, and agreed to the entry by the Commission of a cease and desist order.

The Bureau of Insurance has recommended that the Commission accept the offer of settlement of Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia.

THE COMMISSION, having considered the record herein, the offer of settlement of Defendant, and the recommendation of the Bureau of Insurance, is of the opinion that Defendant's offer should be accepted.

IT IS THEREFORE ORDERED THAT:

(1) The offer of Defendant in settlement of the matter set forth herein be, and it is hereby, accepted;

(2) Defendant cease and desist from any conduct which constitutes a violation of §§ 38.2-510 A 5, 38.2-510 A 14, 38.2-1318 C, 38.2-3407.4 A, 38.2-3407.15 C, 38.2-3412.1:01, 38.2-4304 B, 38.2-4306.1, 38.2-5804 A, 38.2-5805 C 8, or 38.2-5805 C 10 of the Code of Virginia, or 14 VAC 5-210-70 C; and

(3) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2002-00192  
SEPTEMBER 3, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
AMERICAN HERITAGE LIFE INSURANCE COMPANY,  
Defendant

**SETTLEMENT ORDER**

Based on an investigation and subsequent allegations by the Bureau of Insurance, it appears that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, in certain instances, violated §§ 38.2-606 and 38.2-3724 C of the Code of Virginia by using a form or statement that authorizes the disclosure of personal or privileged information about an individual to the insurance institution, agent, or insurance-support organization in a form and manner not prescribed by § 38.2-606, and by failing to include a statement on the face of a credit life or credit accident and sickness policy which clearly describes the limited nature of the insurance.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations.

Defendant has been advised of its right to a hearing in this matter, whereupon Defendant has made an offer of settlement to the Commission wherein Defendant has tendered to the Commonwealth of Virginia the sum of fifteen thousand dollars (\$15,000), waived its right to a hearing, and agreed to the entry by the Commission of a cease and desist order.

The Bureau of Insurance has recommended that the Commission accept the offer of settlement of Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia.

THE COMMISSION, having considered the record herein, the offer of settlement of Defendant, and the recommendation of the Bureau of Insurance, is of the opinion that Defendant's offer should be accepted.

IT IS THEREFORE ORDERED THAT:

- (1) The offer of Defendant in settlement of the matter set forth herein be, and it is hereby, accepted;
- (2) Defendant cease and desist from any conduct which constitutes a violation of §§ 38.2-606 or 38.2-3724 C of the Code of Virginia; and
- (3) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2002-00193  
SEPTEMBER 23, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
PIONEER LIFE INSURANCE COMPANY,  
Defendant

**SETTLEMENT ORDER**

Based on an investigation and subsequent allegations by the Bureau of Insurance, it appears that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, in certain instances, violated § 38.2-3407.14 of the Code of Virginia by failing to provide in conjunction with the proposed renewal of certain of its policies sixty (60) days' written notice to affected policyholders of its intent to increase by more than thirty-five percent (35%) the annual premium charged for coverage under such policies.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations.

Defendant has been advised of its right to a hearing in this matter, whereupon Defendant has made an offer of settlement to the Commission wherein Defendant has tendered to the Commonwealth of Virginia the sum of ten thousand dollars (\$10,000), waived its right to a hearing, and agreed to the entry by the Commission of a cease and desist order.

The Bureau of Insurance has recommended that the Commission accept the offer of settlement of Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia.

THE COMMISSION, having considered the record herein, the offer of settlement of Defendant, and the recommendation of the Bureau of Insurance, is of the opinion that Defendant's offer should be accepted.



IT IS THEREFORE ORDERED THAT:

- (1) The offer of Defendant in settlement of the matter set forth herein be, and it is hereby, accepted;
- (2) Defendant cease and desist from any conduct which constitutes a violation of § 38.2-3407.14 of the Code of Virginia; and
- (3) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2002-00201  
SEPTEMBER 3, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

v.

PENN MUTUAL INSURANCE COMPANY,  
Defendant

**IMPAIRMENT ORDER**

Penn Mutual Insurance Company, a foreign corporation domiciled in the State of Pennsylvania and licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia ("Defendant"), pursuant to § 38.2-1030 of the Code of Virginia, is required to maintain minimum surplus of \$4,000,000.

Section 38.2-1036 of the Code of Virginia provides, *inter alia*, that if the Commission finds an impairment of the required minimum surplus of any foreign insurer, the Commission may order the insurer to eliminate the impairment and restore the minimum surplus to the amount required by law and may prohibit the insurer from issuing any new policies in the Commonwealth of Virginia while the impairment of its surplus exists.

The Quarterly Statement of Defendant, dated June 30, 2002, and filed with the Commission's Bureau of Insurance, indicates surplus of \$2,244,738.

The Bureau of Insurance has recommended that, based on the foregoing, the Commission enter an impairment order against Defendant.

IT IS THEREFORE ORDERED THAT, on or before December 5, 2002, Defendant eliminate the impairment in its surplus and restore the same to at least \$4,000,000 and advise the Commission of the accomplishment thereof by affidavit of Defendant's president or other authorized officer.

IT IS FURTHER ORDERED THAT Defendant shall issue no new contracts or policies of insurance in the Commonwealth of Virginia while the impairment of Defendant's surplus exists and until further order of the Commission.

**CASE NO. INS-2002-00202  
AUGUST 26, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

v.

UNIVERSAL BONDING INSURANCE COMPANY,  
Defendant

**ORDER TO TAKE NOTICE**

Pursuant to § 38.2-1040 of the Code of Virginia, the State Corporation Commission ("Commission") may suspend or revoke the license of any insurance company to transact the business of insurance in the Commonwealth of Virginia whenever the Commission finds that the company has violated any law of this Commonwealth.

Universal Bonding Insurance Company, a foreign corporation domiciled in the State of New Jersey ("Defendant"), is licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia.

Pursuant to 14 VAC 5-270-50, Defendant was required to file with the Bureau of Insurance ("Bureau") its March 31, 2002, quarterly statement on or before May 15, 2002; and pursuant to 14 VAC 5-270-50, Defendant was required to file its 2001 Annual Audited Financial Report with the Bureau on or before June 1, 2002.

As of the date of this Order, Defendant has failed to file such quarterly statement and the Annual Audited Financial Report with the Bureau.

IT IS THEREFORE ORDERED that Defendant TAKE NOTICE that the Commission shall enter an order subsequent to September 9, 2002, suspending the license of Defendant to transact the business of insurance in the Commonwealth of Virginia unless on or before September 9, 2002,

Defendant files with the Clerk of the Commission, Document Control Center, P.O. Box 2118, Richmond, Virginia 23218, a request for a hearing before the Commission with respect to the proposed suspension of Defendant's license.

**CASE NO. INS-2002-00202  
SEPTEMBER 13, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
UNIVERSAL BONDING INSURANCE COMPANY,  
Defendant

**ORDER SUSPENDING LICENSE**

In an order entered herein August 26, 2002, Defendant was ordered to take notice that the Commission would enter an order subsequent to September 9, 2002, suspending the license of Defendant to transact the business of insurance in the Commonwealth of Virginia unless on or before September 9, 2002, Defendant filed with the Clerk of the Commission a request for a hearing before the Commission to contest the proposed suspension of Defendant's license.

As of the date of this Order, Defendant has not filed a request to be heard before the Commission with respect to the proposed suspension of Defendant's license.

THEREFORE, IT IS ORDERED THAT:

- (1) Pursuant to § 38.2-1040 of the Code of Virginia, the license of Defendant to transact the business of insurance in the Commonwealth of Virginia be, and it is hereby, **SUSPENDED**;
- (2) Defendant shall issue no new contracts or policies of insurance in the Commonwealth of Virginia until further order of the Commission;
- (3) The appointments of Defendant's agents to act on behalf of Defendant in the Commonwealth of Virginia be, and they are hereby, **SUSPENDED**;
- (4) Defendant's agents shall transact no new insurance business on behalf of Defendant in the Commonwealth of Virginia until further order of the Commission;
- (5) The Bureau of Insurance shall cause an attested copy of this Order to be sent to each of Defendant's agents appointed to act on behalf of Defendant in the Commonwealth of Virginia as notice of the suspension of such agent's appointment; and
- (6) The Bureau of Insurance shall cause notice of the suspension of Defendant's license to be published in the manner set forth in § 38.2-1043 of the Code of Virginia.

**CASE NO. INS-2002-00203  
SEPTEMBER 3, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
LONDON PACIFIC LIFE & ANNUITY COMPANY,  
Defendant

**ORDER TO TAKE NOTICE**

Section 38.2-1040 of the Code of Virginia provides, *inter alia*, that the Commission may suspend or revoke the license of any insurance company to transact the business of insurance in the Commonwealth of Virginia whenever the Commission finds that the company is in a condition that any further transaction of business in this Commonwealth is hazardous to its policyholders, creditors, and public in this Commonwealth.

Section 38.2-1040 of the Code of Virginia also provides that the Commission may suspend or revoke the license of any insurance company to transact the business of insurance in the Commonwealth of Virginia whenever the Commission finds that the company has violated any law of this Commonwealth.

London Pacific Life & Annuity Company, a foreign corporation domiciled in the State of North Carolina ("Defendant"), is licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia.

By an Order of Rehabilitation and Preliminary Injunction entered August 6, 2002, by the Superior Court of Wake County, North Carolina, Defendant signed a Consent to the Order and was placed in rehabilitation, effective August 6, 2002, and the Insurance Commissioner of North Carolina was

appointed as Rehabilitator of Defendant and directed to oversee the operations of Defendant for the purposes of conservation, management, and rehabilitation.

In addition, pursuant to § 38.2-1301 of the Code of Virginia and 14 VAC 5-270-50, Defendant was required to file its 2001 Audited Financial Report with the Bureau on or before June 1, 2002, and as of the date of this Order, Defendant has failed to file such report with the Bureau.

The Bureau of Insurance has recommended that, based on the foregoing, the license of Defendant to transact the business of insurance in the Commonwealth of Virginia be suspended.

THEREFORE, IT IS ORDERED that Defendant TAKE NOTICE that the Commission shall enter an order subsequent to September 16, 2002, suspending the license of Defendant to transact the business of insurance in the Commonwealth of Virginia unless on or before September 16, 2002, Defendant files with the Clerk of the Commission, Document Control Center, P.O. Box 2118, Richmond, Virginia 23218, a request for hearing before the Commission with respect to the proposed suspension of Defendant's license.

**CASE NO. INS-2002-00203  
SEPTEMBER 24, 2002**

COMMONWEALTH OF VIRGINIA

At the relation of the  
STATE CORPORATION COMMISSION

v.

LONDON PACIFIC LIFE & ANNUITY COMPANY,  
Defendant

**ORDER SUSPENDING LICENSE**

In an order entered herein September 3, 2002, Defendant was ordered to take notice that the Commission would enter an order subsequent to September 16, 2002, suspending the license of Defendant to transact the business of insurance in the Commonwealth of Virginia unless on or before September 16, 2002, Defendant filed with the Clerk of the Commission a request for a hearing before the Commission to contest the proposed suspension of Defendant's license.

As of the date of this Order, Defendant has not filed a request to be heard before the Commission with respect to the proposed suspension of Defendant's license.

THEREFORE, IT IS ORDERED THAT:

(1) Pursuant to § 38.2-1040 of the Code of Virginia, the license of Defendant to transact the business of insurance in the Commonwealth of Virginia be, and it is hereby, **SUSPENDED**;

(2) Defendant shall issue no new contracts or policies of insurance in the Commonwealth of Virginia until further order of the Commission;

(3) The appointments of Defendant's agents to act on behalf of Defendant in the Commonwealth of Virginia be, and they are hereby, **SUSPENDED**;

(4) Defendant's agents shall transact no new insurance business on behalf of Defendant in the Commonwealth of Virginia until further order of the Commission;

(5) The Bureau of Insurance shall cause an attested copy of this Order to be sent to each of Defendant's agents appointed to act on behalf of Defendant in the Commonwealth of Virginia as notice of the suspension of such agent's appointment; and

(6) The Bureau of Insurance shall cause notice of the suspension of Defendant's license to be published in the manner set forth in § 38.2-1043 of the Code of Virginia.

**CASE NO. INS-2002-00208  
SEPTEMBER 23, 2002**

COMMONWEALTH OF VIRGINIA

At the relation of the  
STATE CORPORATION COMMISSION

v.

SECURITY-CONNECTICUT LIFE INSURANCE COMPANY,  
Defendant

**SETTLEMENT ORDER**

Based on an investigation and subsequent allegations by the Bureau of Insurance, it appears that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, in certain instances, violated § 38.2-610 of the Code of Virginia by failing to give to applicants for insurance written notice of an adverse underwriting decision in the form approved by the Commission.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations.

Defendant has been advised of its right to a hearing in this matter, whereupon Defendant has made an offer of settlement to the Commission wherein Defendant has tendered to the Commonwealth of Virginia the sum of twenty-five thousand dollars (\$25,000) and waived its right to a hearing.

The Bureau of Insurance has recommended that the Commission accept the offer of settlement of Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia.

THE COMMISSION, having considered the record herein, the offer of settlement of Defendant, and the recommendation of the Bureau of Insurance, is of the opinion that Defendant's offer should be accepted.

IT IS THEREFORE ORDERED THAT:

- (1) The offer of Defendant in settlement of the matter set forth herein be, and it is hereby, accepted; and
- (2) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2002-00220  
OCTOBER 28, 2002**

COMMONWEALTH OF VIRGINIA

At the relation of the  
STATE CORPORATION COMMISSION

v.

NEW DIMENSIONS UNDERWRITING GROUP, INC.,  
Defendant

**ORDER REVOKING LICENSE**

Based on an investigation by the Bureau of Insurance, it appears that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia as a surplus lines broker, in a certain instance, violated § 38.2-4806 D of the Code of Virginia by failing to file timely with the Commission the quarterly report summarizing the business transacted by Defendant for the second quarter of 2002.

The Commission is authorized by §§ 38.2-218, 38.2-219, 38.2-1831, and 38.2-1857.7 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and to suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violation.

Defendant has been notified of its right to a hearing before the Commission in this matter by certified letters dated August 22, 2002, September 12, 2002, and September 19, 2002, respectively, and mailed to Defendant's address shown in the records of the Bureau of Insurance.

Defendant, having been advised in the aforesaid manner of its right to a hearing in this matter, has failed to request a hearing and has not otherwise communicated with the Bureau of Insurance.

The Bureau of Insurance, upon Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of Defendant's licenses to transact the business of insurance in the Commonwealth of Virginia as an insurance agent and a surplus lines broker.

THE COMMISSION is of the opinion and finds that Defendant has violated § 38.2-4806 D of the Code of Virginia by failing to file timely with the Commission the quarterly report summarizing the business transacted by Defendant for the second quarter of 2002.

IT IS THEREFORE ORDERED THAT:

- (1) The licenses of Defendant to transact the business of insurance as an insurance agent and a surplus lines broker in the Commonwealth of Virginia be, and they are hereby, REVOKED;
- (2) All appointments issued under said licenses be, and they are hereby, VOID;
- (3) Defendant shall transact no further business in the Commonwealth of Virginia as an insurance agent or a surplus lines broker;
- (4) Defendant shall not apply to the Commission to be licensed as an insurance agent or a surplus lines broker in the Commonwealth of Virginia prior to five (5) years from the date of this Order;
- (5) The Bureau of Insurance shall cause a copy of this Order to be sent to every insurance company for which Defendant holds an appointment to act as an insurance agent or a surplus lines broker in the Commonwealth of Virginia; and
- (6) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2002-00227  
OCTOBER 17, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

v.

PACIFIC SPECIALTY INSURANCE COMPANY,  
Defendant

**SETTLEMENT ORDER**

Based on an investigation and subsequent allegations by the Bureau of Insurance, it appears that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, violated §§ 38.2-1812 and 38.2-1822 of the Code of Virginia by paying a commission for services as an agent to a person who was not properly licensed and appointed, and by knowingly permitting a person to act as an agent without first obtaining a license in a manner and form prescribed by the Commission.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations.

Defendant has been advised of its right to a hearing in this matter, whereupon Defendant, without admitting any violation of Virginia law, has made an offer of settlement to the Commission wherein Defendant has tendered to the Commonwealth of Virginia the sum of five thousand dollars (\$5,000), waived its right to a hearing, and agreed to the entry by the Commission of a cease and desist order.

The Bureau of Insurance has recommended that the Commission accept the offer of settlement of Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia.

THE COMMISSION, having considered the record herein, the offer of settlement of Defendant, and the recommendation of the Bureau of Insurance, is of the opinion that Defendant's offer should be accepted.

IT IS THEREFORE ORDERED THAT:

- (1) The offer of Defendant in settlement of the matter set forth herein be, and it is hereby, accepted;
- (2) Defendant cease and desist from any conduct which constitutes a violation of § 38.2-1812 or § 38.2-1822 of the Code of Virginia; and
- (3) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2002-00229  
OCTOBER 17, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

v.

THE MCGRAW COMPANY, T/A MCGRAW INSURANCE SERVICES,  
Defendant

**SETTLEMENT ORDER**

Based on an investigation and subsequent allegations by the Bureau of Insurance, it appears that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, violated §§ 38.2-1812 and 38.2-1822 of the Code of Virginia by receiving commissions from an insurer for services as an agent prior to becoming licensed and appointed, and by acting as an agent of an insurer without first obtaining a license in a manner and in a form prescribed by the Commission.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1831 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations.

Defendant has been advised of its right to a hearing in this matter, whereupon Defendant, without admitting any violation of Virginia law, has made an offer of settlement to the Commission wherein Defendant has tendered to the Commonwealth of Virginia the sum of five thousand dollars (\$5,000), waived its right to a hearing, and agreed to the entry by the Commission of a cease and desist order.

The Bureau of Insurance has recommended that the Commission accept the offer of settlement of Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia.

THE COMMISSION, having considered the record herein, the offer of settlement of Defendant, and the recommendation of the Bureau of Insurance, is of the opinion that Defendant's offer should be accepted.

IT IS THEREFORE ORDERED THAT:

- (1) The offer of Defendant in settlement of the matter set forth herein be, and it is hereby, accepted;
- (2) Defendant cease and desist from any conduct which constitutes a violation of § 38.2-1812 or § 38.2-1822 of the Code of Virginia; and
- (3) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2002-00231  
OCTOBER 21, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
MARSHALL INSURANCE AGENCY, INC.,  
Defendant

**SETTLEMENT ORDER**

Based on an investigation and subsequent allegations by the Bureau of Insurance, it appears that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, violated §§ 38.2-512 and 38.2-1812.2 of the Code of Virginia, as well as the Cease and Desist Orders entered by the Commission in Case Nos. INS-1992-00106 and INS-1994-00234, by making false or fraudulent statements or representations on or relative to an application or any document or communication relating to the business of insurance for the purpose of obtaining a fee or commission, and by charging an applicant for insurance any consideration in return for rendering services associated with a contract of insurance without providing proper disclosures.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1831 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations.

Defendant has been advised of its right to a hearing in this matter, whereupon Defendant, without admitting any violation of Virginia law, has made an offer of settlement to the Commission wherein Defendant has tendered to the Commonwealth of Virginia the sum of five thousand dollars (\$5,000), waived its right to a hearing, and agreed to the entry by the Commission of a cease and desist order.

The Bureau of Insurance has recommended that the Commission accept the offer of settlement of Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia.

THE COMMISSION, having considered the record herein, the offer of settlement of Defendant, and the recommendation of the Bureau of Insurance, is of the opinion that Defendant's offer should be accepted.

IT IS THEREFORE ORDERED THAT:

- (1) The offer of Defendant in settlement of the matter set forth herein be, and it is hereby, accepted;
- (2) Defendant cease and desist from any conduct which constitutes a violation of § 38.2-512 or § 38.2-1812.2 of the Code of Virginia; and
- (3) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2002-00232  
SEPTEMBER 24, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
NATIONAL REAL ESTATE INFORMATION SERVICES, INC.,  
Defendant

**ORDER REVOKING LICENSE**

Based on an investigation by the Bureau of Insurance, it appears that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, violated § 6.1-2.21 of the Code of Virginia by failing to provide the Commission with a copy of Defendant's analysis or audit report of its escrow account.

The Commission is authorized by § 6.1-2.27 of the Code of Virginia to impose certain monetary penalties and to suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violation of Chapter 1.3 (§ 6.1-2.19 et seq.) of Title 6.1 of the Code of Virginia.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1831 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and to suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violation.

Defendant has been notified of Defendant's right to a hearing before the Commission in this matter by certified letters dated August 1, 2002, August 16, 2002, and August 27, 2002, respectively, and mailed to the Defendant's address shown in the records of the Bureau of Insurance.

Defendant, having been advised in the above manner of its right to a hearing in this matter, has failed to request a hearing and has not otherwise communicated with the Bureau of Insurance.

The Bureau of Insurance, upon Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of Defendant's licenses to transact the business of insurance in the Commonwealth of Virginia as an insurance agent.

THE COMMISSION is of the opinion and finds that Defendant has violated § 6.1-2.21 of the Code of Virginia by failing to provide the Commission with a copy of Defendant's analysis or audit report of its escrow account.

IT IS THEREFORE ORDERED THAT:

(1) The licenses of Defendant to transact the business of insurance as an agent in the Commonwealth of Virginia be, and they are hereby, REVOKED;

(2) All appointments issued under said licenses be, and they are hereby, VOID;

(3) Defendant transact no further business in the Commonwealth of Virginia as an insurance agent;

(4) Defendant shall not apply to the Commission to be licensed as an insurance agent in the Commonwealth of Virginia prior to five (5) years from the date of this Order;

(5) The Bureau of Insurance shall cause a copy of this Order to be sent to every insurance company for which Defendant holds an appointment to act as an insurance agent in the Commonwealth of Virginia; and

(6) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2002-00235  
OCTOBER 22, 2002**

METROPOLITAN LIFE INSURANCE COMPANY

Ex Parte. In re: Approval of a regulatory settlement agreement by and between Metropolitan Life Insurance Company, and the Insurance Superintendent for the State of New York, for and on behalf of the State of New York, the Virginia Bureau of Insurance and the Insurance Regulators of each of the states in the United States and the District of Columbia

**ORDER APPROVING SETTLEMENT AGREEMENT**

ON THIS DAY came the Bureau of Insurance (the "Bureau"), by counsel, and requested (i) Commission approval and acceptance of a certain multi-state Regulatory Settlement Agreement dated August 29, 2002, and the Stipulation of Settlement having been agreed to as of August 29, 2002, (the "Agreement"), a copy of which is attached hereto and made a part hereof, by and between the Insurance Superintendent for the State of New York, for and on behalf of the State of New York, the Bureau, and the Insurance Regulators of each of the states in the United States and the District of Columbia, and Metropolitan Life Insurance Company, a foreign insurer domiciled in the State of New York and licensed to transact the business of insurance in the Commonwealth of Virginia, and (ii) authority to execute any documents attendant to the Agreement necessary to evidence the Commission's acceptance of the Agreement;

AND THE COMMISSION, having considered the terms of the Agreement together with the recommendation of the Bureau that the Commission approve and accept the Agreement, is of the opinion, finds, and ORDERS that (i) the Agreement be, and it is hereby, approved and accepted and (ii) the Commissioner of Insurance be, and he is hereby authorized to execute any attendant documents necessary to evidence the Commission's approval and acceptance of the Agreement.

NOTE: A copy of Attachment A entitled "Regulatory Settlement Agreement and Stipulation of Settlement" is on file and may be examined at the State Corporation Commission, Clerk's Office, Document Control Center, Tyler Building, First Floor, 1300 East Main Street, Richmond, Virginia.

**CASE NO. INS-2002-00241  
OCTOBER 24, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
STAUNTON, AUGUSTA, WAYNESBORO CONSORTIUM,  
Defendant

**SETTLEMENT ORDER**

Based on an investigation and subsequent allegations by the Bureau of Insurance, it appears that Defendant, duly registered with the Commission as a fully insured multiple employer welfare arrangement in the Commonwealth of Virginia, in a certain instance, violated 14 VAC 5-410-40 D by failing to file timely with the Commission its 2002 annual proof of coverage and notice of any changes in information.

The Commission is authorized by §§ 38.2-218 and 38.2-219 of the Code of Virginia to impose certain monetary penalties and issue cease and desist orders upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violation.

Defendant has been advised of its right to a hearing in this matter, whereupon Defendant, without admitting any violation of Virginia law, has made an offer of settlement to the Commission, wherein Defendant has waived its right to a hearing and agreed to the entry by the Commission of a cease and desist order.

The Bureau of Insurance has recommended that the Commission accept the offer of settlement of Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia.

THE COMMISSION, having considered the record herein, the offer of settlement of Defendant, and the recommendation of the Bureau of Insurance, is of the opinion that Defendant's offer should be accepted.

IT IS THEREFORE ORDERED THAT:

- (1) The offer of Defendant in settlement of the matter set forth herein be, and it is hereby, accepted;
- (2) Defendant cease and desist from any conduct which constitutes a violation of 14 VAC 5-410-40 D; and
- (3) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2002-00247  
NOVEMBER 6, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
AMERICAN BENEFITS AND INSURANCE GROUP,  
Defendant

**SETTLEMENT ORDER**

Based on an investigation and subsequent allegations by the Bureau of Insurance, it appears that Defendant, in a certain instance, violated § 65.2-802 of the Code of Virginia, as well as 14 VAC 5-370-30 by operating as a group self-insurance association in the Commonwealth of Virginia without being properly licensed as such in a manner and in a form prescribed by the Commission.

The Commission is authorized by § 12.1-13 of the Code of Virginia to impose certain monetary penalties and issue cease and desist orders upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violation.

Defendant has been advised of its right to a hearing in this matter, whereupon Defendant, without admitting any violation of Virginia law, has made an offer of settlement to the Commission wherein Defendant has tendered to the Commonwealth of Virginia the sum of five thousand dollars (\$5,000), waived its right to a hearing, and agreed to the entry by the Commission of a cease and desist order.

The Bureau of Insurance has recommended that the Commission accept the offer of settlement of Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia.

THE COMMISSION, having considered the record herein, the offer of settlement of Defendant, and the recommendation of the Bureau of Insurance, is of the opinion that Defendant's offer should be accepted.

IT IS THEREFORE ORDERED THAT:

- (1) The offer of Defendant in settlement of the matter set forth herein be, and it is hereby, accepted;



- (2) Defendant cease and desist from any conduct which constitutes a violation of § 65.2-802 of the Code of Virginia or 14 VAC 5-370-30; and
- (3) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2002-00709  
NOVEMBER 1, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
KELCO VIATICAL SERVICES, INC.,  
Defendant

**ORDER TO TAKE NOTICE**

Pursuant to § 38.2-5701 of the Code of Virginia, the Commission may suspend or revoke the license of any viatical settlement provider to transact the business of viatical settlements in the Commonwealth of Virginia whenever the Commission finds that the licensee has been subject to a final administrative action or has otherwise been shown to be untrustworthy or incompetent to act as a viatical settlement provider.

Kelco Viatical Services, Inc. ("Defendant"), licensed by the Commission on January 1, 1998, to transact the business of a viatical settlement provider in the Commonwealth of Virginia, is a viatical settlement provider domiciled in the State of Kentucky in the name Kelco, Incorporated.

On July 11, 2002, an indictment was filed in the United States District Court, Eastern District of Kentucky (the "Indictment"), whereby a federal grand jury charged Kelco, Incorporated and Stephen L. Keller, its owner, President and Chief Executive Officer, among others, with forty-seven (47) counts of conspiracy to defraud and commit money laundering, mail fraud, wire fraud, and money laundering.

Based upon the Indictment, the Kentucky Department of Insurance issued an Order Suspending License of Kelco, Incorporated on July 23, 2002.

The Bureau of Insurance has recommended that, based on the foregoing, the license of Defendant to transact the business of a viatical settlement provider in the Commonwealth of Virginia be suspended.

IT IS THEREFORE ORDERED that Defendant TAKE NOTICE that the Commission shall enter an order subsequent to November 15, 2002, suspending the license of Defendant to transact the business of a viatical settlement provider in the Commonwealth of Virginia unless on or before November 15, 2002, Defendant files with the Clerk of the Commission, Document Control Center, P.O. Box 2118, Richmond, Virginia 23218, a request for a hearing before the Commission with respect to the proposed suspension of Defendant's license.

**CASE NO. INS-2002-00709  
NOVEMBER 26, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
KELCO VIATICAL SERVICES, INC.,  
Defendant

**ORDER SUSPENDING LICENSE**

In an order entered herein November 1, 2002, Defendant was ordered to take notice that the Commission would enter an order subsequent to November 15, 2002, suspending the license of Defendant to transact the business of a viatical settlement provider in the Commonwealth of Virginia unless on or before November 15, 2002, Defendant filed with the Clerk of the Commission a request for a hearing before the Commission to contest the proposed suspension of Defendant's license.

As of the date of this Order, Defendant has not filed a request to be heard before the Commission with respect to the proposed suspension of Defendant's license.

THEREFORE, IT IS ORDERED THAT:

- (1) Pursuant to § 38.2-5701 of the Code of Virginia, the license of Defendant to transact the business of a viatical settlement provider in the Commonwealth of Virginia be, and it is hereby, **SUSPENDED**;
- (2) Defendant shall issue no new viatical settlement contracts or policies or otherwise transact any new viatical settlement provider business in the Commonwealth of Virginia until further order of the Commission; and
- (3) The Bureau of Insurance shall cause notice of the suspension of Defendant's license to be published in the manner set forth in § 38.2-1043 of the Code of Virginia.

**CASE NO. INS-2002-00841  
NOVEMBER 15, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
REEVA J. CRAWFORD,  
Defendant

**ORDER REVOKING LICENSE**

Based on an investigation by the Bureau of Insurance, it appears that Defendant, duly licensed by the Commission to transact the business of insurance as an insurance agent in the Commonwealth of Virginia, in certain instances, violated § 38.2-1813 of the Code of Virginia by failing to pay funds in the ordinary course of business to the insured or his assignee, insurer, insurance premium finance company or agent entitled to the payment.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1831 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and to suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations.

Defendant has been notified of her right to a hearing before the Commission in this matter by certified letters dated September 9, 2002 and October 10, 2002, respectively, and mailed to Defendant's address shown in the records of the Bureau of Insurance, and has failed to request a hearing and has not otherwise communicated with the Bureau of Insurance.

The Bureau of Insurance, upon Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of Defendant's licenses to transact the business of insurance in the Commonwealth of Virginia as an insurance agent.

THE COMMISSION is of the opinion and finds that Defendant has violated § 38.2-1813 of the Code of Virginia by failing to pay funds in the ordinary course of business to the insured or his assignee, insurer, insurance premium finance company or agent entitled to the payment.

IT IS THEREFORE ORDERED THAT:

- (1) The licenses of Defendant to transact the business of insurance as an agent in the Commonwealth of Virginia be, and they are hereby, REVOKED;
- (2) All appointments issued under said licenses be, and they are hereby, VOID;
- (3) Defendant transact no further business in the Commonwealth of Virginia as an insurance agent;
- (4) Defendant shall not apply to the Commission to be licensed as an insurance agent in the Commonwealth of Virginia prior to five (5) years from the date of this Order;
- (5) The Bureau of Insurance shall cause a copy of this Order to be sent to every insurance company for which Defendant holds an appointment to act as an insurance agent in the Commonwealth of Virginia; and
- (6) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2002-00863  
NOVEMBER 19, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
AMICA MUTUAL INSURANCE COMPANY,  
Defendant

**SETTLEMENT ORDER**

Based on a market conduct examination performed by the Bureau of Insurance, it appears that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, violated §§ 38.2-305 B, 38.2-317 A, 38.2-510 A 1, 38.2-610, 38.2-1822, 38.2-1905 C, 38.2-1906 D, 38.2-2014, 38.2-2113, 38.2-2114, 38.2-2119, 38.2-2202, 38.2-2206 A, 38.2-2208, 38.2-2212, 38.2-2220, and 38.2-2223 of the Code of Virginia, as well as 14 VAC 5-400-70 D.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations.

Defendant has been advised of its right to a hearing in this matter, whereupon Defendant, without admitting any violation of Virginia law, has made an offer of settlement to the Commission wherein Defendant has tendered to the Commonwealth of Virginia the sum of fourteen thousand dollars (\$14,000), waived its right to a hearing, and agreed to the entry by the Commission of a cease and desist order.

The Bureau of Insurance has recommended that the Commission accept the offer of settlement of Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia.

THE COMMISSION, having considered the record herein, the offer of settlement of Defendant, and the recommendation of the Bureau of Insurance, is of the opinion that Defendant's offer should be accepted.

IT IS THEREFORE ORDERED THAT:

- (1) The offer of Defendant in settlement of the matter set forth herein be, and it is hereby, accepted;
- (2) Defendant cease and desist from any conduct which constitutes a violation of §§ 38.2-305 B, 38.2-317 A, 38.2-510 A 1, 38.2-610, 38.2-1822, 38.2-1905 C, 38.2-1906 D, 38.2-2014, 38.2-2113, 38.2-2114, 38.2-2119, 38.2-2202, 38.2-2206 A, 38.2-2208, 38.2-2212, 38.2-2220, or 38.2-2223 of the Code of Virginia, or 14 VAC 5-400-70 D; and
- (3) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2002-01285  
NOVEMBER 21, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
JUSTDENTAL OF DELMARVA, INC.,  
Defendant

**SETTLEMENT ORDER**

Based on a market conduct examination performed by the Bureau of Insurance, it appears that Defendant, duly licensed by the Commission to transact the business of a dental services plan in the Commonwealth of Virginia, in certain instances, violated §§ 38.2-510 A 10, 38.2-510 A 14, 38.2-510 A 15, 38.2-3407.15 B 1, 38.2-3407.15 B 2, 38.2-3407.15 B 3, 38.2-3407.15 B 4, 38.2-3407.15 B 5, 38.2-3407.15 B 7, and 38.2-3407.15 B 8 of the Code of Virginia.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations.

Defendant has been advised of its right to a hearing in this matter, whereupon Defendant has made an offer of settlement to the Commission wherein Defendant has tendered to the Commonwealth of Virginia the sum of eighteen thousand dollars (\$18,000) and waived its right to a hearing.

The Bureau of Insurance has recommended that the Commission accept the offer of settlement of Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia.

THE COMMISSION, having considered the record herein, the offer of settlement of Defendant, and the recommendation of the Bureau of Insurance, is of the opinion that Defendant's offer should be accepted.

IT IS THEREFORE ORDERED THAT:

- (1) The offer of Defendant in settlement of the matter set forth herein be, and it is hereby, accepted; and
- (2) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2002-01286  
NOVEMBER 6, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
CASUALTY RECIPROCAL EXCHANGE,  
Defendant

**IMPAIRMENT ORDER**

Casualty Reciprocal Exchange, a foreign reciprocal domiciled in the State of Missouri and licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia ("Defendant"), is required to maintain minimum surplus of \$4,000,000.

Section 38.2-1036 of the Code of Virginia provides, *inter alia*, that if the Commission finds an impairment of the required minimum surplus of any foreign insurer, the Commission may order the insurer to eliminate the impairment and restore the minimum surplus to the amount required by law and may prohibit the insurer from issuing any new policies in the Commonwealth of Virginia while the impairment of its surplus exists.

The Quarterly Statement of Defendant, dated June 30, 2002, and filed with the Commission's Bureau of Insurance, indicates surplus of \$4,757,827.

Defendant's reported surplus resulted from Defendant discounting loss and loss expense reserves on a nontabular basis in the amount of \$3,136,800, a practice that is not permitted under Virginia law.

Defendant's reported surplus therefore should be adjusted in the amount of such \$3,136,800, resulting in an adjusted surplus amount at June 30, 2002, of \$1,621,027.

THEREFORE, IT IS ORDERED THAT, on or before February 6, 2003, Defendant eliminate the impairment in its surplus and restore the same to at least \$4,000,000 and advise the Commission of the accomplishment thereof by affidavit of Defendant's president or other authorized officer.

IT IS FURTHER ORDERED THAT Defendant shall issue no new contracts or policies of insurance in the Commonwealth of Virginia while the impairment of Defendant's surplus exists and until further order of the Commission.

**CASE NO. INS-2002-01292  
DECEMBER 31, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
HOME SECURITY ASSOCIATION OF VIRGINIA, INC.,  
Defendant

**SETTLEMENT ORDER**

Based on an investigation and subsequent allegations by the Bureau of Insurance, it appears that Defendant, duly licensed by the Commission to transact the business of a home protection company in the Commonwealth of Virginia, in certain instances, violated §§ 38.2-1323, 38.2-1331 A, 38.2-1446 A, and 38.2-1446 B of the Code of Virginia by failing to file with the Commission an application for approval of the acquisition of control of Defendant by Home Security Corporation, Inc., by failing to obtain the Commission's prior written approval of a material transaction with an affiliate, and by pledging and hypothecating Defendant's assets without proper disclosure to the Commission and without the prior written approval of the Commission.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations.

Defendant has been advised of its right to a hearing in this matter, whereupon Defendant, without admitting any violation of Virginia law, has made an offer of settlement to the Commission wherein Defendant has tendered to the Commonwealth of Virginia the sum of five thousand dollars (\$5,000), waived its right to a hearing, and agreed to the entry by the Commission of a cease and desist order.

The Bureau of Insurance has recommended that the Commission accept the offer of settlement of Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code of Virginia.

THE COMMISSION, having considered the record herein, the offer of settlement of Defendant, and the recommendation of the Bureau of Insurance, is of the opinion that Defendant's offer should be accepted.

IT IS THEREFORE ORDERED THAT:

- (1) The offer of Defendant in settlement of the matter set forth herein be, and it is hereby, accepted;

(2) Defendant cease and desist from any conduct which constitutes a violation of §§ 38.2-1323, 38.2-1331 A, 38.2-1446 A, or 38.2-1446 B of the Code of Virginia; and

(3) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2002-01296  
NOVEMBER 21, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
NONPROFITS INSURANCE COMPANY,  
Defendant

**ORDER SUSPENDING LICENSE**

Nonprofits Insurance Company, a foreign corporation domiciled in the State of Minnesota and licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia ("Defendant"), is required to maintain minimum capital of \$1,000,000 and minimum surplus of \$3,000,000.

Defendant, prior to May 1, 2002, was a Minnesota-domiciled reciprocal under the name of Nonprofits' Insurance Association, an Interinsurance Exchange, that originally was licensed by the Commission on December 7, 1994.

The Quarterly Statement of Defendant, dated June 30, 2002, and filed with the Commission's Bureau of Insurance, indicates capital of \$3,000,000, and surplus of \$1,538,171.

By letter dated November 1, 2002, and accompanying affidavit of Fred A. Mauck, Vice President of Defendant, dated November 1, 2002, and filed with the Clerk of the Commission on November 20, 2002, Defendant has voluntarily consented to the suspension of its license to transact the business of insurance in the Commonwealth of Virginia until such time as Defendant shall have increased its surplus to the amount required by law.

THEREFORE, IT IS ORDERED THAT:

(1) Pursuant to Defendant's voluntary consent and § 38.2-1040 of the Code of Virginia, the license of Defendant to transact the business of insurance in the Commonwealth of Virginia be, and it is hereby, **SUSPENDED**;

(2) Defendant shall issue no new contracts or policies of insurance in the Commonwealth of Virginia until further order of the Commission;

(3) The appointments of Defendant's agents to act on behalf of Defendant in the Commonwealth of Virginia be, and they are hereby, **SUSPENDED**;

(4) Defendant's agents shall transact no new insurance business on behalf of Defendant in the Commonwealth of Virginia until further order of the Commission;

(5) The Bureau of Insurance shall cause an attested copy of this Order to be sent to each of Defendant's agents appointed to act on behalf of Defendant in the Commonwealth of Virginia as notice of the suspension of such agent's appointment; and

(6) The Bureau of Insurance shall cause notice of the suspension of Defendant's license to be published in the manner set forth in § 38.2-1043 of the Code of Virginia.

**CASE NO. INS-2002-01297  
NOVEMBER 15, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
THE GEORGE WASHINGTON UNIVERSITY HEALTH PLAN, INC.,  
Defendant

**ORDER SUSPENDING LICENSE**

The George Washington University Health Plan, Inc. ("GWUHP"), is a health maintenance organization domiciled in the District of Columbia and is duly licensed by the Commission to transact the business of a health maintenance organization in the Commonwealth of Virginia.

GWUHP notified the Bureau of Insurance (the "Bureau") by letter dated August 22, 2001, of GWUHP's intent to discontinue all health plan coverage in the Commonwealth of Virginia as of February 28, 2002, and on March 9, 2002, terminated all contracts for health care services with governments, employers, and subscribers.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

GWUHP also has notified, and the Bureau has acknowledged, that GWUHP has suspended its operations in accordance with the Closure Plan filed with the District of Columbia Department of Insurance and Securities Regulations.

By letter to the Bureau dated September 25, 2002, GWUHP voluntarily consented to the suspension of its license to transact the business of a health maintenance organization in the Commonwealth of Virginia, as of September 30, 2002, pursuant to § 38.2-4316 of the Code of Virginia.

THEREFORE, IT IS ORDERED THAT:

(1) Pursuant to GWUHP's voluntary consent and 5 38.2-4316 of the Code of Virginia, the license of GWUHP to transact the business of a health maintenance organization in the Commonwealth of Virginia be, and it is hereby, **SUSPENDED**, effective September 30, 2002;

(2) GWUHP shall not issue any new evidence of coverage in the Commonwealth of Virginia until further Order of the Commission nor engage in any advertising or solicitation;

(3) The appointments of GWUHP's agents to act on behalf of GWUHP in the Commonwealth of Virginia be, and they are hereby, **SUSPENDED**, effective September 30, 2002, subject to the terms of this Order;

(4) GWUHP and its agents shall transact no new insurance business on behalf of GWUHP in the Commonwealth of Virginia until further Order of the Commission;

(5) The Bureau of Insurance shall cause an attested copy of this Order to be sent to each of GWUHP's agents appointed to act on behalf of GWUHP in the Commonwealth of Virginia as notice of the suspension of such agent's appointment; and

(6) The Bureau of Insurance shall cause notice of the suspension of GWUHP's license to be published in the manner set forth in § 38.2-1043 of the Code of Virginia.

**CASE NO. INS-2002-01304  
DECEMBER 10, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION  
v.  
JESSIE LEE BALES,  
Defendant

**ORDER REVOKING LICENSE**

Based on an investigation by the Bureau of Insurance, it appears that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, violated § 38.2-1826 of the Code of Virginia by failing to report within thirty days to the Commission and to every insurer for which he is appointed any change in his residence or name.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1831 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and to suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violation.

Defendant has been notified of his right to a hearing before the Commission in this matter by certified letters dated September 26, 2002, October 21, 2002, and November 6, 2002, respectively, and mailed to Defendant's address shown in the records of the Bureau of Insurance, and has failed to request a hearing and has not otherwise communicated with the Bureau of Insurance.

The Bureau of Insurance, upon Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of Defendant's licenses to transact the business of insurance in the Commonwealth of Virginia as an insurance agent.

THE COMMISSION is of the opinion and finds that Defendant has violated § 38.2-1826 of the Code of Virginia by failing to report within thirty days to the Commission and to every insurer for which he is appointed any change in his residence or name.

IT IS THEREFORE ORDERED THAT:

(1) The licenses of Defendant to transact the business of insurance as an agent in the Commonwealth of Virginia be, and they are hereby, **REVOKED**;

(2) All appointments issued under said licenses be, and they are hereby, **VOID**;

(3) Defendant transact no further business in the Commonwealth of Virginia as an insurance agent;

(4) Defendant shall not apply to the Commission to be licensed as an insurance agent in the Commonwealth of Virginia prior to five (5) years from the date of this Order;

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(5) The Bureau of Insurance shall cause a copy of this Order to be sent to every insurance company for which Defendant holds an appointment to act as an insurance agent in the Commonwealth of Virginia; and

(6) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2002-01305  
DECEMBER 10, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

v.

MARCUS J. DENNIS,  
Defendant

**ORDER REVOKING LICENSE**

Based on an investigation by the Bureau of Insurance, it appears that Defendant, duly licensed by the Commission to transact the business of insurance in the Commonwealth of Virginia, violated §§ 38.2-1804 and 38.2-1822 of the Code of Virginia by signing or allowing an insured to sign an incomplete or blank form pertaining to insurance, and by acting as an agent of an insurer without first obtaining a license in a manner and in a form prescribed by the Commission.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1831 of the Code of Virginia to impose certain monetary penalties, issue cease and desist orders, and to suspend or revoke Defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that Defendant has committed the aforesaid alleged violations.

Defendant has been notified of his right to a hearing before the Commission in this matter by certified letters dated July 9, 2002, July 25, 2002, September 26, 2002, and November 8, 2002, respectively, and mailed to Defendant's address shown in the records of the Bureau of Insurance, and has failed to request a hearing and has not otherwise communicated with the Bureau of Insurance.

The Bureau of Insurance, upon Defendant's failure to request a hearing, has recommended that the Commission enter an order revoking all of Defendant's licenses to transact the business of insurance in the Commonwealth of Virginia as an insurance agent.

THE COMMISSION is of the opinion and finds that Defendant has violated §§ 38.2-1804 and 38.2-1822 of the Code of Virginia by signing or allowing an insured to sign an incomplete or blank form pertaining to insurance, and by acting as an agent of an insurer without first obtaining a license in a manner and in a form prescribed by the Commission.

IT IS THEREFORE ORDERED THAT:

(1) The licenses of Defendant to transact the business of insurance as an agent in the Commonwealth of Virginia be, and they are hereby, REVOKED;

(2) All appointments issued under said licenses be, and they are hereby, VOID;

(3) Defendant transact no further business in the Commonwealth of Virginia as an insurance agent;

(4) Defendant shall not apply to the Commission to be licensed as an insurance agent in the Commonwealth of Virginia prior to five (5) years from the date of this Order;

(5) The Bureau of Insurance shall cause a copy of this Order to be sent to every insurance company for which Defendant holds an appointment to act as an insurance agent in the Commonwealth of Virginia; and

(6) The papers herein be placed in the file for ended causes.

**CASE NO. INS-2002-01313  
DECEMBER 23, 2002**

APPLICATION OF  
LINCOLN HERITAGE LIFE INSURANCE COMPANY

For approval of an assumption reinsurance agreement pursuant to § 38.2-136 C of the Code of Virginia

**ORDER APPROVING APPLICATION**

By application filed with the Commission on December 20, 2002, Lincoln Heritage Life Insurance Company, an Illinois-domiciled insurer licensed to transact the business of insurance in the Commonwealth of Virginia ("Lincoln"), requested approval of an assumption reinsurance agreement dated October 1, 2002, pursuant to § 38.2-136 C of the Code of Virginia, whereby Lincoln would assume all of the life insurance policies and annuity contracts of Provident Indemnity Life Insurance Company, a Pennsylvania-domiciled insurer ("Provident").

*ANNUAL REPORT OF THE STATE CORPORATION COMMISSION*

Provident formerly was licensed to transact the business of insurance in the Commonwealth of Virginia; however, such license was suspended by Order Suspending License entered on February 15, 2001, in Case No. INS-1999-00147.

The Pennsylvania Insurance Commissioner, the domiciliary regulator of Provident, has approved the assumption reinsurance agreement, as evidenced by the Decision and Order entered December 20, 2002, a copy of which was filed with the Commission's Bureau of Insurance.

The assumption reinsurance agreement is not subject to the approval of the Illinois Department of Insurance, the domiciliary regulator of Lincoln, pursuant to 215 ILCS 5/174(a), as set forth in the Illinois Insurance Code.

Provident has waived its right to a hearing pursuant to § 38.2-136 C of the Code of Virginia, as evidenced in the application.

The Bureau of Insurance, having reviewed the application to ensure that Virginia policyholders will not lose any rights or claims afforded under their original contracts pursuant to Chapter 17 of Title 38.2 of the Code of Virginia, has recommended that the application be approved.

THE COMMISSION, having considered the application, the recommendation of the Bureau of Insurance that the application be approved, and the law applicable hereto, is of the opinion that the application should be approved.

THEREFORE, IT IS ORDERED THAT the application of Lincoln Heritage Life Insurance Company for approval of the reinsurance agreement pursuant to § 38.2-136 C of the Code of Virginia be, and it is hereby, APPROVED.



## DIVISION OF PUBLIC SERVICE TAXATION

### CASE NO. PST-2002-00003 DECEMBER 12, 2002

APPLICATION OF  
ALLTEL COMMUNICATIONS, INC.  
ALLTEL COMMUNICATIONS OF VIRGINIA, INC.  
ALLTEL COMMUNICATIONS OF VIRGINIA NO. 1, INC.  
RCTC WHOLESALE CORPORATION  
PETERSBURG CELLULAR PARTNERSHIP  
VIRGINIA RSA 2 LIMITED PARTNERSHIP

Application for review and correction of items of certification to the Department of Taxation - Tax Year 2001

Application for correction of assessment of special regulatory revenue tax and for a refund - Tax Year 2001

#### FINAL ORDER

Before the State Corporation Commission ("Commission") is the joint application of ALLTEL Communications, Inc., ALLTEL Communications of Virginia, Inc., ALLTEL Communications of Virginia No. 1, Inc., RCTC Wholesale Corporation, Petersburg Cellular Partnership, and Virginia RSA 2 Limited Partnership (collectively, "ALLTEL") for review and correction of our assessments of special regulatory revenue tax for tax year 2001 and a refund of any overpayments. ALLTEL also seeks correction of the certification of gross receipts to the Virginia Department of Taxation for application of the greater of the minimum tax on telecommunications companies or income tax. On November 13, 2002, Hearing Examiner Howard P. Anderson, Jr., filed his Report in this proceeding. Examiner Anderson recommended that the Commission accept a stipulation, which ALLTEL and the Commission Staff offered in settlement of all issues raised in the application. The examiner further recommended that refunds of special tax totaling \$46,362.40 be made to ALLTEL. Finally, Examiner Anderson recommended that the Commission correct certifications of gross receipts to the Department of Taxation. ALLTEL waived the right to file comments on the Report.

The Commission has considered the record in this proceeding and Examiner Anderson's Report. We will adopt the stipulation and order the refunds and correction of the certifications to the Department of Taxation.

As noted in our Order for Notice and Hearing of August 9, 2002, the joint applicants, whom we have identified collectively as ALLTEL, include successor entities to several telecommunications companies that reported gross receipts for tax year 2001. According to the application, the joint applicants or the predecessor entities erroneously reported revenues billed on behalf of another telecommunications company or person and subsequently paid to that company or person. These revenues are deductible from gross receipts subject to the special regulatory revenue tax levied under § 58.1-2660 of the Code of Virginia ("Code"). These revenues may also be deducted from gross receipts certified to the Department of Taxation under § 58.1-400.1 A of the Code. The Staff agreed with ALLTEL's analysis that gross receipts subject to the special tax and certification to the Department of Taxation were overstated. The Staff and ALLTEL also agreed on the calculation of the correct amount of gross receipts. The Commission finds and adjudicates that the special tax assessments and payments for tax year 2001 were excessive and that appropriate refunds should be made. We further find that corrected certifications to the Department of Taxation should be made.

Accordingly, IT IS ORDERED THAT:

(1) As provided by § 58.1-2030 of the Code, the application for review and correction of the assessment of special regulatory revenue tax for tax year 2001 be granted.

(2) For the following telecommunications companies, gross receipts subject to the special regulatory revenue tax for tax year 2001 be corrected and that refunds be certified to the Comptroller of the Commonwealth as follows:

<u>Company</u>	<u>FEIN</u>	<u>Corrected Gross Receipts</u>	<u>Amount of Refund</u>
Telespectrum of Virginia, Inc.	36-3615089	344,533.52	689.07
Virginia Metronet, Inc.	36-3968109	6,436,209.63	12,872.42
360 Communications Company of Charlottesville	36-3501889	2,603,495.25	5,206.99
360 Communications Company of Lynchburg	36-3506513	1,963,857.44	3,927.71
360 Communications Company of Virginia	47-0649313	3,848,490.84	7,696.98
360 Communications Company of Danville Limited Partnership	54-1398929	438,373.69	876.75
Virginia RSA 1 Limited Partnership	36-4030708	1,328,440.38	2,656.88
Richmond Cellular Telephone Company	58-2117081	5,034,748.70	10,069.50

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

<u>Company</u>	<u>FEIN</u>	<u>Corrected Gross Receipts</u>	<u>Amount of Refund</u>
Petersburg Cellular Partnership	95-4230746	1,047,768.40	2,095.54
Virginia RSA 2 Limited Partnership	36-4030704	135,279.57	270.56

(3) The refunds certified in Ordering Paragraph (2) are without interest.

(4) The Commission's Public Service Taxation Division and Office of Comptroller/Administrative Services shall promptly prepare required documents and provide necessary information to the Comptroller of the Commonwealth for payment of the refunds certified in Ordering Paragraph (2). The refunds totaling \$46,362.40 shall be made to ALLTEL Communications, Inc., FEIN No. 71-078156, and may be mailed to Anthony J. Saggese, Jr., Vice President of Tax, ALLTEL Communications, Inc., One Allied Drive, Little Rock, Arkansas 72202.

(5) As provided by § 58.1-2674.1 of the Code, the application to correct the certification of gross receipts to the Department of Taxation for tax year 2001 be granted.

(6) For the following telecommunications companies, gross receipts certified to the Department of Taxation for tax year 2001 be corrected and be certified to the Department of Taxation as follows:

<u>Company</u>	<u>FEIN</u>	<u>Corrected Amount</u>
Telespectrum of Virginia, Inc.	36-3615089	6,188,342.00
Virginia Metronet, Inc.	36-3968109	93,131,021.00
360 Communications Company of Charlottesville	36-3501889	22,491,205.00
360 Communications Company of Lynchburg	36-3506513	16,273,197.00
360 Communications Company of Virginia	47-0649313	17,393,629.00
360 Communications Company of Danville Limited Partnership	54-1398929	8,375,054.00
Virginia RSA 1 Limited Partnership	36-4030708	3,196,059.00
Richmond Cellular Telephone Company	58-2117081	51,564,579.00
Petersburg Cellular Partnership	95-4230746	9,309,477.00
Virginia RSA 2 Limited Partnership	36-4030704	9,619,370.00

(7) The Public Service Taxation Division shall promptly mail an attested copy of the Final Order to the Tax Commissioner.

(8) This case be dismissed from the Commission's docket and placed in closed status in the records of the Clerk of the Commission.

**DIVISION OF PUBLIC UTILITY ACCOUNTING****CASE NO. PUA-2000-00038  
JUNE 28, 2002**

APPLICATION OF  
VIRGINIA-AMERICAN WATER COMPANY  
and  
AMERICAN WATER CAPITAL CORP.

For authority to enter into a financial services agreement

**ORDER EXTENDING AUTHORITY GRANTED**

On June 23, 2000, the Virginia State Corporation Commission ("Commission") issued an Order Granting Authority that authorized Virginia-American Water Company ("Virginia-American" or "Applicant") and its affiliate, American Water Capital Corp. ("Capital Corp."), to enter into a financial services agreement for a two-year period ended June 30, 2002. By letter dated June 18, 2002 ("Letter"), Virginia-American requested that the time period of the authority in this case be extended for another two-year period to June 30, 2004.

As described in the original application, Virginia-American is a wholly owned subsidiary of American Water Works Company, Inc. ("American"). Capital Corp. is also a wholly owned subsidiary of American. Capital Corp. was established for the purpose of providing financial services to American, its water utility subsidiaries, and possibly entities solely controlled by a utility subsidiary (collectively, "the Participants"). The services provided by Capital Corp. include lending funds on both a short-term and long-term basis and providing cash management through nightly "cash sweeps" and investment of excess cash.

For short-term funds, Capital Corp. arranges for a bank line of credit. The proceeds of those loans are passed through to the Participants, as needed, on the same terms that Capital Corp. is required to meet on its borrowings. For long-term funds, Capital Corp. registers its own debt securities for sale in the public market by filing a shelf registration with the Securities and Exchange Commission. Capital Corp. issues long-term debt in the public market as required and then passes those borrowings through dollar-for-dollar to Virginia-American and/or the other Participants.

Capital Corp. also provides for the short-term cash needs of Virginia-American and the other Participants through its cash management program. Under this program, operating cash surpluses of the Participants are "swept" nightly. If a Participant has excess cash, it "lends" that cash to Capital Corp. and receives interest on the loan at the same rate that Capital Corp. is required to pay for its own short-term borrowings. A Participant that needs short-term funding pays the same rate.

In the Letter, Virginia-American states that the short-term and long-term borrowings and cash management services received by Virginia-American from Capital Corp. over the previous two-year period have been on very favorable terms. Therefore, it submits that it is in the best interest of Virginia-American and its customers to continue the financial services agreement for another two years.

THE COMMISSION, upon consideration of the application and the advice of its Staff, is of the opinion and finds that extending the time period of authority in this case will not be detrimental to the public interest. We will also require Virginia-American to file further reports of action.

Accordingly, IT IS ORDERED THAT:

- 1) The authority granted in this case shall be extended to June 30, 2004.
- 2) Applicant shall continue to file within 60 days of the end of each calendar quarter, a report detailing the transactions that Virginia-American undertakes pursuant to the authority granted herein. Such report shall include the daily cash management activities and other short-term borrowings with applicable interest rates, detailed costs allocated to Virginia American, and the use of any loan proceeds.
- 3) On or before August 31, 2004, Applicant shall file a final report action to include the information required in Ordering Paragraph (3) as well as a cost/benefit analysis of Virginia American's transactions under the Agreement versus interest rates that Virginia-American would have paid for stand-alone financing. Such report shall also include a monthly comparison of Virginia-American's projected maximum needs used to calculate its pro rata share of Capital Corp.'s costs versus its actual maximum borrowings.
- 4) All other provisions of the June 23, 2000, Order shall remain in full force.

**CASE NO. PUA000088  
FEBRUARY 25, 2002**

APPLICATION OF  
WASHINGTON GAS LIGHT COMPANY AND ITS AFFILIATED INTERESTS

For authority to engage in affiliate transactions and for approval of an affiliate agreement

**DISMISSAL ORDER**

By Commission Order dated November 27, 2000, Washington Gas Light Company ("Washington Gas" or "Company") was granted authority to lease office space in its headquarters building to "CreditCo", a soon to-be-formed affiliate that would engage in consumer financing transactions; to lease or transfer office furniture and equipment, telecommunications equipment, computer hardware and software ("Assets") to CreditCo; and for Washington Gas and CreditCo to provide various affiliate services (including loan processing) to one another.

Subsequently, Washington Gas formed Washington Gas Credit Corporation ("WG Credit Corp."), which began conducting business effective April 1, 2001. On April 2, 2001, Washington Gas entered into a written memorandum with WG Credit Corp. that described more precisely the loan processing services provided to each other.

The Company provided Staff with appropriate documentation demonstrating that loan processing services provided by WG Credit Corp. to Washington Gas are at the lower of cost or market and that remittance processing services provided by Washington Gas to WG Credit Corp. are at the higher of cost or market. The Company also provided Staff with appropriate documentation supporting the transfer of Assets to WG Credit Corp. at the higher of cost or market

NOW THE COMMISSION, having considered the matter, is of the opinion and finds that it should be dismissed.

Accordingly, IT IS ORDERED that this matter is hereby dismissed.

**CASE NO. PUA-2001-00041  
SEPTEMBER 6, 2002**

APPLICATION OF  
VIRGINIA GAS COMPANY,  
VIRGINIA GAS DISTRIBUTION COMPANY,  
VIRGINIA GAS PIPELINE COMPANY,  
and  
VIRGINIA GAS STORAGE COMPANY

For approval of comprehensive affiliates application under Chapter 4 of Title 56 of the Code of Virginia

**ORDER GRANTING APPROVAL**

On June 20, 2002, Virginia Gas Company ("VGC"), Virginia Gas Distribution Company ("VGDC"), Virginia Gas Pipeline Company ("VGPC"), and Virginia Gas Storage Company ("VGSC") (collectively, the "Applicants") filed an amended application with the State Corporation Commission ("Commission") under Chapter 4 of Title 56 of the Code of Virginia ("Code") for approval of a comprehensive affiliate application.<sup>1</sup>

VGC is a Delaware corporation organized in 1987. Either directly or indirectly through its subsidiaries and affiliated companies, VGC is primarily engaged in the storage, distribution, and transmission of natural gas.<sup>2</sup> On March 27, 2001, in Case No. PUA-2000-00079 (PUA000079), the Commission issued an Order approving VGC's merger into a subsidiary of NUI Corporation ("NUI"), thereby making VGC a subsidiary of NUI. VGC has three wholly owned Virginia subsidiaries: VGPC, VGSC, and VGDC.<sup>3</sup>

VGSC provides natural gas storage services from its Early Grove storage field in Scott and Washington Counties, Virginia, to customers located predominately in southwestern Virginia and eastern Tennessee. By order dated September 7, 1995, the Commission granted a certificate of public convenience and necessity ("CPCN") to VGSC. VGSC received a CPCN to operate its Early Grove storage field in November 1995.

VGDC is a small natural gas distribution company providing natural gas service to approximately 300 customers in Buchanan and Russell Counties, Virginia. VGDC was incorporated in Virginia in 1992 and in July 1993 received a CPCN to establish a natural gas distribution system in the Town

<sup>1</sup> On December 7, 2001, in this proceeding, the Commission issued its Order granting Applicants interim approval of the comprehensive affiliate application filed on August 9, 2001. In that Order the Commission directed Applicants to file an amended application addressing certain concerns detailed in its Order on or before April 1, 2002. By Order dated March 29, 2002, in the above-captioned proceeding, the Applicants were granted an extension of time, or until June 30, 2002, to make such filing.

<sup>2</sup> VGC sold Virginia Gas Propane Company to Heritage Propane Partners, L.C., on October 11, 2001.

<sup>3</sup> In Case No. PUA-2001-00039 (PUA010039), by Order dated September 24, 2001, VGC was granted approval to purchase the remaining 50% ownership interests in VGSC and VGDC previously owned by a private investor. By letter dated April 26, 2002, counsel for VGC advised that, on March 7, 2002, VGC sold both Virginia Gas Exploration Company and Virginia Gas Marketing Company to an unaffiliated third party. With the completion of these sales, VGC is no longer affiliated with those entities, and such entities are not included in the application.

of Castlewood located in Russell County, Virginia. Subsequently, in Case No. PUE-1994-00028 (PUE940028), the Commission granted VGDC an amended CPCN to expand its distribution territory to include all of Russell and Buchanan Counties, Virginia. Later, in Case No. PUE-1997-00025 (PUE970025), the Commission granted VGDC a CPCN to expand its natural gas distribution territory in Virginia to include the Town of Saltville, all of Dickenson County, and a portion of Tazewell County.

VGPC is a wholly owned subsidiary of VGC that provides intrastate natural gas transmission services in Smyth, Pulaski, and Wythe Counties, Virginia. VGPC is also certificated to construct, own, operate, and maintain an underground storage facility in Smyth and Washington Counties, Virginia. VGDC, VGSC, and VGPC are referred to collectively as "the regulated affiliates."

In its Order granting interim approval dated December 7, 2001, the Commission required Applicants to file an amended comprehensive affiliates application that would include the following: (1) separate agreements filed for each regulated utility; (2) a separate agreement that would include NUI charges passed down to VGC and allocated or charged to VGC's regulated affiliates; and (3) allocated charges for buildings, furniture, and equipment that would include all costs related to those assets. On June 25, 2002, the Commission issued an Order wherein it granted the Applicants leave from filing that portion of the application dealing with the separate agreement for NUI charges to be passed down to VGC and allocated or charged to VGC's regulated affiliates. Applicants represented that such an agreement had not been completed and that no charges were being passed down from NUI to the regulated affiliates. The Applicants filed the required amended application on June 20, 2002, wherein they addressed the above-referenced concerns, with the exception of that portion for which they were granted permission to exclude.

As amended, the Applicants request approval of an Agreement for Distribution of Costs between VGC and VGDC, between VGC and VGSC, and between VGC and VGPC (collectively, the "Agreements"). Three separate agreements were filed outlining identical terms and conditions. The Applicants also request approval of Cost Allocation Policies among VGC and its regulated affiliates, VGDC, VGPC, and VGSC ("Cost Allocation Policies"). The Agreements and Cost Allocation Policies have four distinct components: (1) costs incurred by VGC for the purchase of goods and services that directly benefit a specific regulated affiliate; (2) VGC corporate level overheads allocated to regulated affiliates; (3) the allocation of common facility costs, which include a leased office building and office furniture and equipment; and (4) procedures for charging interest on inter-company payables.

The Agreements will begin on the date approved by the Commission and will continue for a period of three years. Thereafter, the Agreements will automatically renew for successive, additional one-year terms, provided that any party may terminate the Agreements effective as of the end of the initial three-year period or any renewal period upon 90 days' prior written notice to the other party.

As stated in the application, as of June 2002, all employees will be on VGC's payroll. Accordingly, VGDC, VGPC, and VGSC will not have any employees. The Agreements, therefore, cover sharing of services between VGC and VGDC, VGC and VGPC, and VGC and VGSC. This sharing of services referenced in the Agreements as "Shared Services" will consist of employee labor charges for the employees of VGC that are charged to regulated affiliates.

Such Shared Services will be recorded and allocated to the regulated affiliates based on the time spent performing work for each respective regulated affiliate. The payroll costs for each employee, including fringe benefits, will be directly charged to the appropriate regulated affiliate. The payroll cost rates will be adjusted to reflect any changes in the types and costs of benefits provided to employees. Ancillary employee expenses will be charged directly to the regulated affiliate through employee expense reports.

As indicated in the application, historically, VGC has incurred and absorbed multiple corporate level overhead costs and expenses that typically should have been passed down to its subsidiaries. Corporate level overhead costs for purposes of the Agreements are costs and expenses that are invoiced to and paid by VGC, which are necessary to support the businesses of the respective subsidiary. The Applicants propose that such corporate level overhead costs be allocated to the regulated affiliate receiving the benefit of the cost. Corporate level overhead costs are those incurred by VGC, not those incurred by NUI and passed down to VGC.

Corporate level overhead costs will be allocated from VGC to the regulated affiliate on the basis of a specific methodology, which will be adjusted on an annual basis. Under the proposed allocation methodology, allocations will be computed by taking a five-quarter weighted average for each regulated affiliate of gross plant in service, revenues, and operating expenses, excluding purchased gas. The five-quarter average period for each applicable category will be computed as of the five quarters ending at the end of the previous fiscal year to obtain the weighted average percentage for each regulated affiliate. The allocation methodology will be adjusted for the acquisition or disposition of any companies affected by the Agreements.

Historically, common facility costs have not been allocated to VGC's subsidiaries. However, the Applicants propose that VGC allocate such costs to the regulated affiliates on a going forward basis. These common facilities will consist of an 8,000 square foot leased office building located at 1096 Ole Berry Drive in Abingdon, Virginia, which is currently leased by VGC. Also, office furniture and equipment, whether leased or owned by VGC, will also be considered as a component of common facilities. As facilities are acquired or sold, appropriate adjustments will be made consistent with Generally Accepted Accounting Principles. Costs of common facilities will be allocated to the regulated affiliates and will include, but will not be limited to, lease payments and maintenance costs associated with the Berry Drive Building and depreciation expense and lease costs on office furniture and equipment located in the building. The same allocation methodology, as described for corporate level overhead costs, will be used as the basis for allocating common facility costs from VGC to the regulated affiliates.

Interest has not historically been charged to VGC or its subsidiaries on past due inter-company accounts payable. The Applicants propose to charge interest if VGC or any of the regulated affiliates has a past due inter-company payable balance to VGC or any VGC subsidiary that exceeds \$50,000 for any quarter. Such interest charges will be recorded quarterly based on a previous four-month average of NUI's average interest rate for short-term borrowings under NUI's revolving credit line as provided by the appropriate NUI officer. The interest rate will be based on a four-month average of NUI's monthly interest rate for short-term borrowings under the revolving credit line. This rate will be applied to the past due inter-company balance for each month of the current year.

The Cost Allocation Policies sets forth the policy of charging directly any costs and expenses that can be associated with a specific affiliate receiving the benefit of such services. This is accomplished by directly charging invoices to the VGC subsidiary from which purchases of goods and services originate. Labor costs are directly charged through employee timesheet postings. In instances where costs and expenses cannot be directly assigned and, therefore, must be allocated, the Applicants will use the above-referenced allocations.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

THE COMMISSION, upon consideration of the application and representations of the Applicants and having been advised by its Staff, is of the opinion and finds that the "Agreement for Distribution of Costs" between VGC and VGDC, between VGC and VGPC, and between VGC and VGSC and the "Cost Allocation Policies" are in the public interest and should, therefore, be approved.

Accordingly, IT IS ORDERED THAT:

(1) Pursuant to § 56-77 of the Code, Virginia Gas Company, Virginia Gas Distribution Company, Virginia Gas Pipeline Company, and Virginia Gas Storage Company are hereby granted approval for the Agreements and the Cost Allocation Policies as described herein.

(2) Should the terms and conditions of the Agreements or the Cost Allocation Policies change from those described herein, Commission approval shall be required for such changes.

(3) The approval granted herein shall not preclude the Commission from exercising the provisions of §§ 56-78 and 56-80 of the Code hereafter.

(4) The Commission reserves the authority to examine the books and records of any affiliate in connection with the approval granted herein whether or not the Commission otherwise regulates such affiliate.

(5) The Agreements and Cost Allocation Policies approved herein shall have no ratemaking implications.

(6) The Agreements and Cost Allocation Policies approved herein shall be included in the regulated affiliates' Annual Report of Affiliate Transactions submitted to the Commission's Director of Public Utility Accounting.

(7) If Annual Informational and/or General Rate Case Filings are not based on a calendar year, then the regulated affiliates shall include the affiliate information contained in the Annual Report of Affiliate Transactions in such filings.

(8) There being nothing further to be done in this matter, it hereby is dismissed.

**CASE NO. PUA-2001-00043  
APRIL 18, 2002**

JOINT PETITION OF  
TELIGENT OF VIRGINIA, INC.,  
and  
TELIGENT OF VIRGINIA, LLC.,

For grant of the authority necessary to consummate a Chapter 11 "Re-Emergence" Plan

**DISMISSAL ORDER**

On November 19, 2001, Teligent of Virginia, Inc., and Teligent of Virginia, LLC (collectively, "Joint Petitioners"), completed their joint petition filed with the Virginia State Corporation Commission ("Commission") on September 7, 2001. In the joint petition, Joint Petitioners request such authority as may be necessary or required to enable Teligent of Virginia, Inc. ("Teligent of Virginia"), to consummate a transaction arising out of its Chapter 11 status that will enable its current Virginia operations to continue without further interruption through a new "Teligent" corporate entity. This transaction involves the transfer of assets of Teligent of Virginia to Teligent of Virginia, LLC.

On January 17, 2002, the Commission entered an order extending its review of the joint petition through March 19, 2002. Staff received a letter from counsel for the Joint Petitioners dated March 14, 2002, stating that Teligent of Virginia may emerge from Chapter 11 in its current corporate form and that counsel would notify Staff on March 21, 2001, to provide further update. Therefore, on March 18, 2002, the Commission entered a second order extending its review of the joint petition through May 18, 2002.

On March 28, 2002, Teligent of Virginia filed a letter with the Commission requesting leave to withdraw the joint petition. In that letter, the Joint Petitioners state that Chapter 11 "re-emergence" plans have recently changed and that potential changes impact the details set forth in the initial Chapter 11 plan. The letter further states that discussions held at the most recent Bankruptcy Hearing suggest that it is likely that Teligent of Virginia will emerge from Chapter 11 in its current corporate form. Joint Petitioners also state that, if this happens, an asset transfer will not be necessary. Since it may take at least 60 days before the status of such transfer is known with certainty, Teligent of Virginia believes that it is appropriate to withdraw its joint petition at this time. Teligent of Virginia, therefore, requests that the Commission grant it leave to withdraw, without prejudice, the above-referenced joint petition.

THE COMMISSION, upon consideration of Joint Petitioners' request and having been advised by its Staff, is of the opinion that Joint Petitioners' request should be granted and this case should be dismissed.

Accordingly, IT IS ORDERED THAT:

- 1) Joint Petitioners' request for leave to withdraw the above-captioned joint petition without prejudice is hereby granted.
- 2) The above-captioned joint petition is hereby dismissed without prejudice.

**CASE NO. PUA-2001-00046  
MAY 24, 2002**

JOINT PETITION OF  
ONESTAR COMMUNICATIONS, LLC,  
ONESTAR LONG DISTANCE, INC.,  
and  
CRG INTERNATIONAL, INC.,

For approval of transfer of assets and control to OneStar Communications, LLC

**DISMISSAL ORDER**

On January 28, 2002, OneStar Communications, LLC ("OneStar"), OneStar Long Distance, Inc. ("OneStar Long Distance"), and CRG International, Inc. d/b/a Network One ("Network One") (collectively, the "Petitioners"), completed a joint petition initially filed with the State Corporation Commission ("Commission") on September 26, 2001. In their joint petition, the Petitioners request approval, pursuant to § 56-88.1 of the Code of Virginia ("Virginia Code"), for a transfer of assets and control from OneStar Long Distance and Network One to OneStar.

On March 29, 2002, the Commission entered an order extending its review of the joint petition through May 28, 2002.

Staff received a letter from counsel for the Petitioners dated May 22, 2002, stating that OneStar Long Distance and OneStar request that this petition be withdrawn. In the letter, Petitioners state that, on or about April 17, 2002, Network One notified the Commission that its lenders had terminated financing and that it would be discontinuing service to its customers.<sup>1</sup> As a result of the discontinuance, the transfers will not transpire and, therefore, the pending joint petition is no longer necessary. Therefore, the Petitioners' request that the Commission grant them leave to withdraw, without prejudice, their joint petition, for approval of transfer of assets and control to OneStar.

THE COMMISSION, upon consideration of Petitioners' request and having been advised by its Staff, is of the opinion that Petitioners' request should be granted.

Accordingly, IT IS ORDERED THAT:

- 1) Petitioners request for leave to withdraw, without prejudice, their joint petition filed on September 26, 2001, is hereby granted.
- 2) There appearing nothing further to be done in this matter, it hereby is dismissed.

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<sup>1</sup> Certain of Network One's customers are currently receiving telecommunications services from OneStar pursuant to interexchange Certificate No. TT-174A and local exchange Certificate No. T-581 issue on April 25, 2002, in Case No. PUC-2001-00184.

**CASE NO. PUA010047  
APRIL 9, 2002**

APPLICATION OF  
1-800-RECONEX, INC.,  
and  
CHOCTAW COMMUNICATIONS, INC.

For approval of acquisition of Choctaw Communications, Inc., by 1-800-RECONEX, Inc.

**ORDER GRANTING APPROVAL**

On November 15, 2001, 1-800-RECONEX, Inc. ("Reconex"), and Choctaw Communications, Inc. ("Choctaw"), (collectively, "Applicants") completed an application filed on October 4, 2001, with the State Corporation Commission ("Commission") under the Utility Transfers Act requesting approval of the acquisition of all of the issued and outstanding common stock of Choctaw by Reconex. On January 11, 2002, the Commission issued its Order Extending Time for Review in which it extended its review period through April 15, 2002.

As stated in the application, Reconex is an Oregon and a Virginia corporation with its principal office in Hubbard, Oregon. The Virginia entity, 1-800-RECONEX, Inc. ("Reconex VA"), is incorporated in Virginia and operates under the same name as the parent company in Oregon. Reconex VA has a tariff on file with the Commission's Division of Communications ("Communications Division") and holds a certificate of public convenience and necessity, CPCN No. T-439, to provide local exchange telecommunications services in Virginia. Reconex is a prepaid month-by-month local provider and provides local telecommunications services to customers in Virginia.

Choctaw Communications, Inc. ("Choctaw"), is a Texas corporation with its principal office in Houston, Texas. Choctaw Communications of Virginia, Inc., d/b/a Smoke Signal Communications ("Choctaw of Virginia") holds a certificate of public convenience and necessity, CPCN No. T-474, to provide local exchange telecommunications services in Virginia. Choctaw of Virginia has a tariff on file with the Communications Division but currently does not provide services to customers in Virginia.<sup>1</sup> Choctaw of Virginia also is a prepaid month-by-month provider of local telecommunications services.

On August 31, 2001, Reconex and VarTec Holding Company ("VarTec") entered into a Stock Purchase Agreement ("Agreement") whereby Reconex would acquire all of the issued and outstanding common stock of Choctaw from VarTec. VarTec is the current majority shareholder of Choctaw. The Applicants represent that it is Reconex VA's intent that Reconex VA will continue to operate and provide local telecommunications services to Virginia

customers and that Choctaw of Virginia will keep its CPCN but will not provide local services in Virginia at this time. Choctaw and Choctaw of Virginia will both be wholly owned subsidiaries of Reconex. Applicants represent that the transaction will be transparent to customers.

THE COMMISSION, upon consideration of the application and representations of the Applicants and having been advised by its Staff, is of the opinion and finds that the 2 above-described transfer of control will neither impair nor jeopardize the provision of adequate service to the public at just and reasonable rates and should, therefore, be approved.

Accordingly, IT IS ORDERED THAT:

- 1) Pursuant to §§ 56-88.1 and 56-90 of the Code of Virginia, 1-800- RECONEX, Inc., is hereby granted approval to acquire all of the issued and outstanding common stock of Choctaw Communications, Inc., from VarTec Holding Company resulting in the transfer of control of Choctaw Communications of Virginia, Inc., as described herein.
- 2) There appearing nothing further to be done in this matter, it hereby is 2) dismissed.

**CASE NO. PUA010048  
FEBRUARY 7, 2002**

JOINT PETITION OF  
CHINCOTEAGUE BAY TRAILS END ASSOCIATION, INC.  
and  
LOU SAYLAND  
and  
JUDITH E. SAYLAND

For approval of sale of stock

**DISMISSAL ORDER**

On October 5, 2001, Chincoteague Bay Trails End Association ("Association") and Lou Sayland and Judith E. Sayland ("Saylands") (collectively, "Petitioners") filed a joint petition with the State Corporation Commission ("Commission") pursuant to § 56-89 of the Code of Virginia ("Code"). The Petitioners request approval for the Saylands to dispose of and the Association to acquire all of the stock of Trails End Utility Company, Inc. ("Company").<sup>1</sup> The Company provides water service to a development known as Chincoteague Bay Trails End located in Accomack County, Virginia.

NOW THE COMMISSION, having considered the matter is of the opinion that the above-captioned joint petition was improperly filed under § 56-89 of the Code. Section 56-89 states, in pertinent part, that:

it shall be unlawful for any public utility, directly or indirectly, to acquire or dispose of any utility assets situated within the Commonwealth or any utility securities of any other company unless such acquisition or disposition shall have been authorized by the Commission (Emphasis added).

Neither the Saylands nor the Association is a "public utility" as defined in § 56-88 of the Code.<sup>2</sup> It is the Company that "owns or operates facilities" within the Commonwealth for the furnishing of water and is, therefore, a "public utility", and the Company is not disposing or acquiring the utility securities of any other company.

Although we find that the above-captioned petition was improperly filed pursuant to § 56-89, we believe that Commission approval of the above-referenced transaction is required pursuant to § 56-88.1 of the Code.<sup>3</sup> We will, therefore, dismiss this joint petition, without prejudice. Petitioners may refile their joint petition under the appropriate statute.

Accordingly, IT IS ORDERED THAT the above-captioned joint petition is hereby dismissed, without prejudice, to the filing of the petition under § 56-88.1 of the Code.

<sup>1</sup> Staff advises that two cases that are relevant to the proposed sale of stock have been docketed in the Circuit Court of Accomack County, Virginia. These chancery proceedings are as follows: Trails End Utility Company v. Chincoteague Bay Trails End Association, Inc., No. 00CH191 (filed September 19, 2000); Faith J. Lynch v. Chincoteague Bay Trails End Association, Inc., No. 02CH001, filed January 2, 2002.

<sup>2</sup> Section 56-88 of the Code defines a "public utility" as "any company which owns or operates facilities within the Commonwealth . . . for the . . . the furnishing of sewerage facilities or water.

<sup>3</sup> Section 56-88.1 of the Code requires Commission approval for the acquisition or disposition of "control" of a public utility. "Control" is defined in § 56-88.1 as "the acquisition of twenty-five percent or more of the voting stock."



**CASE NO. PUA010055  
FEBRUARY 15, 2002**

JOINT PETITION OF  
VARTEC TELECOM, INC.,  
VARTEC TELECOM HOLDING COMPANY,  
TELEGLOBE HOLDINGS (U.S.) CORPORATION,  
EXCEL TELECOMMUNICATIONS, INC.,  
EXCEL TELECOMMUNICATIONS OF VIRGINIA, INC.,  
EMERITUS COMMUNICATIONS, INC.,  
and  
LONG DISTANCE WHOLESALE CLUB, INC.

For approval of transfer of control

**ORDER GRANTING APPROVAL**

On October 23, 2001, VarTec Telecom, Inc. ("VarTec"), VarTec Telecom Holding Company ("VarTec Holding"), Teleglobe Holdings (U.S.) Corporation ("Teleglobe Holdings"), Excel Telecommunications, Inc. ("Excel"), Excel Telecommunications of Virginia, Inc. ("Excel of Virginia"), eMeritus Communications, Inc. f/k/a Teleglobe Business Solutions, Inc. f/k/a Telco Holdings, Inc. d/b/a Dial & Save Corp. ("eMeritus"), and Long Distance Wholesale Club, Inc. ("LDWC"), (collectively, the "Petitioners") filed a joint petition with the State Corporation Commission ("Commission") pursuant to the Utility Transfers Act, §§ 56-88.1 and 56-90 of the Code of Virginia ("Code"). Petitioners request approval of a transaction pursuant to which VarTec Telecom, through its wholly owned subsidiary, VarTec Holding, will acquire control of affiliated telecommunications companies Excel, Excel of Virginia, eMeritus, and LDWC.

VarTec is a Texas corporation that provides resold intrastate interexchange services in Virginia. VarTec Holding, a Delaware corporation, is a wholly owned subsidiary of VarTec. VarTec Holding does not hold any authorizations to provide service in Virginia.

Teleglobe Holdings, a Delaware corporation, is a wholly owned subsidiary of Teleglobe, Inc. ("Teleglobe"), a Canadian corporation. Teleglobe is a holding company with interests in two principal business segments grouped under the Teleglobe Communications group and Excel Communications group. Teleglobe states that its core target market consists of international carrier customers and that the intrastate operations of the Teleglobe Communications group are not significant.

eMeritus is a Delaware corporation headquartered in Texas. eMeritus provides resold intrastate interexchange services that are primarily targeted towards corporate customers.

Excel of Virginia is a wholly owned subsidiary of Excel. Excel is a Texas corporation, and Excel of Virginia is a Virginia corporation. The headquarters of both companies are located in Dallas, Texas. In Virginia, Excel of Virginia holds a certificate of public convenience and necessity ("CPCN") to provide local exchange telecommunications services. Excel owns and operates a nationwide, facilities-based telecommunications network and provides resold intrastate interexchange services in Virginia.

LDWC is a Delaware corporation headquartered in Dallas, Texas. LDWC provides resold intrastate interexchange services in Virginia and provides dial-around (1010-XXX) interexchange service.

Currently, Teleglobe Holdings owns all of the common stock of Excel Communications, Inc., and , through its ownership of intermediary companies, controls 100% of the equity of Excel, Excel of Virginia, eMeritus, and LDWC. Therefore, Teleglobe Holdings indirectly owns and controls Excel, Excel of Virginia, eMeritus, and LDWC.

The Petitioners request that the Commission approve a transaction that will result in VarTec, through its subsidiary, VarTec Holding, acquiring control of affiliated telecommunications companies Excel of Virginia, Excel, eMeritus, and LDWC. On August 26, 2001, VarTec, VarTec Holding, Teleglobe, Teleglobe Holdings, Excel Communications, Inc., Excel Telecommunications (Canada) Inc., and BCE Inc., executed a Stock Purchase Agreement (the "Agreement"). Pursuant to that Agreement, VarTec Holding agreed to acquire from Teleglobe Holdings all of the authorized capital stock of Excel Communications, Inc. Thus, the transaction will result in an indirect change in control of Excel of Virginia, the only entity for which Commission approval is required pursuant to § 56-88.1 of the Code. VarTec Holding also agreed to acquire from Teleglobe all of the authorized capital stock of Excel Telecommunications (Canada) Inc..

THE COMMISSION, upon consideration of the joint petition and representations of the Petitioners and having been advised by its Staff, is of the opinion and finds that the transaction, as described herein, involving VarTec Holdings' acquisition from Teleglobe Holdings of all the authorized capital stock of Excel Communications, Inc., and the resulting indirect transfer of control of Excel of Virginia will neither impair nor jeopardize the provision of adequate service to the public at just and reasonable rates and should, therefore, be approved.

Accordingly, IT IS ORDERED THAT:

- 1) Pursuant to §§ 56-88.1 and 56-90 of the Code of Virginia, approval is hereby granted for the indirect transfer of control of Excel of Virginia, as described herein.
- 2) There appearing nothing further to be done in this matter, it is hereby dismissed.

**CASE NO. PUA010059**  
**FEBRUARY 7, 2002**

PETITION OF  
DSLNET COMMUNICATIONS VA, INC.

For approval of the indirect transfer of control

**ORDER GRANTING APPROVAL**

On November 19, 2001, DSLnet Communications VA, Inc. ("DSLnet VA" or "Petitioner"), completed a petition filed with the State Corporation Commission ("Commission") requesting approval, pursuant to §§ 56-88.1 and 56-90 of the Code of Virginia, for the indirect transfer of control of DSLnet VA.

DSLnet VA holds certificates of public convenience and necessity to provide competitive local exchange and interexchange telecommunications services in Virginia. At this time, DSLnet VA does not have any intrastate access lines or customers in Virginia. DSLnet VA does plan to provide intrastate telecommunications services to customers in the future. DSLnet VA has its principal offices located in New Haven, Connecticut.

DSLnet VA is a wholly owned subsidiary of DSL.net, Inc. ("DSL.net"). DSL.net is a Delaware corporation engaged in a variety of unregulated businesses. DSL.net does not hold any regulatory licenses.

Vantage Point Venture Partners ("Vantage Point"), a private investment firm, currently has 33.9 percent ownership in DSL.net. Vantage Point is a family of affiliated private investment funds with more than \$2.5 billion under management.

The Petitioner seeks approval of an indirect transfer of control that will occur as the result of a private equity financing transaction of DSL.net. Pursuant to the terms of the transaction, Vantage Point will increase its ownership in DSL.net, and, therefore, increase indirect ownership in DSLnet VA, from 33.9 percent to 71.1 percent.

Pursuant to the Stock Purchase Agreement entered into between Vantage Point and DSL.net, Vantage Point will invest \$15 million in DSL.net convertible preferred stock. The transaction will consist of a total of three installments. As a result of the first installment, once converted to common stock, Vantage Point will increase its ownership in DSL.net from 33.9 percent to 56.3 percent, resulting in an indirect transfer of control of DSLnet VA. Following the second and third installments, Vantage Point's ownership in DSL.net will increase to 64.3 percent and 71.1 percent, respectively.

Due to DSL.net's financial situation, Petitioner also seeks expedited processing to allow DSL.net and Vantage Point to close the proposed transaction as soon as possible. The Petitioner represents that immediate receipt of the proceeds from the transaction is essential to the Petitioner's ongoing operations.

THE COMMISSION, upon consideration of the application and representations of the Petitioner and having been advised by its Staff, is of the opinion and finds that the transaction, as described herein, involving the indirect transfer of control of DSLnet VA, will neither impair nor jeopardize the provision of adequate service to the public at just and reasonable rates and should, therefore, be approved.

Accordingly, IT IS ORDERED THAT:

- 1) Pursuant to §§ 56-88.1 and 56-90 of the Code of Virginia, approval is hereby granted for the indirect transfer of control of DSLnet VA, as described herein.
- 2) There appearing nothing further to be done in this matter, it is hereby dismissed.

**CASE NO. PUA010062**  
**FEBRUARY 7, 2002**

APPLICATION OF  
VIRGINIA GAS PIPELINE COMPANY

For approval of a transaction between affiliated interests

**ORDER GRANTING APPROVAL**

On November 9, 2001, Virginia Gas Pipeline Company ("VGPC" or "Applicant") filed an application under Chapter 4 of Title 56 of the Code of Virginia ("the Code") with the State Corporation Commission ("Commission"). In that application, VGPC requests approval to enter into an Agreement with an affiliate, NUI Energy Brokers, Inc. ("NUIEB" or "Affiliate"). Pursuant to the Agreement, NUIEB would provide certain consulting services to VGPC that will provide VGPC with the opportunity to maximize the value of certain of its assets in a manner that VGPC believes it would be unable to do independently.

VGPC is a Virginia public service corporation that operates an intrastate natural gas pipeline transmission facility and an underground natural gas storage facility in southwestern Virginia under various certificates of public convenience and necessity.

VGPC is a wholly owned subsidiary of Virginia Gas Company ("VGC"). VGC is a wholly owned subsidiary of NUI Corporation ("NUI").<sup>1</sup> NUI is the ultimate parent of NUIEB, and, therefore, NUIEB and VGPC are considered affiliates under the Affiliates Act.

NUIEB is a multi-state energy company engaged in the business of natural gas trading and marketing and the management of natural gas storage, supplies, and transportation assets. NUIEB has been in business since 1996 and, more specifically, has been engaged in the wholesale trading of energy and the optimization and management of third party energy supply assets ("consulting services"). NUIEB developed and instituted an infrastructure to trade natural gas and related services utilizing both physical and financial tools. These tools include transportation trading, seasonal pricing, storage arbitrage, futures, and options. VGPC represents that, by packaging these and various other tools together with the assets of third parties, NUIEB has the ability to optimize the return on third party assets in ways that the third party is unable to do. Such services create benefits for both parties. NUIEB buys and sells gas in more than 15 states and has approximately 150 active trading partners and traded 647 billion cubic feet of gas in the year ended September 30, 2000.

As stated in the application, NUIEB is responsible for the supply acquisition activities of NUI's utility divisions that serve over 370,000 residential, commercial, and industrial customers and manage the assets of NUI's New Jersey utility division, Elizabethtown Gas Company. Other third party asset management services include arrangements with Florida Power and Light Company and Merck & Co., Inc. NUIEB currently has twenty-eight (28) employees operating out of Bedminster, New Jersey, and Houston, Texas.

VGPC requests approval of an Agreement with NUIEB for NUIEB to provide certain consulting services to VGPC. VGPC will be compensated at a rate of 10% of the net monthly profits, and NUIEB will be compensated at a rate of 90% of the net monthly profits.<sup>2</sup> The purpose of the Agreement is to permit NUIEB to employ its expertise in the area of optimizing and managing VGPC's energy supply assets. The Applicant state that the assets that will be subject to the Agreement will be "[all] physical and contractual gas storage capacity and gas transportation capacity rights of VGPC including, but not limited to, VGPC's capacity rights in the P-25 pipeline and Saltville Storage." The Agreement also provides for indemnification for VGPC from NUIEB should NUIEB's optimization services result in a net loss. The term of the Agreement is for 18 months from the date that it is approved by the Commission, and it will automatically renew unless either party gives the other 30 days' written notice of termination.

Under the Agreement, NUIEB will manage VGPC's storage assets through the purchase and sale of natural gas and related activities through the form of short-term optimization transactions. The purpose of these transactions is to optimize short-term excess capacity. VGPC represents that the activities will not jeopardize long-term firm services to new and existing customers. All long-term natural gas storage transactions will continue to be conducted by VGPC.

In order for NUIEB to perform these optimization services, VGPC has filed separately with the Commission revised tariff proposals. These revised tariffs include a new peak and loan tariff as well as a new negotiated tariff. Both of these tariff recommendations are proposed to enhance VGPC's interruptible short-term natural gas storage service. Once accepted by the Commission's Division of Energy Regulation, the new tariff will be made available to all customers who may desire this new underground storage service, including its affiliate, NUIEB. This tariff proposal is currently being reviewed by Staff separately from this proceeding.

VGPC states that it requires the consulting services in order to utilize more fully its underground natural gas storage facility. The short-term optimization services will utilize excess capacity at the storage facility to generate additional revenues for both VGPC and NUIEB. By optimizing this short-term excess capacity through the use of interruptible storage contracts, VGPC can obtain additional revenues that are over and above its revenues derived from firm service contracts.

The Applicant states that, generally, the actual volume of the facility on a given day will not equate to the maximum storage capacity of the facility. This situation is customers are injecting and withdrawing gas at different intervals. This creates a shortfall wherein the actual long-term firm service storage capacity created is less than the storage capacity that has been contracted on a long-term service storage capacity basis. Thus, short-term excess capacity is created that VGPC will have available for further use.

THE COMMISSION, upon consideration of the application and representations of the Applicant and having been advised by its Staff, is of the opinion and finds that the above-described Agreement between Applicant and Affiliate is in the public interest and, therefore, should be approved.

Accordingly, IT IS ORDERED THAT:

- 1) Pursuant to § 56-77 of the Code, Virginia Gas Pipeline Company is hereby granted approval to enter into the Agreement with NUI Energy Brokers, Inc., under the terms and conditions and for the purposes as described herein for the initial eighteen (18)-month period.
- 2) For purposes of the Agreement, net monthly profits shall mean the NUIEB revenues from conducting such consulting services net of tariff rates paid to VGPC. All such costs incurred by NUIEB for performing such services under the Agreement shall be borne by NUIEB, and not by VGPC.
- 3) Within thirty (30) days from the date of this Order, subject to extension by the Commission's Director of Public Utility Accounting, VGPC shall submit to the Director of Public Utility Accounting an addendum to the Agreement that accurately defines net profits to incorporate VGPC's percentage compensation prior to including NUIEB's costs other than tariff costs paid to VGPC.
- 4) Should the terms and conditions of the Agreement change from those contained herein, Commission approval shall be required for such changes.
- 5) The approval granted herein shall not preclude the Commission from exercising the provisions of §§ 56-78 and 56-80 of the Code hereafter.

<sup>1</sup> On March 27, 2001, the Commission issued a Final Order in Case No. PUA000079 wherein it approved the merger of VGC into NUI, thereby making VGC a wholly owned subsidiary of NUI.

<sup>2</sup> Net monthly profits, as used in the Agreement, will be the revenues generated by NUIEB in conducting such consulting services net of tariff charges paid to VGPC.

- 6) The Commission reserves the authority to examine the books and records of any affiliate in connection with the approval granted herein whether or not the Commission otherwise regulates such affiliate.
- 7) VGPC and NUIEB shall review the percentages of net monthly profits for Applicant and Affiliate after the initial eighteen (18)-month term of the Agreement with consideration given to increasing the percentage going to the Applicant.
- 8) The results of such review shall be filed with the Commission within thirty (30) days of completing such review, subject to extension by the Commission's Director of Public Utility Accounting, as support for a new application for approval to continue the Agreement beyond the eighteen (18) month period.
- 9) The Applicant shall also include in any such application information contained in invoices in connection with such consulting services, detailing the revenues generated by NUIEB consulting services along with such costs as overhead and payroll incurred by NUIEB and the portion of such revenues going to VGPC and NUIEB on a monthly basis.
- 10) The Agreement approved herein shall have no ratemaking implications.
- 11) The Agreement approved herein shall be included in the Applicant's Annual Report of Affiliate Transactions submitted to the Commission's Director of Public Utility Accounting.
- 12) If Annual Informational and/or General Rate Case Filings are not based on a calendar year, then VGPC shall include the affiliate information contained in the Annual Report of Affiliate Transactions in such filings.
- 13) There being nothing further to be done in this matter, it hereby is dismissed.

**CASE NO. PUA010063  
FEBRUARY 7, 2002**

APPLICATION OF  
VIRGINIA GAS STORAGE COMPANY

For approval of a transaction between affiliated interests

**ORDER GRANTING APPROVAL**

On November 9, 2001, Virginia Gas Storage Company ("VGSC" or "Applicant") filed an application under Chapter 4 of Title 56 of the Code of Virginia ("the Code") with the State Corporation Commission ("Commission"). In that application, VGSC requests approval to enter into an Agreement with an affiliate, NUI Energy Brokers, Inc. ("NUIEB" or "Affiliate"). Pursuant to the Agreement, NUIEB would provide certain consulting services to VGSC that will provide VGSC with the opportunity to maximize the value of certain of its assets in a manner that VGSC believes it would be unable to do independently.

VGSC is a Virginia public service corporation that provides underground natural gas storage from its Early Grove Storage facility to customers located in southwestern Virginia and eastern Tennessee. By Order dated November 17, 1995, in Case No. PUE970078, the Commission granted VGSC a certificate of public convenience and necessity to construct and operate its Early Grove Storage field.

VGSC is a wholly owned subsidiary of Virginia Gas Company ("VGC"). VGC is a wholly owned subsidiary of NUI Corporation ("NUI").<sup>1</sup> NUI is the ultimate parent of NUIEB, and, therefore, NUIEB and VGSC are considered affiliates under the Affiliates Act.

NUIEB is a multi-state energy company engaged in the business of natural gas trading and marketing and the management of natural gas storage, supplies, and transportation assets. NUIEB has been in business since 1996 and, more specifically, has been engaged in the wholesale trading of energy and the optimization and management of third party energy supply assets ("consulting services"). NUIEB developed and instituted an infrastructure to trade natural gas and related services utilizing both physical and financial tools. These tools include transportation trading, seasonal pricing, storage arbitrage, futures, and options. VGSC represents that, by packaging these and various other tools together with the assets of third parties, NUIEB has the ability to optimize the return on third party assets in ways that the third party is unable to do. Such services create benefits for both parties. NUIEB buys and sells gas in more than 15 states and has approximately 150 active trading partners and traded 647 billion cubic feet of gas in the year ended September 30, 2000.

As stated in the application, NUIEB is responsible for the supply acquisition activities of NUI's utility divisions that serve over 370,000 residential, commercial, and industrial customers and manage the assets of NUI's New Jersey utility division, Elizabethtown Gas Company. Other third party asset management services include arrangements with Florida Power and Light Company and Merck & Co., Inc. NUIEB currently has twenty-eight (28) employees operating out of Bedminster, New Jersey, and Houston, Texas.

VGSC requests approval of an Agreement with NUIEB for NUIEB to provide certain consulting services to VGSC. VGSC will be compensated at a rate of 10% of the net monthly profits, and NUIEB will be compensated at a rate of 90% of the net monthly profits.<sup>2</sup> The purpose of the Agreement is to

<sup>1</sup> On March 27, 2001, the Commission issued a Final Order in Case No. PUA000079 wherein it approved the merger of VGC into NUI thereby, making VGC a wholly owned subsidiary of NUI.

<sup>2</sup> Net monthly profits, as used in the Agreement, will be the revenues generated by NUIEB in conducting such consulting services net of tariff charges paid to VGSC.

permit NUIEB to employ its expertise in the area of optimizing and managing VGSC's energy supply assets to offer VGSC the opportunity to maximize the value of certain of its energy supply assets. The Applicants state that the assets that will be subject to the Agreement will be "[all] physical and contractual gas storage capacity and gas transportation capacity rights of VGSC including, but not limited to, VGSC's capacity rights in Early Grove Storage and Saltville Storage." The Agreement also provides for indemnification for VGSC from NUIEB should NUIEB's optimization services result in a net loss. The term of the Agreement is for 18 months from the date that it is approved by the Commission, and it will automatically renew unless either party gives the other 30 days' written notice of termination.

Under the Agreement, NUIEB will manage VGSC's storage assets through the purchase and sale of natural gas and related activities through the form of short-term optimization transactions. The purpose of these transactions is to optimize short-term excess capacity. VGSC represents that the activities will not jeopardize long-term firm services to new and existing customers. All long-term natural gas storage transactions will continue to be conducted by VGSC.

In order for NUIEB to perform these optimization services, VGSC has filed separately with the Commission revised tariff proposals. These revised tariffs include a new park and loan tariff as well as a new negotiated tariff. Both of these tariff recommendations are proposed to enhance VGSC's interruptible short-term natural gas storage service. Once accepted by the Commission's Division of Energy Regulation, the new tariff will be made available to all customers who may desire this new underground storage service, including its affiliate, NUIEB. This tariff proposal is currently being reviewed by Staff separately from this proceeding.

VGSC states that it requires the consulting services in order to utilize more fully its underground natural gas storage facility. The short-term optimization services will utilize excess capacity at the storage facility to generate additional revenues for both VGSC and NUIEB. By optimizing this short-term excess capacity through the use of interruptible storage contracts, VGSC can obtain additional revenues that are over and above the revenues derived from firm service contracts.

The Applicant states that, generally, the actual volume of the facility on a given day will not equate to the maximum storage capacity of the facility. This situation is because customers are injecting and withdrawing gas at different intervals. This creates a shortfall wherein the actual long-term firm service storage capacity created is less than the storage capacity that has been contracted on a long-term service storage capacity basis. Thus, short-term excess capacity is created that VGSC will have available for further use.

THE COMMISSION, upon consideration of the application and representations of the Applicant and having been advised by its Staff, is of the opinion and finds that the above-described Agreement between Applicant and Affiliate is in the public interest and, therefore, should be approved.

Accordingly, IT IS ORDERED THAT:

- 1) Pursuant to § 56-77 of the Code, Virginia Gas Storage Company is hereby granted approval to enter into the Agreement with NUI Energy Brokers, Inc., under the terms and conditions and for the purposes as described herein for the initial eighteen (18)-month period.
- 2) For purposes of the Agreement, net monthly profits shall mean the NUIEB revenues from conducting such consulting services net of tariff rates paid to VGSC. All such costs incurred by NUIEB for performing such services under the Agreement shall be borne by NUIEB, and not by VGSC.
- 3) Within thirty (30) days from the date of this Order, subject to extension by the Commission's Director of Public Utility Accounting, VGSC shall submit to the Director of Public Utility Accounting an addendum to the Agreement that accurately defines net profits to incorporate VGSC's percentage compensation prior to including NUIEB's costs other than tariff costs paid to VGSC.
- 4) Should the terms and conditions of the Agreement change from those contained herein, Commission approval shall be required for such changes.
- 5) The approval granted herein shall not preclude the Commission from exercising the provisions of §§ 56-78 and 56-80 of the Code hereafter.
- 6) The Commission reserves the authority to examine the books and records of any affiliate in connection with the approval granted herein whether or not the Commission otherwise regulates such affiliate.
- 7) VGSC and NUIEB shall review the percentages of net monthly profits for Applicant and Affiliate after the initial eighteen (18)-month term of the Agreement with consideration given to increasing the percentage going to the Applicant.
- 8) The results of such review shall be filed with the Commission within thirty (30) days of completing such review, subject to extension by the Commission's Director of Public Utility Accounting, as support for a new application for approval to continue the Agreement beyond the eighteen (18) month period.
- 9) The Applicant shall also include in any such application information contained in invoices in connection with such consulting services, detailing the revenues generated by NUIEB consulting services along with such costs as overhead and payroll incurred by NUIEB and the portion of such revenues going to VGSC and NUIEB on a monthly basis.
- 10) The Agreement approved herein shall have no ratemaking implications.
- 11) The Agreement approved herein shall be included in the Applicant's Annual Report of Affiliate Transactions submitted to the Commission's Director of Public Utility Accounting.
- 12) If Annual Informational and/or General Rate Case Filings are not based on a calendar year, then VGSC shall include the affiliate information contained in the Annual Report of Affiliate Transactions in such filings.
- 13) There appearing nothing further to be done in this matter, it hereby is dismissed.

**CASE NO. PUA010064  
FEBRUARY 11, 2002**

APPLICATION OF  
COLUMBIA GAS OF VIRGINIA, INC.  
and  
COLUMBIA ASSURANCE AGENCY

For approval to provide services between affiliates

**ORDER GRANTING APPROVAL**

On November 15, 2001, Columbia Gas of Virginia, Inc. ("CGV"), and Columbia Assurance Agency ("CAA") filed an application with the State Corporation Commission ("Commission") for approval of an arrangement for the provision of certain services by CGV to CAA and for payment for those services by CAA.

CGV is a natural gas distribution company serving approximately 193,000 customers in central Virginia, southside Virginia, Piedmont Virginia, and most of the Shenandoah Valley, as well as portions of Northern and Southwest Virginia. CGV is a wholly owned subsidiary of Columbia Energy Group.

As approved in Case No. PUA970014, by Commission Order dated April 24, 1998, CGV f/k/a Commonwealth Gas Services, Inc., and Columbia Service Partners, Inc. ("Partners"), has approval for an agreement for CGV to provide services to Partners and to receive payment for those services. Essentially, the agreement allows CGV to serve as a conduit for Partner's advertisement of new services to CGV's customers and for billing customers who opt to receive those services. Such services to be provided by Partners include appliance financing, safety inspections, consulting and fuel management services, billing insurance and certain warranty products, and other energy-related services. Pursuant to that Order, Partners is able to provide energy-related products and services to CGV's customers, and CGV has the authority to provide accounting, administrative, billing, and other related services to Partners. Due to insurance regulations in Virginia, Partners is not able to provide billing insurance<sup>1</sup> and warranty products and services. Partners now seeks to offer such services through its subsidiary, CAA, a licensed insurance agency in Virginia.

CGV now requests approval to enter into an Agreement with CAA similar to CGV's agreement with Partners. Pursuant to that Agreement, CGV will serve as a conduit for CAA's advertisement of products to CGV's customers by use of bill inserts and/or messages and as a conduit for billing CAA's charges for the provision of such products and such services. CGV states that it will provide accounting, administrative, billing, and other related services to CAA and that the prices for its services, for regulatory purposes, will be at the higher of fully distributed cost, to include a return component, or at market price. CGV states that it will offer the same products and services to non-affiliate providers of similar energy related products and services at the same quantity and prices under the same terms and conditions.

THE COMMISSION, upon consideration of the application and representations of CGV and CAA and having been advised by its Staff, is of the opinion and finds that the above-described Agreement between CGV and CAA is in the public interest and, therefore, should be approved.

Accordingly, IT IS ORDERED THAT:

- 1) Pursuant to § 56-77 of the Code of Virginia, Columbia Gas of Virginia, Inc., is hereby granted approval of the Agreement with Columbia Assurance Agency under the terms and conditions and for the purposes as described herein.
- 2) Such terms and conditions shall include pricing of services to CAA at the higher of fully distributed cost, to include a return component, or at market price.
- 3) Should any of the terms and conditions of the Agreement change from those contained herein, Commission approval shall be required for such changes.
- 4) The approval granted herein shall not preclude the Commission from exercising the provisions of §§ 56-78 and 56-80 of the Code of Virginia hereafter.
- 5) The Commission reserves the authority to examine the books and records of any affiliate in connection with the approval granted herein whether or not the Commission otherwise regulates such affiliate.
- 6) The Agreement approved herein shall have no ratemaking implications.
- 7) If Annual Informational and/or General Rate Case Filings are not based on a calendar year, then CGV shall include the affiliate information contained in its Annual Report of Affiliate Transactions.
- 8) The Agreement approved herein shall be included in CGV's Annual Report of Affiliate Transactions submitted to the Commission's Director of Public Utility Accounting.
- 9) There appearing nothing further to be done in this matter, it hereby is dismissed.

<sup>1</sup> Billing insurance service is a bill payment insurance for up to \$400 a month for six months if a customer becomes unemployed, disabled, or dies.

**CASE NO. PUA010065  
FEBRUARY 5, 2002**

APPLICATION OF  
BROOKFIELD WATER COMPANY, INC.  
and  
BILDEL CORPORATION

For authority to purchase and sell utility assets

**ORDER GRANTING APPROVAL**

On November 5, 2001, Brookfield Water Company, Inc. ("Brookfield Water"), and Bildel Corporation ("Bildel") (collectively, the "Applicants") filed an application with the State Corporation Commission ("Commission") requesting authority for Brookfield Water to purchase and Bildel to sell the water utility assets providing water utility service to the Brookfield subdivision in Botetourt County, Virginia.

Bidel created Brookfield Water for the purpose of filing an application for a certificate of public convenience and necessity.<sup>1</sup> By creating a separate company, the records of the water company and the records of the developer will be separate.

All assets used to provide water service to the Brookfield subdivision would be transferred. Based on information obtained through an audit performed by Staff in Case No. PUE000409, \$279,534.33 was the original cost of those assets. The gross plant net of depreciation, amortization, and contributions in aid of construction as of February 2, 2000, was \$209,972.00.

On February 2, 2000, Bildel sold the water utility assets serving the Brookfield subdivision to Brookfield Water for \$168,787.00. Brookfield Water borrowed \$175,000.00 to finance the purchase.

THE COMMISSION, upon consideration of the application and representations of the Applicants and having been advised by its Staff, is of the opinion and finds that the above-described transfer of utility assets will neither impair nor jeopardize the provision of adequate service to the public at just and reasonable rates and should, therefore, be approved.

Accordingly, IT IS ORDERED THAT:

- 1) Pursuant to §§ 56-89 and 56-90 of the Code of Virginia, approval is hereby granted for Brookfield Water to acquire from Bildel Corporation the utility assets providing water service to the Brookfield Subdivision. That acquisition shall be at a price of \$168,787.00 and as described herein.
- 2) The approval granted herein shall have no ratemaking implications.
- 3) There appearing nothing further to be done in this matter, it hereby is dismissed.

<sup>1</sup> Pursuant to an order entered on March 2, 2001, in Case No. PUE000409, the Commission granted Brookfield Water a certificate of public convenience and necessity to provide water service to the Brookfield Subdivision.

**CASE NO. PUA010066  
FEBRUARY 25, 2002**

APPLICATION OF  
COLUMBIA GAS OF VIRGINIA, INC.

For approval of Purchase and Sale Agreement

**ORDER GRANTING APPROVAL**

On November 30, 2001, Columbia Gas of Virginia, Inc. ("CGV"), completed an application filed with the State Corporation Commission ("Commission") pursuant to Chapters 4 and 5 of Title 56 of the Code of Virginia. On January 28, 2002, the Commission issued its Order Extending Time for Review in which it extended the period for review of issues in this application through February 28, 2002. In the application, CGV requests approval of a Purchase and Sale Agreement (the "Agreement") providing for the transfer of certain pipelines and related assets to CGV from Columbia Gas Transmission Corporation.

CGV is a natural gas distribution company serving approximately 193,000 customers in central Virginia, southside Virginia, Piedmont Virginia, and most of the Shenandoah Valley, as well as portions of Northern and Southwest Virginia. CGV is a wholly owned subsidiary of Columbia Energy Group. Columbia Gas Transmission Corporation ("TCO") is an interstate natural gas transportation company whose pipeline network in Virginia consists of approximately 1,117 miles of pipeline serving five natural gas local distribution companies in Virginia.

As stated in the application, pursuant to the Agreement, TCO will sell, and CGV will purchase, four natural gas Points of Delivery ("PODs") and related facilities, such as appurtenant equipment, rights-of-way, and land. The four PODs are located in Fredericksburg (Culpeper County), Virginia, Chase City (Mecklenburg County), Virginia, South Hill (Mecklenburg County), Virginia, and Lawrenceville (Brunswick County), Virginia. The proposed sales price for all PODs and related facilities is \$64,407.76, the net book value of the assets as of August 31, 2001. Pursuant to the Agreement, ownership, operation, and risk of loss will pass from TCO to CGV on the effective date of the transfer, subject to TCO's retention of certain rights for the continued

operation, maintenance, or removal of its facilities. The Agreement itself and the transactions specified in the Agreement may be terminated by mutual consent of CGV and TCO, or by either of them if the conditions precedent for which each is responsible have not been satisfied, or in the event TCO declines to correct a due diligence defect that purports to impact adversely the value of the transaction greater than 10% of the purchase price and that due diligence is not waived.

CGV represents that the Agreement will not impair or jeopardize the provision of adequate service to the public at just and reasonable rates. Instead, the Agreement will reduce CGV's costs and may improve availability of service for those customers in outlying areas. As stated in the application, under current arrangements, CGV occasionally requests a tap off of a TCO pipeline to serve just one customer because it is more economic to serve the customer in that manner than to build out the CGV distribution system to meet the customer's needs. CGV's ownership of the four PODs and related facilities is conducive to such arrangements. Additionally, CGV, by owning the PODs and related facilities, will be ready to carry out any necessary operation and maintenance due to CGV's presence in the areas where the facilities are located. After the sale takes place, CGV will avoid approximately \$1 million annually in transportation fees to TCO. A total of approximately 23,000 customers will be served from the PODs.

In terms of other regulatory approvals required, CGV states that TCO will abandon by sale the PODs pursuant to its Federal Energy Regulatory Commission Blanket Construction/Abandonment certificate. CGV represents that no other regulatory approvals are required for the purchase.

THE COMMISSION, upon consideration of the application and representations of CGV and TCO and having been advised by its Staff, is of the opinion and finds that the above-described sale of PODs from TCO to CGV will neither impair nor jeopardize the provision of adequate service to the public at just and reasonable rates, is in the public interest, and should, therefore, be approved.

Accordingly, IT IS ORDERED THAT:

- 1) Pursuant to §§ 56-77, 56-89, and 56-90 of the Code of Virginia, Columbia Gas of Virginia is hereby granted approval of a Purchase and Sale Agreement with Columbia Gas Transmission under the terms and conditions and for the purposes described herein.
- 2) Should any of the terms and conditions of the Agreement change from those contained herein, Commission approval shall be required for such changes.
- 3) The approval granted herein shall not preclude the Commission from exercising the provisions of §§ 56-78 and 56-80 of the Code of Virginia hereafter.
- 4) The Commission reserves the authority to examine the books and records of any affiliate in connection with the approval granted herein whether or not the Commission otherwise regulates such affiliate.
- 5) The Agreement approved herein shall have no ratemaking implications.
- 6) If Annual Informational and/or General Rate Case Filings are not based on a calendar year, then CGV shall include the affiliate information contained in the Annual Report of Affiliate Transactions in such filings.
- 7) The Agreement approved herein shall be included in CGV's Annual Report of Affiliate Transactions submitted to the Commission's Director of Public Utility Accounting.
- 8) CGV shall submit to the Commission's Director of Public Utility Accounting a report of the action taken pursuant to the approval granted herein within 30 days of the sale taking place, subject to extension by the Director of Public Utility Accounting. The report shall include the date the sale took place, the price paid for the facilities, and the actual accounting entries on CGV's books reflecting the transfer.
- 9) There appearing nothing further to be done in this matter, it hereby is dismissed.

**CASE NO. PUA010067  
FEBRUARY 14, 2002**

JOINT APPLICATION OF  
PRINCE GEORGE ELECTRIC COOPERATIVE  
and  
PGEC ENTERPRISES, LLC

For approval of certain affiliate transactions under Chapter 4, Title 56 of the Code of Virginia

**ORDER GRANTING AUTHORITY**

On November 20, 2001, Prince George Electric Cooperative ("PGEC" or "Cooperative") and PGEC Enterprises, LLC ("Enterprises" or "Affiliate"), (collectively, "Joint Applicants") filed a joint application with the State Corporation Commission ("Commission") under Chapter 4 of Title 56 of the Code of Virginia ("Code"). Joint Applicants request that the Commission:

- 1) approve their Management Services Agreement ("MSA");
- 2) approve their Outdoor Bulletin Display Agreement ("OBDA" or "Advertising Agreement"); and
- 3) approve the Cooperative's proposed equity funding to Enterprises, in a cumulative aggregate amount not to exceed \$2,000,000, including the transfer of assets valued in an amount not to exceed \$1,400,000, and of cash amount not to exceed \$600,000.



On September 24, 2001, the Cooperative's Board of Directors authorized the establishment of Enterprises and the proposed equity investment. On October 5, 2001, Enterprises was organized as a limited liability company that is wholly owned by PGEC. Joint Applicants represent that the purpose of Enterprises is to engage in any for-profit business not prohibited by law.

Pursuant to the MSA, the Cooperative would provide, without limitation, management, accounting, administrative, legal, financial, marketing, sales, production, reception, operating, maintenance and repair services to Enterprises.

The MSA contains a breakdown of all the direct and indirect costs incurred by PGEC in providing service to the Affiliate. To ensure the recovery of all of those costs, the MSA, includes an exhibit, with a breakdown of the actual cost elements of labor, equipment and vehicles, and material and supplies, and identifies all component costs and overhead factors applied to PGEC's charges<sup>1</sup>. Overhead cost factors include a factor for a reasonable return on any assets used by the Cooperative in providing services to Enterprises.

Pursuant to the Advertising Agreement, the Affiliate would provide outdoor advertising services to the Cooperative. Charges for such services would be at the lower of market or cost. Enterprises would also provide billboard-advertising services to non-affiliated third parties at market pricing.

The proposed equity investment involves real property valued at \$1,400,000. The Cooperative would provide up to \$1,400,000 in cash to Enterprises that would then be used by the Affiliate to purchase real property from the Cooperative.<sup>2</sup> The non-utility real property proposed for transfer consists of approximately 95 acres of land that was originally acquired for office and operations facilities, including a substation. This property was never developed or used for utility purposes and includes an outdoor billboard sign/structure affixed to the property. The proposed equity funding also includes cash of up to \$600,000.

THE COMMISSION, upon consideration of the application, representations of the Cooperative, and having been advised by its Staff, is of the opinion and finds the above described MSA, is in the public interest and should be approved subject to the following pricing conditions. The Cooperative shall charge Enterprises the higher of its cost, including a reasonable return on assets utilized, or the cost of obtaining the services from an outside party.

We believe that an executed MSA, as approved herein, should be filed with the Commission within 60 days from the date of this Order and should be made effective ten days after the date of such filing.

We believe that the proposed Advertising Agreement, by effectively utilizing outdoor billboard advertising, can be of benefit to the Cooperative and its customers. We, therefore, find that such agreement is in the public interest and that it should be approved.

We recognize the need for Enterprises to incur initial costs associated with establishing and maintaining Enterprises as a viable business enterprise. Thus, it is appropriate for the Cooperative to provide cash equity funding to Enterprises. An amount not to exceed \$600,000 does not appear unreasonable. Such equity funding is in the public interest and should be approved.

The proposed transfer of real property should allow the Cooperative, through Enterprises, to develop the currently unrealized value of its non-utility property for the benefit of its customers and, therefore, is in the public interest.

We believe that the management of PGEC is responsible for effective supervision of the activities of Enterprises and for ensuring that the Affiliate complies with this Order and all Code provisions referenced herein.

Further, we expect PGEC's Board of Directors to monitor the activities of Enterprises to ensure that the capital and resources of the Cooperative placed in Enterprises are not placed in jeopardy.

We also believe that both management and the Board of Directors are responsible to ensure compliance with the codes of conduct enumerated in 20 VAC 5-203-40 and the prohibitions set forth in 20 VAC 5-202-30. Further, we expect that the Cooperative will give first priority to its retail customers' and members' requirements and that the service obligations to its affiliate should be secondary to its other service obligations.

Accordingly, IT IS ORDERED THAT:

- 1) Pursuant to § 56-77 of the Code, the Cooperative and Enterprises are hereby granted approval to enter into the MSA, as described herein, subject to the following pricing restrictions. The Cooperative shall charge Enterprises the higher of its cost or the cost of obtaining the services from an outside party.
- 2) The approval granted herein shall be limited to those services specifically referenced in the Agreement. Any additional services proposed shall require further Commission approval.
- 3) The costs of the Cooperative in providing services to Enterprises and the resulting charges to Enterprises shall include all direct and indirect costs, including a reasonable return on any assets used by the Cooperative to provide such services.
- 4) In future rate case proceedings, the Cooperative shall bear the burden of proving that it received the higher of cost or market for any services it provided to Enterprises for which a market exists.
- 5) Pursuant to § 56-77 of the Code, the Cooperative and Enterprises are hereby granted approval to enter into the OBDA, as referenced herein, subject to the following pricing restrictions. Enterprises shall charge the Cooperative the lower of costs or market for advertising services rendered to the Cooperative.

<sup>1</sup> Detailed cost information contained in exhibits was submitted with the joint application on a confidential basis.

<sup>2</sup> Rural Utility Service, the Cooperative's lender, requires that all equity funding be made in the form of cash.

- 6) Commission approval shall be required for any changes in the terms and conditions of the MSA or the OBDA.
- 7) PGEC is authorized to provide equity contributions to Enterprises in an accumulative aggregate amount not to exceed \$2,000,000, of which up to \$1,400,000 may be provided in order for Enterprises to acquire real property from PGEC, and of which up to \$600,000 may be provided in order to fund the initial operations of Enterprises.
- 8) PGEC is authorized to transfer up to \$1,400,000 in real property to Enterprises.
- 9) Within ten days of the Cooperative providing equity funding to Enterprises, the Cooperative shall submit a Report of Action to the Commission's Division of Public Utility Accounting to include the amount and form of such equity contributions, along with detailed descriptions of any real property exchanged as part of the equity investments.
- 10) An executed MSA, as described herein, shall be filed by the Cooperative with the Commission within sixty (60) days of the entry of this Order, subject to extension by the Director of Public Utility Accounting, and shall become effective ten (10) calendar days following such filing.
- 11) The approvals granted herein shall have no ratemaking implications.
- 12) The approvals granted herein shall not preclude the Commission from exercising the provisions of §§ 56-78 and 56-80 of the Code.
- 13) The Commission reserves the right and authority to examine the books and records of any affiliate in connection with the approval granted herein whether or not the Commission regulates such affiliate.
- 14) The Cooperative shall submit an Annual Report of Affiliate Transactions with the Commission's Director of Public Utility Accounting by no later than May 1 of each year, beginning May 1, 2003, subject to extension by the Director of Public Utility Accounting. Such Report shall provide and shall include the following: affiliate's name, description of each affiliate agreement, date(s) covered by affiliate agreement, and total annual dollar cost under each affiliate agreement, broken down by the cost of each service provided. The report shall include all agreements with affiliates regardless of the amount involved and shall supersede all other affiliate-reporting requirements previously ordered. The Cooperative shall maintain documentation of its research to obtain market price data for services provided to Enterprises. Also, Enterprises shall maintain documentation of its market research undertaken to obtain market price data for its billboard advertising services.
- 15) If General Rate Case Filings are not based on a calendar year, the Cooperative shall include the affiliate information contained in the Annual Report of Affiliate Transactions.
- 16) There appearing nothing further to be done in this matter, it is hereby dismissed.

**CASE NO. PUA010068  
FEBRUARY 19, 2002**

APPLICATION OF  
COLUMBIA GAS OF VIRGINIA, INC.

For approval of gas supply and other related supply agreements

**ORDER GRANTING APPROVAL**

On November 20, 2001, Columbia Gas of Virginia, Inc., ("CGV"), filed an application with the State Corporation Commission ("Commission"), under Chapter 4, Title 56 of the Code of Virginia ("Affiliates Act"), requesting approval of certain gas supply and other related supply agreements with Bay State Gas Company ("Bay State"), Columbia Gas of Kentucky, Inc. ("CKY"), Columbia Gas of Maryland, Inc. ("CMD"), Columbia Gas of Ohio, Inc. ("COH"), Columbia Gas of Pennsylvania, Inc. ("CPA"), Columbia Gas Transmission Corporation ("Columbia Transmission"), Energy USA-TPC Corp. ("TPC"), Kokomo Gas and Fuel Company ("Kokomo"), Northern Indiana Fuel and Light Co., Inc. ("NIFL"), Northern Indiana Public Service Company ("NIPSCO"), and Northern Utilities ("Northern"), and a Gas Supply Policy governing transactions with affiliates. By Commission Order dated January 17, 2002, the Commission extended the period for review of the application through February 19, 2002.

CGV is a natural gas distribution company serving approximately 193,000 customers in central Virginia, southside Virginia, Piedmont Virginia, and most of the Shenandoah Valley as well as portions of Northern and Southwest Virginia. CGV is a wholly owned subsidiary of Columbia Energy Group.

Columbia Energy Group has five natural gas distribution subsidiaries: CGV, CKY, a Kentucky corporation, CMD, a Delaware corporation, COH, an Ohio corporation, and CPA, a Pennsylvania corporation, collectively referred to as the "Columbia Distribution Companies." Columbia Energy Group is a wholly owned subsidiary of NiSource, Inc. ("NiSource"). Columbia Energy Group is a registered holding company under the federal Public Utility Holding Company Act of 1935 ("PUHCA"). NiSource is also a registered holding company under PUHCA.

In addition to the Columbia Distribution Companies, NiSource has five direct subsidiaries engaged in the distribution of natural gas to retail customers in Indiana and New England. Those five are Bay State, a Massachusetts corporation, Kokomo, an Indiana corporation, NIPSCO, an Indiana corporation, NIFL, an Indiana corporation, and Northern, a New Hampshire corporation, collectively referred to as the "Other NiSource Distribution Companies."

Columbia Transmission is also a wholly owned subsidiary of Columbia Energy Group. Columbia Transmission is a "natural gas company" under the Natural Gas Act and is engaged in the transmission and storage of natural gas in interstate commerce. These activities are subject to the regulatory jurisdiction of the Federal Energy Regulatory Commission ("FERC").

TPC is a wholly owned subsidiary of Energy USA, Inc., which is also a wholly owned subsidiary of NiSource, Inc. TPC is an energy marketing company that, among other things, is engaged in selling, purchasing, and exchanging natural gas commodity and other related services.

CGV requests approval of certain gas supply and other related supply agreements with Bay State, CKY, CMD, COH, CPA, Columbia Transmission, TPC, Kokomo, NIFL, NIPSCO, and Northern, and a Gas Supply Policy governing transactions with affiliates. Specifically, CGV requests approval of Gas Supply Contracts and Arrangements including a formal Gas Supply Policy, Base Contract with TPC, Base Contracts with Columbia Distribution Companies and the Other NiSource Distribution Companies, and an LNG Agreement with Columbia Transmission.

#### Gas Supply Contracts and Arrangements

CGV states that in the gas industry it has become customary for sellers and buyers to negotiate a standardized base contract ("Base Contract") for the purchase, sale, and other gas supply transactions such as the exchange of natural gas. The Base Contract creates a contractual framework within which the parties can enter into one or more individual gas supply transactions by means of a Transaction Confirmation. The Transaction Confirmation incorporates the standardized terms and conditions of the Base Contract. Under the Base Contract, the role of each party may differ from buyer to seller depending on the circumstances. A Transaction Confirmation specifies the details of a particular transaction with respect to such key terms as quantity, price, term, delivery and receipt points, and any other special provisions of the transaction. This procedure of employing a Base Contract with Transaction Confirmations allows the parties to quickly execute market orders and avoid unnecessary delays that may result from contract negotiations for specific sales and purchases.

As described below, CGV requests approval to enter into Base Contracts with TPC, the Columbia Distribution Companies, and the Other NiSource Distribution Companies. CGV requests approval to execute the Transaction Confirmations under the Base Contracts without further Commission approval. CGV also requests approval of a formal Gas Supply Policy. The Gas Supply Policy governs how CGV will manage gas supply transactions with its affiliates.

CGV states that, to fulfill its obligation as a supplier of economic-reliable gas supplies to its customers, CGV monitors and participates in the gas marketplace to obtain and, at times, reduce, its available gas supplies. This process includes obtaining market information from a pool of suppliers, which includes affiliates of CGV, that may be interested in entering into a gas supply transaction with CGV. CGV will use the market information to identify the market price and the availability of supply from various buyers and sellers of natural gas, including affiliates.

Under the Gas Supply Policy, when CGV is the buyer, it will use market information to obtain the lowest price for gas transactions that meets its reliability requirements. In non-emergency situations, CGV will only be the purchaser in a gas transaction with an affiliate if the price is at or below current market prices at the time of entry into the transaction. When CGV is the seller, it will use market information to obtain the highest price for gas transactions. The Gas Supply Policy states that, in non-emergency situations, CGV will only be the seller to an affiliate if the price is at or above current market prices at the time the transaction takes place. During an emergency or critical situations, CGV represents that its relationship with several gas utilities under the same corporate umbrella can be beneficial to CGV as a result of having access to a larger market than it would as a stand alone distribution company. Under such situations, gas supply transactions will be at the market price.

#### Base Contract with TPC

CGV requests approval of a Base Contract entered into with TPC on June 1, 2000, establishing the terms governing purchases, sales, and/or exchanges of gas between the parties. Pursuant to the Base Contract, CGV and TPC entered into a Transaction Confirmation in September 2000 (prior to affiliation) for gas that began flowing in November of 2000 (after affiliation). In addition, CGV entered into one additional Transaction Confirmation in October of 2001 for gas to begin flowing in November of 2001. The quantity of gas would be mutually agreed upon and would be priced at market. The contract became effective prior to the merger with NiSource and, therefore, prior to affiliation with TPC.

CGV realizes that it should have requested Commission approval contemporaneously with the merger. CGV asserts that its failure to obtain Commission approval was inadvertent and has not caused any harm to its customers. CGV only has been a purchaser with TPC up to this point.

#### Base Contracts with Columbia Distribution Companies and the Other NiSource Distribution Companies

Pursuant to unexecuted Base Contracts with the Columbia Distribution Companies, CGV entered into occasional supply transactions with the Columbia Distribution Companies. Such arrangements were made pursuant to Transaction Confirmations and under terms and conditions similar to those in the TPC Base Contract. CGV states that, in general, gas supply transactions with a Columbia Distribution Company occurs in emergency situations or when one company has a supply need that the other can fill. CGV states that such arrangements take advantage of the synergies inherent with having several utilities under the same corporate umbrella. Pricing for such transactions is the market price.

CGV requests approval of the Base Contracts with each of the Columbia Distribution Companies and the Gas Supply Policy that governs the pricing. CGV does not currently have Base Contracts with each of the Other NiSource Distribution Companies. CGV, however, proposes to enter into such Base Contracts with the Other NiSource Distribution Companies and execute Transaction Confirmations similar to those executed with the Columbia Distribution Companies. Pricing would be in accordance with the above-described Gas Supply Policy.

CGV also did not request prior approval from the Commission for the gas supply arrangements such as the Base Contracts with the Columbia Distribution Companies. Again, CGV asserts that its failure to seek approval has not harmed the public. The arrangements with the Columbia Distribution Companies involved supply-related transactions with utilities regulated by other state commissions, and the gas supply arrangements with TPC and the Columbia Distribution Companies were each based on market pricing at the time each deal was structured. CGV also states that the terms and conditions of the gas supply arrangements are substantially identical to the terms and conditions under which CGV contracts or arranges for natural gas sales, purchases, and exchanges with non-affiliated energy suppliers. CGV represents that any benefits resulting from such arrangements accruing to CGV have been (or will be) flowed through to CGV's customers as part of its gas cost recovery mechanism.

LNG Agreement with Columbia Transmission

CGV also requests approval of an agreement with Columbia Transmission and certain non-affiliates for the supply of liquefied natural gas ("LNG Agreement"). The LNG Agreement, dated November 1, 1999, and essentially deriving from agreements previously approved by the Commission in Case Nos. PUA900063 and PUA950025, is between the City of Richmond, Virginia, CGV, Virginia Natural Gas, Inc., and Columbia Transmission. The LNG Agreement reflects the resolution of disputes that arose under the LNG supply agreements previously approved by the Commission in Case No. PUA950025.

The LNG Agreement was dated November 12, 1999. Because the LNG Agreement did not affect customers and because the Commission had previously approved it, CGV did not seek approval for the LNG Agreement. This LNG Agreement is the same as the one approved previously with the exception of an added provision for dispute resolution.

THE COMMISSION, upon consideration of the application and representations of CGV and having been advised by its Staff, notes that CGV has violated the prior approval requirements under the Affiliates Act. CGV should take the steps as described to Staff during its review of the application and any other steps necessary to ensure that CGV files for and obtains approval from the Commission before entering into any future affiliate transactions.

Although CGV has requested approval of certain affiliate arrangements on their effective dates or as specified in the agreements, we believe that any approvals granted herein should be effective as of the date of this Order.

The Commission assumes there is price transparency in the natural gas market and believes that market pricing is appropriate as long as the market price used for such transactions is the lowest available delivered market price from all sources when CGV is the purchaser. When CGV is the seller, the market price should be the highest available price. We believe pricing in this manner is in the public interest and such agreements or arrangements for gas supply as described herein should be approved, for a period of 18 months. This limited approval period will allow Staff to re-evaluate such transactions to ensure that the gas supply agreements and arrangements continue to be in the public interest.

Accordingly, IT IS ORDERED THAT:

- 1) Pursuant to § 56-77 of the Code of Virginia, CGV is hereby granted approval of the Base Contract between CGV and TPC, including the authority to execute individual Transaction Confirmations under the Base Contract without further Commission approval, for a period of 18 months from the date of this Order, at the prevailing market price as long as such price is the delivered market price, as previously described.
- 2) Pursuant to § 56-77 of the Code of Virginia, CGV is hereby granted approval to enter into the Base Contracts with the Columbia Distribution Companies and the Other NiSource Distribution Companies, including the authority to execute individual Transaction Confirmations under the Base Contracts without further Commission approval, from the date of this Order, at the prevailing market price as long as such price is the delivered market price, as previously described.
- 3) Approval of the Base Contracts as described herein shall be effective with the date of this Order.
- 4) CGV shall file a new application to extend the approval granted herein for the Base Contracts and Gas Supply Policy beyond 18 months from the date of this Order.
- 5) CGV shall maintain the necessary records to show that gas supply purchases from affiliates were at the lowest possible cost to meet its needs at a particular time and that sales to affiliates were at the highest possible price.
- 6) CGV shall provide to Staff any information deemed necessary to enable Staff to monitor effectively such transactions.
- 7) While we are allowing CGV to enter into the proposed Base Contracts and utilize the proposed Gas Supply Policy, we direct Staff to monitor the actual transactions to ensure that CGV and its affiliates act prudently and do not engage in anti-competitive activities. In order to facilitate this monitoring effort, we direct CGV to maintain a log of all transactions authorized pursuant to the Base Contracts and Gas Supply Policy approved herein and to file quarterly reports regarding such transactions with the Division of Energy Regulation. The log shall, at a minimum, note the dates of individual transactions; provide a description of each transaction including the reasons underlying the transaction; explain the basis for the market price ascribed to each transaction; and, in instances where the CGV is selling gas to an affiliate, note CGV's actual cost of gas resold. CGV shall consult with Staff in developing the log and the quarterly reports within 45 days from the date of this Order.
- 8) CGV shall take the steps necessary to ensure that applications for approval of affiliate transactions are filed with the Commission in a timely manner and to make certain that future violations of the Affiliates Act do not occur. Such steps shall include, at a minimum, those detailed in CGV's letter to Staff of February 4, 2002.
- 9) Pursuant to § 56-77 of the Code of Virginia, CGV is hereby granted approval to enter into Base Contracts with future regulated affiliate distribution companies without further Commission approval to the extent that such Base Contracts are under the same terms and conditions and follow the pricing policy as approved herein. CGV shall promptly notify the Commission of any Base Contracts entered into with any future regulated affiliate distribution companies.
- 10) Pursuant to § 56-77 of the Code of Virginia, CGV is hereby granted approval to enter into the LNG Agreement, as described herein.
- 11) Pursuant to § 56-77 of the Code of Virginia, the Gas Supply Policy as submitted with the application is hereby approved.
- 12) CGV shall bear the burden of proof, during any rate proceeding or AIF, that gas supply purchases from affiliates were made at the lowest possible cost and that sales to affiliates were made at the highest possible price.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

- 13) Should any terms and conditions of the agreements and arrangements change from those approved herein, Commission approval shall be required for such changes.
- 14) The approvals granted herein shall have no ratemaking implications.
- 15) The approvals granted herein shall not preclude the Commission from exercising the provisions of §§ 56-78 and 56-80 of the Code of Virginia hereafter.
- 16) The Commission reserves the authority to examine the books and records of any affiliate in connection with the approval granted herein whether or not the Commission regulates such affiliate.
- 17) If Annual Informational and/or General Rate Case Filings are not based on a calendar year, then CGV shall include the affiliate information contained in the Annual Report of Affiliate Transactions in such filings.
- 18) The Agreement approved herein shall be included in CGV's Annual Report of Affiliate Transactions submitted to the Commission's Director of Public Utility Accounting.
- 19) There appearing nothing further to be done in this matter, it hereby is dismissed.

**CASE NO. PUA010070  
MARCH 27, 2002**

APPLICATION OF  
CONCERT COMMUNICATIONS SALES OF VIRGINIA L.L.C.,  
BRITISH TELECOMMUNICATIONS PLC  
and  
BT GROUP PLC

For approval of transfer of control

**ORDER GRANTING APPROVAL**

On December 19, 2001, Concert Communications Sales of Virginia L.L.C. ("Concert"), British Telecommunications plc ("BT"), and BT Group plc ("BT Group") completed an application filed with the State Corporation Commission ("Commission") on November 26, 2001, requesting approval, pursuant to § 56-88.1 of the Code of Virginia, for the transfer of control of Concert.

Concert was formed in 1999 to provide global telecommunications services to large multinational enterprises and was formed as a part of a joint venture of AT&T Corp. ("AT&T") and BT. Concert is indirectly 50 percent owned by AT&T and indirectly 50 percent owned by BT. Concert is the holder of certificates of public convenience and necessity to provide local exchange and interexchange services in the Commonwealth of Virginia. All of Concert's customer arrangements are individually negotiated with large businesses. Concert does not serve any residential or small business customers.

BT is one of the world's leading providers of telecommunications services. BT's principal activities include the provision of local, long distance, and international telecommunications services, mobile communications, Internet services, and information technology solutions in the United Kingdom and many countries throughout the world. BT North America Inc. ("BTNA") is an indirect, wholly owned subsidiary of BT. BT Group is an entity formed as part of BT's internal reorganization. BT, BT Group, and Concert are referenced herein as the "Applicants."

The Applicants seek approval of a transfer of control of Concert. On October 15, 2001, AT&T, AT&T Communications of Jamaica L.L.C., BT, BT (Netherlands) Holdings B.V., and Concert B.V. signed a Termination Agreement. Pursuant to this agreement, the global AT&T/BT joint venture will be dissolved. BT will continue to hold ownership of Concert but will increase its ownership to 100 percent. At the closing of the Termination Agreement, Concert will become a direct, wholly owned subsidiary of BTNA, an indirect, wholly owned subsidiary of BT, which is ultimately owned by BT Group. Following the dissolution of the joint venture, AT&T will no longer have an interest in Concert.

Applicants state that, at this time, Concert is not providing any telecommunications services in Virginia. Therefore, the proposed transaction should not have any adverse impact on rates and services in Virginia.

THE COMMISSION, upon consideration of the application and representations of the Applicants and having been advised by its Staff, is of the opinion and finds that the transaction, as described herein, involving the transfer of control of Concert to BT will neither impair nor jeopardize the provision of adequate service to the public at just and reasonable rates and should, therefore, be approved.

Accordingly, IT IS ORDERED THAT:

- 1) Pursuant to §§ 56-88.1 and 56-90 of the Code of Virginia, approval is hereby granted for the transfer of control of Concert, as described herein.
- 2) There appearing nothing further to be done in this matter, it is hereby dismissed.

**CASE NO. PUA-2001-00073  
APRIL 16, 2002**

APPLICATION OF  
VIRGINIA ELECTRIC AND POWER COMPANY

For authority to sell public service corporation property

**ORDER GRANTING AUTHORITY**

On December 4, 2001, Virginia Electric and Power Company ("Dominion Virginia Power," "Company") filed an application with the State Corporation Commission ("Commission") under the Utility Transfers Act requesting authority to sell to The Metropolitan Washington Airports Authority ("MWAA") certain utility assets.

Dominion Virginia Power is a public service corporation with its principal office in Richmond, Virginia, and is engaged in the business of providing electric utility service in Virginia and northeastern North Carolina.

MWAA is a public body created with the consent of the United States Congress whose principal place of business is located at Ronald Reagan Washington National Airport. MWAA was specifically created to plan, provide, and manage Ronald Reagan Washington National Airport and Washington Dulles International Airport.

In its application, Dominion Virginia Power proposes to sell to the MWAA certain utility assets. By letter dated April 19, 2001, the MWAA contacted Dominion Virginia Power concerning its interest in purchasing from the Company certain in-place electric distribution facilities located near the Aircraft Rescue and Fire Fighting ("ARFF") Facility and the south maintenance facilities at Dulles International Airport South. Pursuant to a letter of authorization between Dominion Virginia Power and the MWAA dated October 12, 2001, the Company and the MWAA mutually agreed that Dominion Virginia Power will sell and the MWAA will purchase and acquire the facilities, subject to Commission approval. The Company and the MWAA agreed to an overall purchase price of \$28,696.00 for the facilities, which represents the reproduction cost new depreciated value of the facilities, as estimated by Dominion Virginia Power, of \$23,696.00 plus legal and administrative fees of \$5,000.00.

As stated in the application, the assets to be transferred were being used by Dominion Virginia Power to serve several, relatively small, individual electric accounts used by the MWAA for maintenance buildings, shops, and storage buildings. The MWAA will use the assets for the same purpose. The application states that combining these accounts into one Dominion Virginia Power service will reduce the number of times that Dominion Virginia Power personnel will need to enter the secured property.

The application provides the original cost of the facilities at \$16,817.00, which was determined by using cumulative average cost of facilities, and a net book value of \$13,995.00. Dominion Virginia Power states that the sales price was established pursuant to arms' length bargaining.

THE COMMISSION, upon consideration of the application and representations of the Company and having been advised by its Staff, is of the opinion and finds that the above-described transfer of utility assets will neither impair nor jeopardize the provision of adequate service to the public at just and reasonable rates and should, therefore, be approved.

Accordingly, IT IS ORDERED THAT:

- 1) Pursuant to § 56-89 and 56-90 of the Code of Virginia, Dominion Virginia Power is hereby granted authority to sell the in-place electric distribution facilities to The Metropolitan Washington Airports Authority for a total sales price of \$28,696.00 as described herein.
- 2) The authority granted herein shall have no ratemaking implications.
- 3) The Company shall submit a report of the action taken pursuant to the authority granted herein within thirty (30) days of the transaction taking place, subject to extension by the Commission's Director of Public Utility Accounting. Such report shall include the date the sale took place, the actual sales price, and the actual accounting entries reflecting the transaction.
- 4) There appearing nothing further to be done in this matter, it hereby is dismissed.

**CASE NO. PUA010076  
MARCH 12, 2002**

APPLICATION OF  
VIRGINIA GAS PIPELINE COMPANY  
and  
SALTVILLE GAS STORAGE COMPANY, L.L.C.

For approval of a transaction between affiliates

**ORDER GRANTING APPROVAL**

On December 12, 2001, Virginia Gas Pipeline Company ("VGPC" or the "Company") and Saltville Gas Storage Company, L.L.C. (the "LLC"), filed an application with the State Corporation Commission ("Commission") for approval of a transaction between affiliated interests in which VGPC will serve as the operating manager of the LLC's proposed natural gas storage facility at Saltville, Virginia. The Company and the LLC are collectively referenced hereafter as the "Applicants."

VGPC is a Virginia public service corporation that operates an intrastate natural gas pipeline transmission facility and an underground natural gas storage facility in southwestern Virginia under various certificates of public convenience and necessity. VGPC is a wholly owned subsidiary of Virginia Gas Company ("VGC"). VGC is a wholly owned subsidiary of NUI Corporation ("NUI").

The LLC is a Virginia limited liability corporation whose principal office is in Abingdon, Virginia. The two current members of the LLC are NUI Saltville Storage, Inc., a Delaware corporation, and Duke Energy Saltville Gas Storage, L.L.C., a Delaware limited liability company. NUI is the sole shareholder of NUI Saltville Storage, Inc. In an application filed with the Commission on October 26, 2001, the LLC applied for a certificate of public convenience and necessity (the "CPCN") requesting permission to construct, develop, own, operate, and maintain an underground natural gas storage facility and attendant pipeline facility and provide specified storage services in Saltville, Virginia.<sup>1</sup> On January 29, 2002, the LLC filed amended and restated Articles of Organization, which state that "Saltville Gas Storage Company, LLC shall engage in the business of a public service company."

VGPC and the LLC request approval of a transaction between the Company and the LLC wherein VGPC will serve as the operating manager of the LLC's proposed natural gas storage facility at Saltville, Virginia. More specifically, on August 15, 2001, VGPC and the LLC entered into an agreement, the "Operating Agreement between Saltville Gas Storage Company L.L.C. and Virginia Gas Pipeline Company" ("the Operating Agreement"). Pursuant to the Operating Agreement, VGPC will serve as the Operating Manager for the LLC's proposed underground natural gas storage facilities in or near Saltville, Virginia.

As stated in the application, the Operating Agreement provides that VGPC and the LLC desire to enter into an arrangement whereby VGPC will serve as the Operating Manager for the LLC's proposed natural gas storage facility. Subject to oversight by the LLC's management committee, VGPC will perform specified operational and administrative functions for the LLC, including but not limited to, the management and administration of the day-to-day business and operating affairs of the LLC. As stated in the application, examples of the management responsibilities are the investigation of the caverns, construction of the storage facility, desalinization, installation of the necessary equipment, and other operational functions. Examples of the administrative responsibilities include preparing regulatory filings and interfacing with independent contractors for regulatory accounting, insurance, legal, audit, and financial compliance.

Compensation to VGPC for such services will be as follows:

- 1) Operation and Maintenance (O&M) Costs: The LLC will pay VGPC for its proportionate share of reasonably incurred O&M Costs of the natural gas storage facilities defined as that percentage determined by the volume of available working gas capacity owned by or allocated to the LLC and its customers as a percentage of the total available working gas capacity at the natural gas storage facilities. O&M Costs means direct costs including employee benefits, compressor fuel and power, engineering, supervision, operations and maintenance labor, communications expenses, station equipment maintenance and improvements, meter maintenance and improvements, pipeline maintenance and improvements, buffer zone leased acreage, tools and equipment, vehicle costs, and other related costs.
- 2) Administrative and General (A&G) Costs: The LLC will pay VGPC for all reasonably incurred A&G Costs. Direct A&G Costs include salaries and expenses of the Operating Manager's employees involved in a managerial capacity over the project and the Operating Manager's support staff, including legal, rate, regulatory, human resources, permitting, accounting, administrative, materials management, budget, treasury, internal audit, tax information systems, policy and employee communications, planning, public relations and contract administration personnel, other related costs and facility office equipment. Indirect A&G Costs include general office operating costs.
- 3) Evaporation Costs: The LLC will pay VGPC for all reasonably incurred Brine Evaporation Costs and will receive all revenues generated from the sale of salt produced from the cavern(s) owned by the LLC, beginning on the date that brine is initially removed from the cavern(s) owned by the LLC. The LLC will bear no cost for, and will receive no revenues from, handling, storage, or evaporation of brine associated with cavern(s) the LLC does not own. Brine Evaporation Costs include evaporator fuel and power, engineering, supervision, operation and maintenance labor, communications expenses, equipment maintenance and improvements, pond maintenance and improvements, waste disposal costs, tools and equipment, vehicle costs, laboratory fees, personnel training, required safety equipment, and other related costs. In the event the brine evaporation is spun off as a separate salt company, the LLC will pay or charge the new entity a negotiated rate per barrel of brine disposal to be determined by the parties prior to any separation.
- 4) Capital Costs: VGPC will be reimbursed for its Capital Costs to the extent such costs are authorized in a budget approved by the management committee. The term Capital Costs refers to the share of reasonable salaries (based on the portion of time devoted to the project determined by time sheets maintained by individual employees) and the reasonable reimbursable expenses of employees of a member or affiliate of a member that are directly involved in the design, construction, and development of the project; the share of the reasonable costs of material, supplies, and equipment used at the site of the project; and reasonable normal expenses incurred in the development of the project.

VGPC and the LLC represent that the proposed Operating Agreement is in the public interest because VGPC representatives are already knowledgeable about storage issues based on their previous experience with the construction and operation of CH-16 and CH-20<sup>2</sup> and can more efficiently manage issues related to pipeline and storage facility safety and related environmental concerns. Also, VGPC should be able to use its utility assets and personnel more efficiently, the work will complement VGPC's current utility business by providing additional flexibility and reliability to its storage facility, and sharing resources should lower VGPC's overall costs of operation. VGPC and the LLC represent that the LLC will benefit from the Operating Agreement because it will have availability of experienced and knowledgeable personnel constructing and operating the storage facility that is in close proximity to VGPC's own facility. Also, the LLC and VGPC can more efficiently use personnel and assets while still being able to capture appropriate costs and allocating them to the appropriate storage facility.

<sup>1</sup> The certificate application, Case No. PUE010585, is currently pending before the Commission.

<sup>2</sup> CH-16 and CH-20 are injection wells in VGPC's current certificated area.

Under the Operating Agreement, VGPC will essentially be performing the day-to-day operations of the LLC's underground storage facility. VGPC proposes to provide the service because of its experience in operating the existing Saltville underground natural gas storage facility. VGPC will be reimbursed for its actual costs incurred in performing the services for the LLC. VGPC states that, initially, it does not anticipate needing to hire additional employees to perform these services. VGPC will utilize its existing staff. All costs related to labor will be accumulated on time sheets and directly allocated to a separate cost center for the LLC. These costs will be loaded for health insurance, dental insurance, life insurance, and other benefits. All other expenses and costs incurred will be directly charged to a separate cost center for the LLC and will be billed by VGPC to the LLC.

THE COMMISSION, upon consideration of the application and representations of the Applicants and having been advised by its Staff, is of the opinion and finds that the above-described Operating Agreement is in the public interest and should, therefore, be approved.

Accordingly, IT IS ORDERED THAT:

- 1) Pursuant to § 56-77 of the Code of Virginia, Virginia Gas Pipeline Company and Saltville Gas Storage Company, L.L.C., are hereby granted approval to enter into the Operating Agreement under the terms and conditions and for the purposes described herein, subject to the LLC obtaining its CPCN in Case No. PUE010585.
- 2) VGPC shall only serve as the Operating Manager and that the LLC shall be the certificate holder for the facilities.
- 3) VGPC shall be reimbursed for all costs in providing services to the LLC. Such costs shall include labor, overhead, and facilities costs. All references to salaries in the Operating Agreement shall include benefits such as health insurance, dental insurance, life insurance, and other benefits.
- 4) The approval granted herein shall not preclude VGPC from obtaining a CPCN to provide service outside its certificated area if it is determined to be a public utility under the Utility Facilities Act in connection with the proposed storage facility.
- 5) Should the terms and conditions of the Operating Agreement change from those contained herein, Commission approval shall be required for such changes.
- 6) The approval granted herein shall not preclude the Commission from exercising the provisions of §§ 56-78 and 56-80 of the Code of Virginia hereafter.
- 7) The Commission reserves the authority to examine the books and records of any affiliate in connection with the approval granted herein whether or not the Commission otherwise regulates such affiliate.
- 8) The Agreement approved herein shall have no ratemaking implications.
- 9) If Annual Informational and/or General Rate Case Filings are not based on a calendar year, then VGPC shall include the affiliate information contained in the Annual Report of Affiliate Transactions in such filings.
- 10) The Agreement approved herein shall be included in the Company's Annual Report of Affiliate Transactions submitted to the Commission's Director of Public Utility Accounting.
- 11) This matter shall be continued for 30 days beyond the date of the Commission's Final Order in Case No. PUE010585.

**CASE NO. PUA010077  
FEBRUARY 7, 2002**

APPLICATION OF  
CASTLE CRAIG WATER COMPANY, INC.  
and  
CASTLE CRAIG WATER WORKS, INC.

For approval of utility transaction

**ORDER GRANTING APPROVAL**

On December 12, 2001, Castle Craig Water Company, Inc. ("Castle Craig Water Company"), and Castle Craig Water Works, Inc. ("Castle Craig Water Works"), (collectively, the "Applicants") filed an application with the State Corporation Commission ("Commission") under the Utility Transfers Act requesting approval for Castle Craig Water Company to acquire the Castle Craig water system from Castle Craig Water Works.

Castle Craig Water Works currently serves thirty-six connections in the Castle Craig subdivision, located in Campbell County, Virginia. Castle Craig Water Works has been in operation since the 1950s and was incorporated on November 15, 1992.

Castle Craig Water Company is newly formed and operated by Petrus Environmental Services, Inc. ("Petrus Environmental"), headquartered in Roanoke, Virginia. Petrus Environmental provides professional management, administration, operation, and maintenance services to the water and wastewater utility industry.

The Applicants request approval for Castle Craig Water Company to acquire the Castle Craig water system from Castle Craig Water Works. Under this transaction, all real property and personal property comprising the water system will be transferred, including two wells, treatment building, pipes, tanks, distribution mains, meters, easements, operational equipment, and dedicated lot.



The original cost of the Castle Craig water system assets is valued at \$50,000.00. The Applicants state that this transaction is the result of Castle Craig Water Works' desire to rid itself of the obligation and responsibility of owning and operating the water treatment system. Due to the age of the system, the limited number of connections, and the level of annual revenues and expenses, the assets were transferred at no cost.

After the transfer, Castle Craig Water Company will continue to operate the water system and will serve Castle Craig Water Works' connected customers. Petrus Environmental is the operator of Castle Craig Water Company and will provide the newly acquired water system with contract operation, maintenance, and administrative services.

THE COMMISSION, upon consideration of the application and representations of the Applicants and having been advised by its Staff, is of the opinion and finds that the above-described acquisition of utility assets will neither impair nor jeopardize the provision of adequate service to the public at just and reasonable rates and should, therefore, be approved.

Accordingly, IT IS ORDERED THAT:

- 1) Pursuant to §§ 56-89 and 56-90 of the Code of Virginia, Castle Craig Water Company is hereby granted authority to acquire the Castle Craig water system utility assets from Castle Craig Water Works as described herein.
- 2) Applicants shall submit to the Commission's Director of Public Utility Accounting a report of the action taken pursuant to the approval granted herein within thirty days of the transaction taking place, subject to extension by the Director of Public Utility Accounting. Such report shall include the date the acquisition took place, the actual sales price, and the actual accounting entries reflecting the transaction.
- 3) The approval granted herein shall have no ratemaking implications.
- 4) There appearing nothing further to be done in this matter, it hereby is dismissed.

**CASE NO. PUA010078  
FEBRUARY 7, 2002**

APPLICATION OF  
WOODROAM WATER COMPANY, INC.  
and  
WOODROAM WATER WORKS, INC.

For approval of utility transaction

**ORDER GRANTING APPROVAL**

On December 12, 2001, Woodroam Water Company, Inc. ("Woodroam Water Company"), and Woodroam Water Works, Inc. ("Woodroam Water Works"), (collectively, the "Applicants") filed an application with the State Corporation Commission ("Commission") under the Utility Transfers Act requesting approval for Woodroam Water Company to acquire the Woodroam water system from Woodroam Water Works.

Woodroam Water Works currently serves twenty-nine connections in the Woodroam subdivision located in Pittsylvania County, Virginia. Woodroam Water Works has been operated as a community water works since the 1970s and was incorporated on November 15, 1992.

Woodroam Water Company is a newly formed company operated by Petrus Environmental Services, Inc. ("Petrus Environmental"). Petrus Environmental, headquartered in Roanoke, Virginia, provides professional management, administration, operation, and maintenance services to the water and wastewater utility industry.

The Applicants request authority for Woodroam Water Company to acquire the Woodroam water system from Woodroam Water Works. As a result of this transaction, all certain real property and personal property comprising the water system will be transferred to Woodroam Water Company. The assets to be transferred include two wells, treatment buildings, pipes, tanks, distribution mains, meters, easements, operational equipment, and dedicated lots.

The original cost of the Woodroam water system assets is \$70,000.00. The Applicants state that this transaction is the result of Woodroam Water Works' desire to rid itself of the obligation and responsibility of owning and operating the water treatment system. Due to the age of the system, the limited number of connections and the level of annual revenues and expenses, the assets were transferred at no cost.

Woodroam Water Company will continue to operate the water system after the transfer and will serve Woodroam Water Works' connected customers. Petrus Environmental is currently the operator of Woodroam Water Company and will provide the water system with contract operation, maintenance, and administrative services after the acquisition.

THE COMMISSION, upon consideration of the application and representations of the Applicants and having been advised by its Staff, is of the opinion and finds that the above-described acquisition of utility assets will neither impair nor jeopardize the provision of adequate service to the public at just and reasonable rates and should, therefore, be approved.

Accordingly, IT IS ORDERED THAT:

- 1) Pursuant to §§ 56-89 and 56-90 of the Code of Virginia, Woodroam Water Company is hereby granted authority to acquire the Woodroam water system utility assets from Woodroam Water Works as described herein.

- 2) Applicants shall submit to the Commission's Director of Public Utility Accounting a report of the action taken pursuant to the approval granted herein within thirty days of the transaction taking place, subject to extension by the Director of Public Utility Accounting. Such report shall include the date the acquisition took place, the actual sales price, and the actual accounting entries reflecting the transaction.
- 3) The approval granted herein shall have no ratemaking implications.
- 4) There appearing nothing further to be done in this matter, it hereby is dismissed.

**CASE NO. PUA-2001-00079  
JUNE 27, 2002**

PETITION OF  
ADELPHIA BUSINESS SOLUTIONS OF VIRGINIA, LLC

For approval of an indirect pro forma transfer of control

**ORDER GRANTING APPROVAL**

On January 8, 2002, Adelphia Business Solutions of Virginia, LLC ("Adelphia Virginia" or "Petitioner"),<sup>1</sup> completed a petition filed with the State Corporation Commission ("Commission") requesting approval, under the Utility Transfers Act, of an indirect transfer of control of Adelphia Virginia resulting from a corporate restructuring of its parent corporation, Adelphia Business Solutions, Inc. ("ABSI").<sup>2</sup> By orders dated March 5, 2002, and May 7, 2002, the Commission extended the time for review of issues in this case through July 7, 2002.

Adelphia Virginia is a Virginia limited liability company. Adelphia Virginia holds certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services in Virginia. Adelphia Virginia is a wholly owned subsidiary of ABSI.

ABSI is a publicly traded Delaware corporation headquartered in Pennsylvania. ABSI is a holding company only and provides telecommunications services through operating company affiliates. ABSI and its affiliates are currently in the process of building high speed, high capacity, fiber optic networks to provide a package of services including local and long distance telephone and data services to customers in Virginia and throughout the United States. Adelphia Communications Corporation ("Adelphia")<sup>3</sup> holds the majority of the shares in ABSI.

Adelphia, through its subsidiaries, offers cable television and local telecommunications services. Adelphia's operations consist of providing telecommunications services primarily over broadband networks. As of December 31, 2000, Adelphia served over 5,000,000 subscribers.

The Petitioner seeks approval of a transaction involving an indirect transfer of control resulting from a corporate restructuring of ABSI. Under the proposed transaction, Adelphia will distribute its entire 79% ownership interest in ABSI to its current shareholders in the form of a stock dividend. Adelphia shareholders, through their ownership of Adelphia stock, currently have a 79% indirect ownership of ABSI. As a result of this transaction, Adelphia shareholders will have a 79% direct ownership of ABSI, and, therefore, indirect ownership interests in Adelphia Virginia. Also, ABSI will become the direct and ultimate parent of Adelphia Virginia instead of Adelphia. Therefore, ultimate control of Adelphia Virginia is being transferred from Adelphia to ABSI. Direct control of Adelphia Virginia will continue to be held by ABSI.

THE COMMISSION, upon consideration of the petition and representations of the Petitioner and having been advised by its Staff, is of the opinion and finds that the transaction, as described herein, involving the indirect transfer of control will neither impair nor jeopardize the provision of adequate service to the public at just and reasonable rates and should, therefore, be approved.

Accordingly, IT IS ORDERED THAT:

- 1) Pursuant to §§ 56-88.1 and 56-90 of the Code of Virginia, approval is hereby granted for the indirect transfer of control of Adelphia Virginia, as described herein.
- 2) There appearing nothing further to be done in this matter, it is hereby dismissed.

<sup>1</sup> By letter dated June 20, 2002, the Petitioner notified Staff that on June 18, 2002, Adelphia Virginia filed a voluntary petition for reorganization in the Southern District of New York under Chapter 11 of the United States Bankruptcy Code. Staff has contacted counsel for Adelphia Virginia regarding the need to provide the Commission with notice of the Bankruptcy filing, pursuant to 20 VAC 5-423-70.

<sup>2</sup> On March 27, 2002, ABSI filed for and received Chapter 11 protection under federal bankruptcy laws in the U S . Bankruptcy Court for the Southern District of New York.

<sup>3</sup> On June 25, 2002, Adelphia filed voluntary bankruptcy petitions under Chapter 11 of the U.S. Bankruptcy Code with the US. Bankruptcy Court for the Southern District of New York.

**CASE NO. PUA010082  
APRIL 4, 2002**

JOINT PETITION OF  
AMERICAN WATER WORKS COMPANY, INC.,  
and  
THAMES WATER AQUA HOLDINGS GmbH

For approval under the Utility Transfers Act

**ORDER GRANTING APPROVAL**

On December 19, 2001, American Water Works Company, Inc. ("American"); and Thames Water Aqua Holdings GmbH ("Thames Holdings") (collectively, "Petitioners") filed a joint petition with the State Corporation Commission ("Commission") requesting approval, pursuant to § 56-88.1 of the Code of Virginia ("Code"), for Thames Holdings to acquire control of Virginia-American Water Company, United Water Virginia, Inc., and Bluefield Valley Water Works Company (collectively, the "American Companies").

Subject to obtaining the necessary regulatory approvals, American, Thames Holdings., RWE Aktiengesellschaft ("RWE"), the parent holding company of Thames Holdings, and Apollo Acquisition Company ("Acquisition Corp."), a subsidiary of Thames Holdings, have entered into an Agreement and Plan of Merger dated September 16, 2001 ("Agreement"). The Agreement provides that Acquisition Corp. will be merged with and into American, the corporate parent or grandparent of each of the American companies, with American as the surviving entity. American will then become a wholly owned subsidiary of Thames Holdings. Alternatively, American may become a wholly owned subsidiary of a new company created by Thames Holdings for the purpose of holding the American stock that will be acquired pursuant to the Agreement. The proposed transaction, including the alternate proposal, will result in an indirect change of control of the American Companies and requires approval under Chapter 5 of the Code. The Petitioners represent that the transaction will not jeopardize or impair the provision of adequate service to the public at just and reasonable rates.

**The American Companies and Parties to the Agreement**

Virginia-American Water Company ("Virginia-American") is a Virginia public service company and a wholly owned subsidiary of American. Its principal office is located in Alexandria, Virginia. Virginia-American provides water service in the City of Alexandria, the community of Dale City, the City of Hopewell, Fort Lee, and a portion of Prince George County, Virginia.

United Water Virginia, Inc. ("United Water Virginia"), is a Virginia public service company with principal offices in Alexandria, Virginia, and is a wholly owned subsidiary of Virginia-American, which is wholly owned by American. United Water Virginia provides water service in parts of the counties of Westmoreland, Northumberland, Lancaster, Essex, and King William, Virginia.

Bluefield Valley Water Works Company ("Bluefield Valley Water") is a Virginia public service company that provides water service in Bluefield, Virginia. Its office is located in Charleston, West Virginia, and it is a wholly owned subsidiary of West Virginia-American Water Company, which, in turn, is wholly owned by American.

American is a Delaware corporation located in Voorhees, New Jersey. As stated in the joint petition, American and its subsidiaries have approximately 6,300 employees and provide water, wastewater, and other water resources management services to a population of approximately twelve million in 28 states and Canada.

Thames Holdings, with its local offices in Voorhees, New Jersey, is a company organized under the laws of the Federal Republic of Germany and is a wholly owned subsidiary of RWE.

As stated in the joint petition, RWE is Germany's fifth largest industrial group and a leading international multi-utility provider with core businesses in electricity, water, gas, waste management, and utility-related services.

Acquisition Corp. is a Delaware corporation and a wholly owned subsidiary of Thames Holdings created for the purpose of implementing the Agreement.

Thames Water plc ("Thames"), though not a party to the Agreement, is a wholly owned subsidiary of Thames Holdings and is a public limited corporation organized under the laws of England and Wales with its principal office located in London, United Kingdom. As stated in the joint petition, Thames operates all of the water businesses of Thames Holdings and brings to Thames Holdings its extensive experience and expertise as the largest water and wastewater company in the United Kingdom and one of the largest water and wastewater companies in the world, providing water-related services to over 43 million people worldwide.

The Commission issued its Order for Notice and Comment on January 14, 2002. Counsel for Petitioners filed Proof of Notice on February 5, 2002.

On February 4, 2002, Loren D. Mellendorf ("Mr. Mellendorf") filed comments wherein he expressed concern over yet another natural resource being controlled by a foreign entity. On February 5, 2002, the Hopewell Committee for Fair Water Rates ("the Committee"), through counsel, filed Comments, Request for Hearing, and Notice of Participation. In its comments, the Committee expressed concern that the change in management and control might impact service quality and rate issues for customers of Virginia-American. The Committee also requested a hearing.

On February 11, 2002, The Town of Bluefield ("Bluefield"), through counsel, filed comments and requested a hearing (if necessary). Bluefield also filed a notice of participation. Bluefield's comments relate to its need to resolve an existing matter concerning designation of service areas for Bluefield and Bluefield Water and the need for a franchise agreement between Bluefield and Bluefield Water for the operation of the Bluefield water utility in the Town of Bluefield.

### The Transaction

Under the terms of the Agreement, American will become a wholly owned subsidiary of Thames Holdings, which, in turn, is a wholly owned subsidiary of RWE. Each issued and outstanding share of Common Stock, par value, \$1.25 per share, of American ("American Common Stock") not owned by Thames Holdings, Acquisition Corp., or American, other than shares owned by any holder who invokes appraisal rights under Delaware law, will be converted into the right to receive cash consideration of \$46.00 per share. As of September 30, 2001, the authorized capital stock of American consists of (1) 300,000,000 shares of American Common Stock; (2) 1,770,000 shares of Cumulative Preferred Stock, par value \$25.00 per share (the "Preferred Stock"); (3) 750,000 shares of Cumulative Preference Stock, par value \$25.00 per share (the "Preference Stock"); and (4) 3,000,000 shares of Cumulative Preferential Stock, par value \$35.00 per share (the "Preferential Stock").

As of September 30, 2001, 99,971,542 shares of American Common Stock, excluding shares held by American as treasury shares, 101,777 shares of Preferred Stock, 365,158 shares of Preference Stock, and no shares of Preferential Stock were issued and outstanding. The Agreement requires American to redeem, prior to the closing of the transaction, each outstanding share of the Preferred Stock at a redemption price of \$25.25 per share, plus full cumulative dividends thereon, and each outstanding share of Preference Stock at a redemption price of \$25.00 per share, plus full cumulative dividends thereon. The Agreement further provides that, at the time of closing, each share of the American Common Stock owned by Thames Holdings, Acquisition Corp., or American will automatically be cancelled and cease to exist, and no consideration will be delivered in exchange for such shares. RWE will cause Thames Holdings to have sufficient funds to consummate the transaction. The total value of the transaction is about \$7.6 billion.

The Petitioners state that, after the transaction is completed, Virginia-American will continue to be owned by American, United Water Virginia will continue to be wholly owned by Virginia-American, and Bluefield Valley Water will continue to be a wholly owned subsidiary of West Virginia-American Water Company. The Petitioners represent that the transaction will not alter the daily operations of the American Companies, which will continue to be operated by American and subject to the jurisdiction and regulation of the Commission.

On March 1, 2002, the Committee filed a Motion to Withdraw Comments and Request for Hearing ("Motion") and a Notice of Settlement ("Notice"). In the Motion and Notice, the Committee states that the Committee and the Petitioners state that they have reached a settlement agreement whereby the proposed transaction will not result in an acquisition adjustment for the customers of Virginia-American and will not affect certain agreements between Virginia-American and the Committee concerning non-potable service.

Bluefield filed follow-up comments on March 14, 2002, wherein it stated that Bluefield agreed with the representatives of American that if they could work out matters discussed in its original comments, Bluefield would withdraw its protest. Bluefield filed no further comments. It has not withdrawn its protest and has not requested a hearing.

With respect to Mr. Mellendorf's concerns relating to the trend toward foreign ownership of United States entities, the Petitioners state that the local utilities will continue to operate under their existing tariffs until changed by the Commission. The Petitioners state that the American Companies will fully honor all obligations to customers and all regulatory authorities and that the transfer will not affect the outstanding debt of the American Companies. Moreover, there will be no changes in the American Companies' balance sheet or financial position.

On March 14, 2002, Staff filed its Report. In its Report, Staff noted a concern with the trend toward multiple layers of ownership of local utility companies, both domestic and foreign. Staff questioned whether decisions made at higher levels above the local utility genuinely consider local customers' best interests. Staff noted that the Petitioners represent that nothing will change at the local level and that customers' service and rates will not be adversely affected. Staff stated that, after such transactions take place, it is quite possible that decisions regarding the local utility that were once made at a local level or by a direct parent will then be made at higher levels. Staff noted that such decisions are not necessarily detrimental to the Virginia utility customer. However, Staff stated that, once approval is granted, changes in the level of decision making may be difficult, if not impossible, to track and monitor. Staff indicated that one way of tracking or monitoring such action is through the review and prior approval requirement for affiliate transactions. Staff noted, however, that Bluefield Valley Water is not subject to the Affiliates Act pursuant to § 56-265.13:7 of the Code.

Regarding Bluefield's protest, Staff believes that while issues addressed by Bluefield need to be resolved, resolution of such issues is not necessary within the context of this proceeding.<sup>1</sup> With respect to the concerns raised by Mr. Mellendorf, while they may have some validity, monitoring what happens on the local company level can be accomplished through review and prior approval of affiliate transactions, monitoring complaints, and periodic audits conducted at the local level. Staff also stated in its Report that it does not appear that the American Companies will face higher capital costs as a result of the acquisition.

Staff found no indication that the proposed transaction would impair or jeopardize the provision of adequate service at just and reasonable rates and, therefore, recommended approval of the proposed transaction. To the contrary, Staff concluded that there appear to be some very good benefits. These include the financial backing of a large company such as RWE and the security concerns that have been experienced by RWE and Thames that perhaps American and the American Companies have not experienced and do not have the knowledge and resources to address such concerns to the extent that RWE and Thames have addressed. Thames and RWE appear to have strong financial statements, and there is no indication that there are any financial problems that could filter down to the American Companies. Staff also recommended that a report be submitted to the Commission's Director of Public Utility Accounting within 30 days of closing on the transaction providing certain details on the transaction as described herein. Staff recommended that Petitioners be required to track costs and savings associated with the merger and identify and quantify any portion of such costs and savings attributable to the American Companies' Virginia jurisdiction. Staff did not believe a hearing was necessary in this case.

On March 18, 2002, Petitioners, through counsel, filed comments supporting Staff's recommendations.

THE COMMISSION, upon consideration of the joint petition, representations of Petitioners, comments filed, Staff's report, and applicable law, is of the opinion and finds that the above-described transfer of control will neither impair nor jeopardize the provision of adequate service to the public at just and reasonable rates and should, therefore, be approved.

<sup>1</sup> Even though the resolution of such issues is not necessary within the context of this proceeding, Staff will monitor the progress in resolving the issues and will provide assistance, if necessary, to Bluefield and Bluefield Water in resolving the issue of the franchise agreement and service territory as addressed by Bluefield.

Accordingly, IT IS ORDERED THAT:

- 1) Pursuant to §§ 56-88.1 and 56-90 of the Code, American Water Works Company, Inc., and Thames Water Aqua Holdings GmbH are hereby granted approval of the proposed transfer of stock of American to be held either by Thames Holdings or a company created by Thames Holdings for this purpose, such transfer resulting in the indirect transfer of control of Virginia-American, United Water Virginia, and Bluefield Water under the terms and conditions as described herein.
- 2) The approval granted herein shall have no ratemaking implications.
- 3) As required by Chapter 4 of Title 56 of the Code of Virginia ("the Affiliates Act"), Virginia-American and United Water Virginia shall file, pursuant to the Affiliates Act, for approval of any agreements with American and Thames Holdings, as well as any affiliates of American and Thames Holdings.
- 4) The Petitioners shall be required to track costs to achieve the merger as well as savings achieved as a result of the merger and shall identify and quantify any portion of such costs and savings attributable to the American Companies' Virginia jurisdiction. Costs and savings shall be tracked for five years from the date of closing and shall be made available for Staff review.
- 5) The Petitioners shall submit a report of the action taken pursuant to the approval granted herein with the Commission's Director of Public Utility Accounting within thirty (30) days of such action taken, subject to extension by the Director of Public Utility Accounting. Such report shall include the date the acquisition took place, the total consideration paid, and the name of the entity holding the American stock.
- 6) There appearing nothing further to be done in this matter, it hereby is dismissed.

**CASE NO. PUA020001  
APRIL 2, 2002**

APPLICATION OF  
COLUMBIA GAS OF VIRGINIA, INC.,  
and  
NI SOURCE INC.,  
and  
OTHER NI SOURCE INC. AFFILIATES

For approval of certain affiliate transactions under Chapter 4, Title 56 of the Code of Virginia

**ORDER GRANTING AUTHORITY**

On January 17, 2002, Columbia Gas of Virginia, Inc. ("Columbia"), NiSource Inc. ("NiSource"), and other NiSource Affiliates<sup>1</sup> (collectively "NiSource Companies" or "Applicants") filed an application with the State Corporation Commission ("Commission") under Chapter 4 of Title 56 of the Code of Virginia ("Code"). The Applicants request that the Commission approve their affiliate Tax Agreement.

The Tax Agreement provides for the allocation of federal income tax liabilities among affiliates. It specifies the mechanics of determining and paying the tax liabilities of the NiSource Companies.

Pursuant to the Tax Agreement, the NiSource Companies' consolidated federal income tax will be allocated among the Applicants in proportion to the separate tax return of each member, provided that the amount of federal tax allocated to each subsidiary will not exceed the tax it would be obligated to pay on a stand-alone basis. The Tax Agreement also provides that the tax impact of the interest paid by NiSource on its acquisition debt<sup>2</sup> will be allocated to NiSource, which is legally obligated for its interest payment on acquisition debt.

The Tax Agreement does not provide for or contemplate the exchange of any goods or services among affiliates. The Tax Agreement also does not contemplate that any administrative, general, labor, or other costs will arise that would result in any charges among affiliates.

THE COMMISSION, upon consideration of the application, representations of the Applicants, and having been advised by its Staff, is of the opinion and finds the above described Tax Agreement is in the public interest and should be approved. Approval of the Tax Agreement, including the provision that the tax effect of interest expense paid by NiSource on its acquisition debt will be allocated to NiSource, shall have no ratemaking implications.

<sup>1</sup> Northern Indiana Public Service Company, EnergyUSA, Inc., NiSource Capital Markets, Inc., NiSource Finance Corp., NiSource Development Company, Inc., NiEnergy Services, Inc., NiSource Corporate Services Company, NiSource Energy Technologies, Inc., Kokomo Gas and Fuel Company, Northern Indiana Fuel and Light Company, Northern Utilities, Inc., Primary Energy, Inc., NiSource Pipeline Group, Inc., IWC Resources Corporation, Columbia Energy Group, Columbia Gas of Kentucky, Inc., Columbia Gas of Ohio, Inc., Columbia Gas of Maryland, Inc., Columbia Gas of Pennsylvania, Inc., Columbia Service Partners, Inc., Columbia Network Services Corporation, Columbia Atlantic Trading Corporation, Columbia Energy Group Capital Corporation, Columbia Pipeline Corporation, Columbia Finance Corporation, Columbia Transmission Communications Corporation, Columbia Resources, Inc., Columbia Insurance Corporation, Ltd., Columbia Gulf Transmission Company, Columbia Gas Transmission Corporation, Columbia LNG Corporation, Columbia Remainder Corporation, Columbia Energy Services Corporation, and Bay State Gas Company.

<sup>2</sup> Acquisition debt comprises the commercial paper and other short-term debt issued by NiSource at the time of its acquisition of Columbia's parent, CEG, on November 1, 2000, and any renewals or extensions thereof and any long-term debt securities issued subsequent to the merger in order to refinance such commercial paper and other short-term debt.

That is, in any future rate proceeding, the Staff may propose and the Commission may consider alternative ratemaking treatment of the income tax consequences related to the acquisition debt.

Accordingly, IT IS ORDERED THAT:

- 1) Pursuant to § 56-77 of the Code, Columbia and other NiSource companies are hereby granted approval to enter into the Tax Agreement, as described herein.
- 2) Any amendment to the Tax Agreement shall require further Commission approval.
- 3) The approval granted herein shall have no ratemaking implications.
- 4) The approval granted herein shall not preclude the Commission from exercising the provisions of §§ 56-78 and 56-80 of the Code.
- 5) The Commission reserves the right and authority to examine the books and records of any affiliate in connection with the approval granted herein whether or not the Commission regulates such affiliate.
- 6) There appearing nothing further to be done in this matter, it is hereby dismissed.

**CASE NO. PUA020002  
MARCH 5, 2002**

PETITION OF  
VIRGINIA ELECTRIC AND POWER COMPANY  
and  
DOMINION NUCLEAR MARKETING II, INC.,  
PLEASANTS ENERGY, LLC,  
ARMSTRONG ENERGY LIMITED PARTNERSHIP, L.L.L.P.,  
and  
TROY ENERGY, LLC

For approval of changes to wholesale power service agreements under Chapter 4 of Title 56 of the Code of Virginia and for an exemption of new wholesale power service agreements from the prior approval requirements of Chapter 4 of Title 56 of the Code of Virginia or, in the alternative, for approval of wholesale power service agreements and for expedited consideration

**ORDER GRANTING APPROVAL**

On January 23, 2002, Virginia Electric and Power Company ("Dominion Virginia Power" or "Company"), Pleasants Energy, LLC ("Pleasants"), Armstrong Energy Limited Partnership, L.L.L.P. ("Armstrong"), and Troy Energy, LLC ("Troy") (Pleasants, Armstrong, and Troy are henceforth referenced as "the Project Entities"), and Dominion Nuclear Marketing II, Inc. (DNM II"), (collectively, the "Petitioners") filed a petition with the State Corporation Commission ("Commission") for expedited consideration and for approval of certain changes to the existing service arrangements and agreements between Dominion Virginia Power and DNM II and for approval of changes in previous approved agreements between Dominion Virginia Power and two of the Project Entities. Additionally, Dominion Virginia Power and the Project Entities request an exemption from the prior approval requirement of Chapter 4 of Title 56 of the Code of Virginia or, in the alternative, for approval of new service agreements between Dominion Virginia Power and each of the Project Entities. On February 15, 2002, Dominion Virginia filed revisions to the service agreements with the Project Entities to clarify pricing requirements by the FERC.

Dominion Virginia Power is a Virginia public service corporation providing retail electric service to customers in its service territory in Virginia and North Carolina. Dominion Virginia Power is a wholly owned subsidiary of Dominion Resources, Inc. ("DRI"). DRI is a holding company as defined in the Public Utility Holding Company Act of 1935 ("the 1935 Act") and subject to regulation as such by the Securities and Exchange Commission.

DNM II is a Delaware corporation engaged in the wholesale sale of electric power in interstate commerce, subject to regulation under the Federal Power Act by the Federal Energy Regulatory Commission ("FERC"). DNM II is a wholly owned, indirect subsidiary of DRI. DNM II is authorized by FERC to sell power at wholesale in interstate commerce at market-based rates. DNM II's market-based rates tariff ("DNM II MR Tariff") became effective November 24, 2000. Dominion Nuclear Connecticut, Inc. ("DNC"), created DNM II in connection with the acquisition of the Millstone Nuclear Generating Station.

In Case No. PUA010017, the Commission granted approval for Dominion Virginia Power to enter into a service agreement with DNM II through December 31, 2001. In Case No. PUA010060, by Order dated December 13, 2001, the Commission extended the approval period through December 31, 2002, and required that services provided by Dominion Virginia Power be at a price equal to the Company's cost of providing the service plus a market return.

That agreement allows DNM II to sell, on a temporary basis, at wholesale to Dominion Virginia Power under a market-based rates tariff subsequently approved by the FERC. The power sold under that agreement represents a portion of the power generated from the Millstone Nuclear Generating Station in Connecticut and purchased by DNM II from Dominion Nuclear Connecticut, Inc. Dominion Nuclear Connecticut, Inc., recently purchased the Millstone generating assets.

Dominion Virginia Power states that it has long-standing market-based rate authority from the FERC and has many power sales contracts and transactions in place with third parties in the New England market. The above-referenced agreement allows DNM II to sell power out of the Millstone assets to Dominion Virginia Power that, in turn, sells the power to third parties in the New England market. The Petitioners represent that Dominion Virginia

Power currently experiences no profits or losses on such purchases (that would be excluded from its wholesale and retail ratepayer accounts). In addition, the Petitioners state that such agreement renders Virginia Power harmless from economic loss for transactions under that agreement and that DNM II bears the cost of Dominion Virginia Power's expenses for negotiating sales of purchased power from DNM II to third parties.

Pleasants is a Delaware limited liability company that is scheduled to begin commercial operations between February and March of 2002 of a natural gas-fired generation facility of approximately 310 MW that consists of two units. That facility will be located in Pleasants County, West Virginia. Troy is a Delaware limited liability company that is developing an approximately 620 MW natural gas-fired peaking generation facility, consisting of four units, in Troy Township, Ohio. Armstrong is a Delaware limited liability limited partnership that is developing an approximately 620 MW natural gas-fired generation facility, consisting of four units, in Armstrong County, Pennsylvania.

Each of the above-referenced Project Entities has been determined by the FERC to be an exempt wholesale generator under § 32 of the 1935 Act. Each of the Project Entities is an indirect, wholly owned subsidiary of DRI. In Case No. PUA010061, by Order dated December 7, 2001, the Commission granted approval of service agreements between the Company and each of the Project Entities for sales of test power to Dominion Virginia Power. The Commission's Order required that each of the Project Entities pay Dominion Virginia Power for services at a price equal to the higher of cost plus a yet-to-be-determined return or the market price. Under the approval granted in Case No. PUA010061, such sales were to be temporary, and no new transactions under the service agreements would be entered into after the end of 2002.

#### Agreement with DNM II

Dominion Virginia Power seeks to make permanent the relationship with DNM II by removing the December 31, 2002, expiration of approval of the above-referenced service agreement. DNM II by selling power from a single source, does not, and likely will not, have the market presence to compete.

#### Agreements with the Project Entities

Dominion Virginia Power and the Project Entities request an exemption from the prior approval requirement or, in the alternative, approval of amendments to the existing agreements. The Company, Armstrong, and Troy request approval of new language regarding pricing to comply with FERC requirements for the agreements with Armstrong and Troy for the purchase of test power. The Company and the Project Entities also request approval of amendments to the agreements that will allow Dominion Virginia Power to purchase power from each of the Project Entities after the testing period. The Company and the Project Entities also request approval during commercial operation of the Project Entities for resale to purchasers in the wholesale market, as well as possible use by Dominion Virginia Power to meet system load requirements. Dominion Virginia Power and the Project Entities represent that such sales will allow the Project Entities to compete more effectively and will also provide additional flexibility to Dominion Virginia Power in meeting the Company's customers' needs. Dominion Virginia Power states that the agreements will follow FERC standards regarding pricing from a marketing affiliate to a utility.

The price for the purchased power is based on the price established by PJM Interconnection, LLC, at the PJM Western Hub in accordance with FERC pricing requirements. The revised language in the agreements for the sale of test power states that:

The price of test power purchased shall be up to Incremental Cost, and shall be no higher than the lowest price at which the Buyer can purchase from a non-affiliate based on the hourly locational marginal price ("LMP") established by PJM Interconnection, LLC, at the PJM Western Hub. Incremental cost consists of the cost of fuel and other variable costs. For purposes of calculating the price ceilings hereunder, the cost of transmission from the Seller to the PJM Western Hub to the Buyer shall not be included in Incremental Cost and shall not be added to the LMP.

The revised language in the agreements for commercial power states that:

The price of power sold to the Buyer shall be no higher than the hourly locational marginal price ("LMP") established by PJM Interconnection, LLC, at the PJM Western Hub. For purposes of calculating the LMP price ceiling hereunder, the cost of transmission from the Seller to the PJM Western Hub or from the PJM Western Hub to the Buyer shall not be added to the LMP.

The language used in the revised pricing specifically references the hourly LMP price at the PJM Western Hub and incorporates price cap language.<sup>1</sup>

The agreements for purchasing commercial power do not include the previous provisions that require the Project Entities to hold Dominion Virginia Power harmless for economic losses for transactions under the agreements or requiring the Project Entities to compensate Dominion Virginia Power for expenses incurred to negotiate power sales to non-affiliate wholesale power purchasers. Dominion Virginia Power may choose not to purchase the power and will retain any margins from reselling power.

Pursuant to the agreements for Dominion Virginia Power's purchase of test power, Dominion Virginia Power and Armstrong and Troy each will maintain, for a period of not less than two years, records of transactions in sufficient detail to permit verification that the price for each such transaction is no higher than specified in the above-revised language. Pursuant to the agreements for Dominion Virginia Power's purchase of power during the Project Entities' commercial operation, the Project Entities and Dominion Virginia Power will each maintain, for a period of not less than two years, records of such transactions in sufficient detail to permit verification that the price for each such transaction is no higher than specified in the above revised language.

<sup>1</sup> See as precedent *DPL Energy, Inc.*, 90 FERC ¶ 61,200 (February 5, 2000) (accepting power sales agreements for merchant generator to sell capacity and energy to an affiliated regulated utility at an Into-Cinergy index price cap and holding that tying the prices to an established regional market index provided adequate protection against affiliate abuse; *Allegheny Energy Unit 1 and 2, LLC, et al.*, 89 FERC ¶ 61,272 (December 16, 1999) (accepting market-based rate tariff that included provisions for the merchant generator to sell power, to affiliated utilities at a price capped at the hourly market price index posted by PJM for the PJM/Allegheny interface). See also, *Ameren Energy Marketing Company*, 96 FERC ¶ 61,306 (September 14, 2001) (order on rehearing) (stating that: "prices resulting from affiliate transactions by reference to competitive prices at recognized market hubs is an effective mechanism to prevent affiliate abuse").

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

Dominion Virginia Power states that it will abide by FERC's prohibitions that are reflected in its FERC-approved market-based rate tariff; specifically, the sharing of market information between it and the Project Entities.

THE COMMISSION, upon consideration of the petition and representations made by Dominion Virginia Power, DNM II, and the Project Entities and having been advised by its Staff, is of the opinion and finds that the revised service agreement between Dominion Virginia Power and DNM II is in the public interest and should be approved subject to the pricing provisions detailed herein. We believe that an exemption for the wholesale power agreements between Dominion Virginia Power and the Project Entities is not in the public interest and should, therefore, be denied. We do believe, however, that the revised agreements with the Project Entities, including the revised pricing language filed on February 15, 2002, are in the public interest and should, therefore, be approved.

Accordingly, IT IS ORDERED THAT:

- 1) Pursuant to § 56-77 of the Code of Virginia, Dominion Virginia Power is hereby granted approval of the requested change in the Service Agreement approved in Case No. PUA010060. Such approval will make the agreement permanent with no expiration date so long as Dominion Virginia Power provides such services to DNM II at cost plus a market return.
- 2) Pursuant to § 56-77 of the Code of Virginia, the requested exemption from the prior approval requirement for the wholesale power service agreements between Dominion Virginia Power and the Project Entities is hereby denied.
- 3) Pursuant to § 56-77 of the Code of Virginia, approval is hereby granted for the revised agreements between Dominion Virginia Power and Armstrong and between Dominion Virginia Power and Troy with respect to the proposed language changes.
- 4) Pursuant to § 56-77 of the Code of Virginia, approval is hereby granted for the proposed service agreements between Dominion Virginia Power and Armstrong, Pleasants, and Troy upon commercial operation of the Project Entities to include language changes filed on February 15, 2002.
- 5) With respect to the Company's service agreement with DNM II, the Company shall maintain documentation supporting the determination of the market component.
- 6) Any changes in the terms and conditions of the service agreement between the Company and DNM II and the agreements between the Company and the Project Entities from those approved herein shall require further Commission approval.
- 7) The approvals granted herein shall have no ratemaking implications.
- 8) The approvals granted herein shall in no way be detrimental to Dominion Virginia Power's ability to make off-system sales in the New England market.
- 9) The approval granted herein shall not preclude the Commission from exercising the provisions of §§ 56-78 and 56-80 of the Code of Virginia hereafter.
- 10) The Commission reserves the authority to examine the books and records of any affiliate in connection with the approval granted herein whether or not the Commission regulates such affiliate.
- 11) The Company shall include the service agreements approved herein in its Annual Report of Affiliate Transactions to be submitted to the Director of Public Utility Accounting of the Commission by no later than May 1 of each year for the preceding calendar year, subject to extension by the Director of Public Utility Accounting of the Commission.
- 12) If Annual Informational and/or General Rate Case Filings are not based on a calendar year, then Dominion Virginia Power shall include the affiliate information contained in the Annual Report of Affiliate Transactions in such filings.
- 13) There appearing nothing further to be done in this matter, it hereby is dismissed.



**CASE NO. PUA020002  
MARCH 26, 2002**

PETITION OF  
VIRGINIA ELECTRIC AND POWER COMPANY  
and  
DOMINION NUCLEAR MARKETING II, INC.,  
PLEASANTS ENERGY, LLC,  
ARMSTRONG ENERGY LIMITED PARTNERSHIP, L.L.L.P.,  
and  
TROY ENERGY, LLC

For approval of changes to wholesale power service agreements under Chapter 4 of Title 56 of the Code of Virginia and for an exemption of new wholesale power service agreements from the prior approval requirements of Chapter 4 of Title 56 of the Code of Virginia or, in the alternative, for approval of wholesale power service agreements and for expedited consideration

**ORDER GRANTING RECONSIDERATION  
AND SUSPENDING ORDER GRANTING APPROVAL**

On January 23, 2002, Virginia Electric and Power Company ("Dominion Virginia Power" or "Company"), Pleasants Energy, LLC ("Pleasants"), Armstrong Energy Limited Partnership, L.L.L.P. ("Armstrong"), Troy Energy, LLC ("Troy") (Pleasants, Armstrong, and Troy are hereinafter referenced as the "Project Entities"), and Dominion Nuclear Marketing II, Inc. ("DNM II") (collectively, "Petitioners") filed a petition with the State Corporation Commission for expedited consideration and for approval of certain changes to the existing service arrangements and agreements between Dominion Virginia Power and DNM II and for approval of changes in previously approved agreements between Dominion Virginia Power and two of the Project Entities. In addition, Dominion Virginia Power and the Project Entities requested an exemption from the prior approval requirement of Chapter 4 of Title 56 of the Code of Virginia or, in the alternative, for approval of new service agreements between Dominion Virginia Power and each of the Project Entities. On February 15, 2002, Dominion Virginia Power filed revisions to the service agreements with the Project Entities to clarify pricing requirements by the Federal Energy Regulatory Commission.

On March 5, 2002, the Commission issued its Order Granting Approval in this case. On March 25, 2002, the Petitioners filed with the Commission a Motion to Amend Petition and Order ("Motion"). The Petitioners move the Commission to allow the petition to be amended as requested in the Motion, and to enter an amended order making certain determinations under Section 32 of the Public Utility Holding Company Act of 1935 ("PUHCA"), 15 U.S.C.A. § 79z-5a (1997), involving exempt wholesale generators ("EWG"). The Petitioners had not previously requested the Commission to make any determinations under PUHCA in this proceeding.

Petitioners now state that "[b]ecause each of DNM II and the Project Entities are EWG affiliates of Dominion Virginia Power pursuant to Section 32(k) of PUHCA, the Petitioners cannot enter into the wholesale power agreements until this Commission and the North Carolina Utilities Commission ("NCUC") make, with regard to each agreement, (a) a determination that it has sufficient regulatory authority, resources and access to books and records of the electric utility company and any relevant associate, affiliate or subsidiary company to exercise its duties under PUHCA § 32(k)(2)(A), 15 U.S.C.A. § 79z-5a(k)(2) and (b) a determination that the transaction (i) will benefit consumers; (ii) does not violate any state law (including where applicable, least cost planning); (iii) would not provide the EWG any unfair competitive advantage by virtue of its affiliation or association with Dominion Virginia Power; and (iv) is in the public interest." (Motion at 3.)

Petitioners also state that: (1) the Commission has ruled that the wholesale power agreements are in the public interest; (2) the agreements include compensation provisions and access to additional power for resale or system supply, which benefit the Company and its customers; (3) the agreements also include limitations on prices that can be charged to the Company and provisions for record keeping by the Petitioners; (4) the Commission has required record keeping and reserved the authority to examine the books and records of the Company's affiliates; (5) the Commission clearly has sufficient regulatory authority to exercise its duties; (6) the affiliated EWG's have no unfair competitive advantage "because any transactions pursuant to Dominion Virginia Power's agreement with DNM II and the agreements upon commercial operation of the Project Entities are voluntary in nature and the prices which are allowed to be charged Dominion Virginia Power can be no higher than market prices"; and (7) the transactions, and the Company's continued participation in the wholesale power agreements, are subject to Codes of Conduct and continuing regulatory oversight. (Motion at 3-4.)

NOW THE COMMISSION, having considered the Motion, is of the opinion and finds as follows. We find that the petition should be amended as set forth in the Motion. We also find that to amend the Order Granting Approval as requested by Petitioners, we must reconsider that order. Accordingly, we will treat Petitioners' Motion as a petition for reconsideration pursuant to Rule 5 VAC 5-20-220 of the Commission's Rules of Practice and Procedure.

We determine that the petition for reconsideration should be granted for purposes of continuing our jurisdiction over this matter and considering Petitioners' Motion. The Order Granting Approval is hereby suspended pending the Commission's reconsideration.

Accordingly, IT IS ORDERED THAT:

(1) Petitioners' March 25, 2002, Motion to Amend Petition and Order is hereby treated as a petition for reconsideration in this matter, which is hereby granted.

(2) Pending the Commission's reconsideration, the Order Granting Approval of March 5, 2002, is hereby suspended.

(3) The petition is hereby amended as set forth in Petitioners' March 25, 2002, Motion to Amend Petition and Order.

(4) This matter is continued generally until further order of the Commission.

**CASE NO. PUA-2002-00002  
JULY 18, 2002**

PETITION OF  
VIRGINIA ELECTRIC AND POWER COMPANY  
and  
DOMINION NUCLEAR MARKETING II, INC.,  
PLEASANTS ENERGY, LLC,  
ARMSTRONG ENERGY LIMITED PARTNERSHIP, L.L.L.P.,  
and  
TROY ENERGY, LLC

For approval of changes to wholesale power service agreements under Chapter 4 of Title 56 of the Code of Virginia and for an exemption of new wholesale power service agreements from the prior approval requirements of Chapter 4 of Title 56 of the Code of Virginia or, in the alternative, for approval of wholesale power service agreements and for expedited consideration

**ORDER ON RECONSIDERATION**

On January 23, 2002, Virginia Electric and Power Company ("Dominion Virginia Power" or "Company"), Pleasants Energy, LLC ("Pleasants"), Armstrong Energy Limited Partnership, L.L.L.P. ("Armstrong"), Troy Energy, LLC ("Troy") (Pleasants, Armstrong, and Troy are hereinafter referenced as the "Project Entities"), and Dominion Nuclear Marketing II, Inc. ("DNM II") (collectively, "Petitioners") filed a petition for expedited consideration and for approval of certain changes to the existing service arrangements and agreements between Dominion Virginia Power and DNM II and for approval of changes in previously approved agreements between Dominion Virginia Power and two of the Project Entities. In addition, Dominion Virginia Power and the Project Entities requested an exemption from the prior approval requirement of Chapter 4 of Title 56 of the Code of Virginia or, in the alternative, for approval of new service agreements between Dominion Virginia Power and each of the Project Entities. On February 15, 2002, Dominion Virginia Power filed revisions to the service agreements with the Project Entities to clarify pricing requirements by the Federal Energy Regulatory Commission.

On March 5, 2002, the Commission issued an Order Granting Approval in this case. On March 25, 2002, the Petitioners filed with the Commission a Motion to Amend Petition and Order ("Motion"). The Petitioners moved the Commission to allow the petition to be amended as requested in the Motion, and to enter an amended order making certain determinations under Section 32 of the Public Utility Holding Company Act of 1935 ("PUHCA"), 15 U.S.C.A. § 79z-5a (1997), involving exempt wholesale generators ("EWG"). The Petitioners had not previously requested the Commission to make any determinations under PUHCA in this proceeding.<sup>1</sup>

Petitioners stated that, to enter into the wholesale power agreements, "this Commission and the North Carolina Utilities Commission [must] make, with regard to each agreement, (a) a determination that it has sufficient regulatory authority, resources and access to books and records of the electric utility company and any relevant associate, affiliate or subsidiary company to exercise its duties under PUHCA § 32(k)(2)(A), 15 U.S.C.A. § 79z-5a(k)(2) and (b) a determination that the transaction (i) will benefit consumers; (ii) does not violate any state law (including where applicable, least cost planning); (iii) would not provide the EWG any unfair competitive advantage by virtue of its affiliation or association with Dominion Virginia Power; and (iv) is in the public interest." (Motion at 3.)

On March 26, 2002, the Commission issued an Order Granting Reconsideration and Suspending Order Granting Approval. In that order, the Commission: (1) found that the petition should be amended as set forth in the Motion; (2) found that to amend the Order Granting Approval as requested by Petitioners, we must reconsider that order; (3) treated Petitioners' Motion as a petition for reconsideration pursuant to Rule 5 VAC 5-20-220 of the Commission's Rules of Practice and Procedure, and granted the petition for reconsideration; and (4) suspended the Order Granting Approval of March 5, 2002, pending the Commission's reconsideration.

On April 3, 2002, the Commission issued an Order Permitting Written Comments. No comments were filed by interested persons or entities. On May 3, 2002, the Petitioners filed revised power purchase agreements. On May 10, 2002, Staff filed a motion requesting, and the Commission granted, an extension for Staff to file its report and for Petitioners to file a response to Staff's report. On May 22, 2002, Petitioners filed a response to Staff's motion. On May 24, 2002, Staff filed its report in this matter. On May 31, 2002, Petitioners filed a response to Staff's report.

On June 14, 2002, the Commission issued an Order Requesting Supplemental Comments. We asked Staff and Petitioners to address: (1) any specific unfair competitive advantage to the Project Entities by virtue of their affiliation or association with Dominion Virginia Power; (2) any specific means by which the Commission could detect any unfair competitive advantage if it occurs; (3) any specific means by which the Commission could remedy, and further prevent, any unfair competitive advantage if it occurs; and (4) any other relevant matters for our consideration in determining whether such transactions would provide the EWG any unfair competitive advantage by virtue of its affiliation or association with Dominion Virginia Power. In addition, we asked Staff and Petitioners to address: (1) whether, and how, Dominion Virginia Power's purchases for resale under the agreements will impact the development of a competitive market; and (2) any other relevant matters for our consideration in determining whether consumers "will benefit" from such transactions.

Staff filed additional comments on June 28, 2002. Staff explains that it did not find there existed any unfair competitive advantages, only that Staff did not know how the Commission could say that none existed relative to wholesale transactions for power not used to serve Virginia jurisdictional retail customers. Staff states that the Commission perhaps could withdraw authorization relative to the Company's purchases of power for its own use, and the Commission can disallow the recovery of costs from retail customers, if the purchase is proven to be imprudent. If a competitive advantage exists, Staff questions whether contracts between the Company and purchasers of the re-marketed power can in any way be affected by this Commission's actions. Staff also states that the Project Entities have a competitive head-start over other EWGs, which may not have utility affiliates with similar wholesale power obligations to fulfill or staffed with similarly experienced power traders. Staff asserts that when the Company serves wholesale customers with power

<sup>1</sup> Petitioners subsequently withdrew their request for PUHCA findings on the proposed agreement between the Company and DNM II, on advice of counsel that such arrangement does not require a state commission to make any determination under the provisions of § 32(k) of PUHCA, and because DNM II will be pursuing alternate means of marketing its capacity for the longer term.

purchased from the Project Entities, instead of its own excess system power, margin sharing with retail customers through the fuel factor will be eliminated. Staff believes that the Company's access to power from the Project Entities, for delivery into the wholesale market, will enlarge the Company's presence in that market and may inhibit wholesale market development.

Petitioners filed supplemental comments on July 10, 2002 ("Supplemental Comments"). Petitioners assert that the terms of the agreements protect against any unfair advantage to the Project Entities. Pursuant to the pricing provisions of the agreements, the price of power sold to the Company shall be no higher than the hourly locational marginal price established by the PJM Interconnection, LLC, at the PJM Western Hub. As a result, Petitioners state that there will be no special advantage to the Project Entities, and that this applies whether the Company uses the power for system needs or resells the power in the wholesale market. Petitioners also explain that the agreements require Petitioners to maintain, for a period of not less than two years, records of each transaction to ensure that the pricing limitations have been followed. Petitioners note that they addressed enforcement issues in earlier pleadings and have not challenged, in any way, this Commission's continuing role regarding the agreements.

Petitioners also assert in their Supplemental Comments that the agreements are in the public interest, benefit consumers, and promote the development of competition. Petitioners note that the Commission, in this docket, has already found that the agreements are in the public interest, and that such is true whether the Company uses the power for system needs or resells the power. Petitioners urge the Commission to consider the enhanced ability to serve the public that comes from wholesale transactions. Petitioners assert that it is against the public interest, including the interests of Virginia consumers, to limit the Company's ability to operate in wholesale markets. Petitioners explain that greater access provides the Company with the opportunity to operate with more flexibility, reliability, and efficiency, which can provide greater financial strength for the Company, and that customers benefit when the utility providing service to them is financially strong and allowed to operate with the same access to energy markets as others. In addition, Petitioners state that creating new risks as to the authority to resell power would discourage purchases from the Project Entities even for system needs, to the detriment of the Company and its customers.

Petitioners further assert that the development of vibrant wholesale markets is inextricably linked to the development of competitive markets at the retail level. In this regard, Petitioners state that the ability to resell power in wholesale markets is fundamental to full participation in energy markets and to the full development of those markets, and that further development of wholesale markets, by promoting greater transparency and liquidity, enhances the development of competition. Petitioners claim that restrictions on resale are anticompetitive and are damaging in this case, because such would restrict access to available power.

Petitioners' Supplemental Comments also address other issues raised by Staff. For example, the Company states that the agreements will not limit the sharing of margins through the fuel factor. The Company explains that it can, today, purchase power at the PJM Hub from many sources and resell such power off-system, and that allowing purchases for resale will not undermine the Company's current practice of maximizing sales from its generation. The Company also notes that Commission Staff currently monitors the fuel factor. The Petitioners also claim that weakening Virginia Power by restricting its ability to resell power in the wholesale market outside of its service territory, while other regional and national competitors routinely engage in such activities and are unconstrained in their opportunities, is contrary to the goal of promoting the development of competitive markets, the advancement of economic development, and the interests of the Company and its customers. Petitioners assert that the Virginia Electric Utility Restructuring Act encourages strong competition and economic development, and that the proposed agreements are fully keeping with those goals and benefit consumers.

NOW THE COMMISSION, having considered the pleadings and the applicable law, finds as follows. We find that Virginia jurisdictional retail customers of the Company will benefit from Petitioners' proposal taken as a whole; the Company will have additional sources of generation to serve those customers. We also have a number of concerns. These include potential unfair advantage to the Project Entities, potential detriment to the development of competition in Virginia as a result of possible increased market power by Dominion Virginia Power, the action of the Federal Energy Regulatory Commission in removing an important term from the agreements that we had previously found to be in the public interest and approved in this case, potential impacts on the fuel factor, and how the monitoring that we require in this Order will work in practice.

Pursuant to our statutory duties, we seek to ensure that the agreements remain in the public interest and that the Company's Virginia retail customers are protected. Considering the benefits and the concerns mentioned above as well as others, on balance, we find that the Petitioners carried their burden and that we are able to make the requested PUHCA findings with certain conditions, limits, and monitoring. Accordingly, we will exercise the authority provided to us by PUHCA and exempt the Company and the Project Entities from the federal prohibition against execution of the proposed agreements, upon the following conditions.

First, we will limit our approval to two years and will provide, during that period, that transactions entered into under the agreements may not exceed a two-year term. If the Petitioners find that specific circumstances warrant a transaction exceeding a two-year term, they may file a request with the Commission seeking an amendment to this limitation. In addition, we will direct Staff to monitor the effects of the agreements approved herein on the Company's provision of reliable service to retail customers in the Commonwealth, on the Company's transmission system (including but not limited to its import capability), and on the fuel factor. The Petitioners will be required to provide the documents and information necessary to conduct such monitoring.

Accordingly, subject to the conditions in this order, and to the findings and conditions in our Order Granting Approval dated March 5, 2002, we find that with regard to Virginia jurisdictional retail customers of the Company and the wholesale power agreements proposed in this case between the Project Entities and the Company: (a) the Commission has sufficient regulatory authority, resources and access to books and records of the electric utility company and any relevant associate, affiliate or subsidiary company to exercise its duties under PUHCA § 32(k)(2)(A), 15 U.S.C.A. § 79z-5a(k)(2); and (b) the transactions (i) will benefit consumers, (ii) do not violate any state law, (iii) will not provide the Project Entities any unfair competitive advantage by virtue of their affiliation or association with the Company, and (iv) are in the public interest.

Accordingly, in addition to our Order Granting Approval dated March 5, 2002, IT IS HEREBY ORDERED THAT:

(1) Our prior suspension of the Order Granting Approval dated March 5, 2002, is hereby lifted.

(2) The Commission Staff shall monitor the effects of the agreements approved herein on Dominion Virginia Power's provision of reliable service to retail customers in the Commonwealth, on the Company's transmission system (including but not limited to its import capability), and on the fuel factor.

(3) The Commission Staff, Dominion Virginia Power, and the Project Entities shall confer to develop the categories of information, included but not limited to information related to off-system sales, necessary for Staff to perform the monitoring activities required in this Order.

(4) The approval granted in this case shall expire on December 31, 2004, such that additional transactions between Dominion Virginia Power and the Project Entities under the agreements approved herein cannot be entered into after December 31, 2004. Transactions entered into prior to December 31, 2004, pursuant to our approval granted herein, may continue until the expiration of the terms of such transactions, which shall not exceed two years. Should Dominion Virginia Power and the Project Entities wish to continue operating under the agreements approved in this case beyond December 31, 2004, prior Commission approval shall be required for such continuation.

(5) This matter is dismissed.

**CASE NO. PUA020003  
APRIL 4, 2002**

JOINT PETITION OF  
WINSTAR WIRELESS OF VIRGINIA, LLC,  
and  
WINSTAR OF VIRGINIA, LLC

For approval of transfer of assets

**ORDER GRANTING APPROVAL**

On January 29, 2002, Winstar Wireless of Virginia, LLC, and Winstar of Virginia, LLC, completed an application filed with the State Corporation Commission ("Commission") on January 22, 2002, requesting approval, pursuant to 5 56-88.1 of the Code of Virginia ("Virginia Code"), of a transaction arising out of Old Winstar's bankruptcy status.

Winstar of Virginia, LLC ("New Winstar"), is a limited liability company, organized in the state of Delaware, located in Newark, New Jersey. New Winstar is a direct subsidiary of Winstar Communications, LLC, a direct subsidiary of Winstar Holdings, LLC. New Winstar was formed specifically in conjunction with the proposed acquisition of the core domestic telecommunications assets of Winstar Communications, Inc. ("WCI"), and certain of its operating subsidiaries. New Winstar currently has an application for local exchange and interexchange telecommunications certification pending before the Commission.<sup>1</sup> New Winstar does not currently own or lease facilities, and does not have any points of presence in Virginia at this time.

IDT Advanced Communication Services, LLC, a wholly owned subsidiary of IDT Corporation, owns 95 percent of Winstar Holdings, LLC. The remaining 5 percent is owned by the bankruptcy estate of Winstar Wireless of Virginia, LLC.

IDT Corporation, a Delaware corporation, is the ultimate parent corporation of New Winstar. IDT Corporation's principal business office is located in Newark, New Jersey. IDT Corporation is a provider of facilities-based and resold telecommunications services in the United States and abroad. IDT Corporation is authorized to provide resold interexchange telecommunications services in Virginia through its indirect subsidiary IDT America, Corp.

Winstar Wireless of Virginia, LLC ("Old Winstar"), is a limited liability company, organized in Delaware, located in Herndon, Virginia. Old Winstar is wholly owned by Winstar Wireless, Inc., which is wholly owned by WCI Capital Corp. WCI Capital Corp. is a direct, wholly owned subsidiary of WCI. Old Winstar holds certificates of public convenience and necessity to provide interexchange and local exchange services in Virginia.

WCI, organized in Delaware, is a publicly held corporation located in New York, New York. WCI's subsidiaries provide facilities-based and resale telecommunications services, private line and switched local and interexchange services throughout the United States utilizing a network of wireless and wireline facilities.

Under the proposed transaction, Winstar Holdings, LLC, will acquire the core domestic telecommunications assets of WCI and certain of its subsidiaries, and will operate these assets through certain newly formed subsidiaries. Under this transaction, New Winstar will acquire and operate all assets of Old Winstar in Virginia.

Winstar Holdings, LLC, entered into an Asset Purchase Agreement with WCI and its subsidiaries for the sale of the assets utilized by WCI's operating subsidiaries to operate its domestic telecommunications business. The Asset Purchase Agreement and the sale of the assets to New Winstar were approved by the Bankruptcy Court for the District of Delaware on December 19, 2001. In exchange for these assets, Winstar Holdings, LLC, provided the Old Winstar bankruptcy estate \$30 million in immediately available funds, IDT Corporation Class B common stock valued at \$12 million, and a 5 percent interest in Winstar Holdings, LLC.

New Winstar proposes to acquire the communications assets associated with Old Winstar's domestic facilities-based fixed wireless and leased wireline operations in Virginia, including the associated telecommunications equipment and existing customer base. As a result, direct ownership of Old Winstar's assets will shift from Winstar Wireless, Inc., to Winstar Communications, LLC, the parent of New Winstar. Ultimate ownership will shift from Winstar Communications, Inc., to IDT Corporation.

<sup>1</sup> On January 29, 2002, New Winstar filed an application with the Commission requesting certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services. The application was docketed as Case No. PUC020010. The application also requested interim operating authority to continue to provide service to the current customers of Old Winstar. By Order for Notice and Comment and Grant of Interim Operating Authority issued February 25, 2002, New Winstar was granted interim operating authority to operate and provide local exchange and interexchange services to Old Winstar existing customers under the tariffs of Old Winstar, pending the issuance of further Commission orders.

THE COMMISSION, upon consideration of the joint petition and representations made in the petition and having been advised by its Staff, is of the opinion and finds that the transaction, as described herein, involving the transfer of assets of Old Winstar to New Winstar will neither impair nor jeopardize the provision of adequate service to the public at just and reasonable rates and should, therefore, be approved.

Accordingly, IT IS ORDERED THAT:

- 1) Pursuant to §5 56-88.1 and 56-90 of the Code of Virginia, approval is hereby granted for the transfer of assets from Old Winstar to New Winstar, as described herein.
- 2) There appearing nothing further to be done in this matter, it is hereby dismissed.

**CASE NO. PUA-2002-00005  
JUNE 6, 2002**

APPLICATION OF  
ALLIED RISER OF VIRGINIA, INC.,  
and  
COGENT COMMUNICATIONS GROUP, INC.,

For approval of transfer of control

**ORDER GRANTING APPROVAL**

On February 11, 2002, Allied Riser of Virginia, Inc. ("Allied Riser"), and Cogent Communications Group, Inc. ("Cogent")(collectively, the "Applicants"), completed an application filed with the State Corporation Commission ("Commission") on January 25, 2002. Applicants request, pursuant to § 56-88.1 of the Code of Virginia ("Virginia Code"), approval of the transfer of control of Allied Riser to Cogent.

Allied Riser, formed in 1998, is incorporated in Virginia and has principal offices located in Dallas, Texas. Allied Riser holds certificates of public convenience and necessity ("CPCN's") to provide local exchange and facilities based interexchange telecommunications services in the Commonwealth of Virginia.<sup>1</sup> At this time, Allied Riser has not begun providing any telecommunications services in Virginia and currently has no customers.

Allied Riser Communications Corporation ("Allied Riser Communications") is the parent of Allied Riser. Allied Riser Communications is incorporated in the state of Delaware and has principal offices located in Dallas, Texas. Allied Riser Communications does not provide any telecommunications services to any customers in Virginia.

Cogent, formed in 1999, is incorporated in the state of Delaware and has principal offices located in Washington, D.C. Cogent is a provider of high-speed Internet access to businesses, application service providers, and Internet service providers. Cogent intends to acquire a number of wholly owned indirect subsidiaries, which operate telecommunications networks in several states. At this time, Cogent is not providing voice telephony and similar telecommunications services in any jurisdiction, but it does provide Internet access and operates as an Internet Service Provider. Cogent is not currently providing any Internet access services to commercial customers in Virginia.

The Applicants seek approval of a transfer of control, which, they represent, will result in improved operational efficiency and an enhanced competitive position. Pursuant to a Merger Agreement between Allied Riser Communications and Cogent, indirect control of Allied Riser will be transferred to Cogent. Under the Merger Agreement, a wholly owned subsidiary of Cogent, formed solely for the purpose of the merger, will merge with and into Allied Riser Communications. As a result, Allied Riser Communications will become a wholly owned subsidiary of Cogent, and Allied Riser will become a wholly owned indirect subsidiary of Cogent. This proposed transaction is a stock transfer only. No assets are being transferred as a result of the merger.

THE COMMISSION, upon consideration of the joint petition and representations of the Applicants and having been advised by its Staff, is of the opinion and finds that the transaction, as described herein, involving the indirect transfer of control of Allied Riser will neither impair nor jeopardize the provision of adequate service to the public at just and reasonable rates and should, therefore, be approved.

Accordingly, IT IS ORDERED THAT:

- 1) Pursuant to §§ 56-88.1 and 56-90 of the Code of Virginia, approval is hereby granted for the indirect transfer of control of Allied Riser, as described herein.
- 2) There appearing nothing further to be done in this matter, it is hereby dismissed.

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<sup>1</sup> Allied Riser of Virginia, Inc., was granted local exchange Certificate No. T-484 and interexchange Certificate No. TT-89A on April 6, 2000, in Case No. PUC990093.

**CASE NO. PUA020006  
MARCH 26, 2002**

JOINT PETITION OF  
MEDIAONE TELECOMMUNICATIONS CORP.  
AT&T CORP.  
and  
AT&T BROADBAND PHONE, LLC

For approval of intra-corporate transfers of ownership and control of MediaOne Telecommunications of Virginia, Inc., under the Utility Transfers Act

**ORDER GRANTING APPROVAL**

On January 25, 2002, MediaOne Telecommunications Corp. (MediaOne Corp.), AT&T Corp. ("AT&T"), and AT&T Broadband Phone, LLC ("AT&T Broadband"), filed a joint petition with the State Corporation Commission ("Commission"), pursuant to Chapter 5 of Title 56 of the Code of Virginia, the Utility Transfers Act, for approval of intra-corporate transfers of ownership and control of MediaOne Telecommunications of Virginia, Inc. ("MediaOne Virginia"). Collectively, MediaOne Corp., AT&T, and AT&T Broadband are referred to as the "Petitioners."

MediaOne Virginia is a Virginia public service corporation located in Richmond, Virginia. MediaOne Virginia holds a certificate of public convenience and necessity ("CPCN") and is a provider of local exchange and interexchange telecommunications services in Virginia. MediaOne Virginia serves approximately 28,000 local service customers using approximately 32,000 lines in the City of Richmond, the Town of Ashland, and in the counties of Henrico, Hanover, Goochland, and Louisa. MediaOne Virginia is a direct subsidiary of MediaOne Corp.

MediaOne Corp. is an indirect subsidiary of AT&T located in Massachusetts. MediaOne Corp. is a holding company that owns numerous subsidiaries that provide cable services to subscribers in various regions of the United States. Some of MediaOne Corp.'s subsidiaries also provide local exchange and interexchange telephone services. MediaOne Corp. owns all of the common stock of MediaOne Virginia.

AT&T, a New York corporation, is the ultimate parent corporation of MediaOne Corp., MediaOne Virginia, and AT&T Broadband. AT&T and its subsidiaries furnish domestic and international long distance, regional and local telecommunications services, and services in support of its communications businesses including billing, directory, and calling card services. In 2000, AT&T had total revenues of almost \$66 billion. It is one of the largest providers of long distance services in the United States.

AT&T Broadband, a Delaware limited liability company, was formed on September 24, 2001. AT&T Broadband serves as a holding company with more than 20 direct, wholly owned subsidiaries that provide cable telephony, local toll, long distance, and resale telecommunications services. AT&T Broadband is a direct, wholly owned subsidiary of AT&T.

The Petitioners seek approval of intra-corporate transfers of ownership and control of MediaOne Virginia. As a result of the transactions, MediaOne Virginia, currently a subsidiary in the MediaOne corporate hierarchy, will become a direct, wholly owned subsidiary of AT&T Broadband. The Petitioners will complete the transfer of ownership in two steps. In the first step, AT&T will purchase all of the outstanding shares of the common stock of MediaOne Virginia from MediaOne Corp. Petitioners state that a nominal sales price of \$2,000 was selected for this transfer. In the second step, AT&T will transfer all of the outstanding shares of the common stock of MediaOne Virginia to AT&T Broadband as an equity contribution. MediaOne Virginia also plans to change its name to AT&T Broadband Phone of Virginia, Inc. Before and after the transfer, MediaOne Virginia will remain a subsidiary of AT&T, the ultimate parent corporation.

THE COMMISSION, upon consideration of the joint petition and representations of the Petitioners and having been advised by its Staff, is of the opinion and finds that the transaction, as described herein, involving the intra-corporate transfers of ownership and control of MediaOne Virginia, will neither impair nor jeopardize the provision of adequate service to the public at just and reasonable rates and should, therefore, be approved.

Accordingly, IT IS ORDERED THAT:

- 1) Pursuant to §§ 56-88.1 and 56-90 of the Code of Virginia, approval is hereby granted for the intra-corporate transfers of ownership and control of MediaOne Virginia, as described herein.
- 2) There appearing nothing further to be done in this matter, it is hereby dismissed.

**CASE NO. PUA-2002-00008  
JUNE 28, 2002**

JOINT PETITION OF  
STEPHENS CONSULTING OF VA, INC.,  
(FORMERLY KNOWN AS THE TIDES GOLF LODGE, INC.),  
THE TIDES INN, INC.,  
NEW TIDES, LLC,  
and  
THE TIDES UTILITIES, LLC

For authority to transfer utility assets pursuant to the Utility Transfers Act and for retroactive approval of certain transactions

**ORDER GRANTING AUTHORITY**

On February 12, 2002, Stephens Consulting of VA, Inc. ("Stephens Consulting") (formerly known as The Tides Golf Lodge, Inc.), New Tides, LLC ("New Tides"), The Tides Inn, Inc. (collectively with its subsidiaries including The Tides Lodge, LLC, "Tides"), and The Tides Utilities, LLC ("Tides Utilities") (collectively, "Joint Petitioners"), filed a joint petition with the State Corporation Commission ("Commission") under the Utility Transfers Act requesting authority for Stephens Consulting to transfer a wastewater treatment plant and related assets to Tides Utilities and for retroactive approval, if necessary, of certain transactions.

Stephens Consulting is a Louisiana corporation with its business address in Irvington, Virginia. Pursuant to various sewerage service agreements, and until March 17, 1998, Stephens Consulting provided sewerage treatment services to certain customers.

The Tides Inn, Inc., is a Virginia corporation, which purchased certain assets from Stephens Consulting pursuant to an Asset Purchase Agreement dated March 17, 1998, by and among Stephens Consulting, Stephens Realty, and Tides. Pursuant to the terms of the Asset Purchase Agreement, the parties contemplated a delayed transfer of the sewerage treatment plant to Tides, or an affiliate thereof, upon receipt of all approvals and/or permits necessary in order to allow the transfer. Since March 17, 1998, the Sewerage Treatment Plant has been operated by either Tides or Tides Utilities.<sup>1</sup> Tides Utilities is a Virginia limited liability company formed to own and operate the Sewerage Treatment Plant.

New Tides is a Virginia limited liability company, which recently purchased the real property and other assets used to operate the lodging and marina business previously conducted under the name The Tides Lodge Resort and Country Club ("Tides Lodge"), as well as the purchase from Tides of all of the outstanding membership interests in Tides Utilities.

Joint Petitioners request approval to transfer control of the Sewerage Treatment Plant from Stephens Consulting to Tides Utilities and retroactive approval, if necessary, of certain transactions. In 1998, Stephens Consulting and Stephens Realty sold the real property and other assets used to operate Tides Lodge's lodging and marina business, including all business operations pertaining to Tides Lodge's hotel, restaurant, food service, marina, and other related operations (collectively, the "Tides Lodge and Stephens Realty Assets") to Tides and/or its wholly owned subsidiaries pursuant to the Asset Purchase Agreement.

As part of the sale of the Tides Lodge and Stephens Realty Assets to Tides, Stephens Consulting agreed, in the future, to transfer the Sewerage Treatment Plant to Tides or an affiliate thereof. However, Tides has since sold the Tides Lodge and Stephens Realty Assets and all membership interests in Tides Utilities to New Tides. Stephens Consulting proposes to affirm its obligations to Tides and, upon Commission approval, convey to Tides Utilities the sewerage treatment facilities and related equipment, including all wastewater treatment plant assets, related operations, liabilities, machinery, mains, treatment tanks, drainage devices, pools, pumps and pumping stations, motors, controls, piping, transmitters, lab, ejectors, and all other equipment constituting a complete system of sewerage disposal owned or held by Stephens Consulting (collectively referred to as the "Sewerage Treatment Plant").<sup>2</sup>

Once the transfer of the Sewerage Treatment Plant is complete, New Tides will own directly or indirectly all of the assets and operations related to the Tides Lodge. The transfer of the Sewerage Treatment Plant was included as part of the sale of Tides Lodge from Stephens Consulting to Tides, and the transfer from Tides to New Tides was all-inclusive and did not separate the Sewerage Treatment Plant. There is, therefore, no specific sales price associated with the Sewerage Treatment Plant.

In addition to providing sewerage treatment service to Tides Lodge, which will be the primary customer of Tides Utilities, Tides Utilities also will continue to provide service to the other existing customers. Joint Petitioners represent that, in accordance with the service agreements, Tides Utilities will provide sewerage treatment services to the existing customers at levels equal to or superior to the sewerage treatment services currently provided to existing customers.

In addition to serving approximately nine existing sewerage service customers, Tides Utilities has agreed to honor the existing 27 connection rights to the Sewerage Treatment Plant. Approximately 36 customers are either provided sewerage services or have existing rights to connect to the Sewerage Treatment Plant and receive sewerage services.

THE COMMISSION, upon consideration of the joint petition and representations of the Joint Petitioners and having been advised by its Staff, is of the opinion and finds that the proposed transfer of Sewerage Treatment Plant will neither jeopardize nor impair the provision of adequate service to the public at just and reasonable rates and should, therefore, be approved.

<sup>1</sup> Tides was the sole member of Tides Utilities until April 12, 2001, when Tides transferred its membership interest to New Tides, who is now the sole member of Tides Utilities. To the extent the Commission deems that retroactive approval for Tides Utilities operating the Sewerage Treatment Plant since March 1998 is necessary, Joint Petitioners request such approval.

<sup>2</sup> The transfer does not include any land. Tides Utilities was granted an easement to access the plant, and rights to utilize the easement will be conveyed as part of the transfer.

Accordingly, IT IS ORDERED THAT:

- 1) Pursuant to §§ 56-89 and 56-90 of the Code of Virginia, authority is hereby granted for the transfer of the Sewerage Treatment Plant from Stephens Consulting to Tides Utilities under the terms and conditions and for the purposes as described herein.
- 2) There appearing nothing further to be done in this matter, it hereby is dismissed.

**CASE NO. PUA-2002-00009  
MAY 24, 2002**

APPLICATION OF  
SOUTH ANNA SERVICE CORPORATION  
and  
COUNTY OF HANOVER, VIRGINIA

For approval of sale of assets to Hanover County

**ORDER GRANTING APPROVAL**

On February 26, 2002, South Anna Service Corporation (the "Corporation") and the County of Hanover, Virginia (the "County"), (collectively, the "Applicants") filed an application with the State Corporation Commission ("Commission") under the Utility Transfers Act requesting approval of the sale of assets to the County. More specifically, the Corporation requests approval to sell, and the County requests approval to purchase, the operating assets of the wastewater treatment facility currently owned by the Corporation in order to provide public wastewater utility services to the County residents in the Country Club Hills Subdivision ("Country Club Hills").

The Corporation represents that the terms of the asset sale were negotiated, through counsel, at arm's length. The proposed sales price of the operating assets is \$300,000.00. The negotiated purchase price was based on an appraisal of the operating assets conducted by a certified independent appraiser hired by mutual agreement of the Corporation and the County. The proposed sale by the Corporation to the County was approved by a vote of at least two-thirds of the eligible shareholders of common voting stock.

The County Administrator notified the current customers of the Corporation in writing of the County's proposed purchase of the Corporation's wastewater treatment facility pursuant to a January 14, 2002 notice, which advised customers of a public hearing on the matter. After a public hearing held on January 23, 2002, the County Board of Supervisors approved the proposed purchase contingent on the creation of a sanitary district for the residents of Country Club Hills. The Circuit Court of the County of Hanover approved the creation of that sanitary district on April 12, 2002, in Case No. CHO2-96.

The Corporation represents that the sale to the County will result in a more efficient means of providing wastewater treatment service to Country Club Hills residents. The Corporation also represents that the sale will allow for the eventual closure of the current lagoon and the integration of the wastewater treatment facility into the public wastewater system. Integration into the County's public wastewater treatment system will allow for increased capacity and potential for growth that would not otherwise be possible and will provide a higher quality and reliability of service to customers.

The private wastewater treatment facility currently owned and operated by the Corporation will be operated in the same manner as the County operates similar facilities. At a minimum, the County will need to construct a pump station and force main and will need to abandon the lagoon to connect to the public wastewater system.

The residents of Country Club Hills will bear the direct cost of debt service to fund the purchase from the Corporation and the capital cost to interconnect the wastewater treatment facility. The debt service repayment is estimated to be approximately \$20 per month, or \$40 per billing cycle, over a 20-year period in addition to applicable user fees. Based on information provided in the application, customers were notified of the proposed implementation of the sanitary district and the fees proposed for interconnection to the sanitary district.

THE COMMISSION, upon consideration of the application and representations of the Applicants and having been advised by its Staff, is of the opinion and finds that the transfer of operating assets of the Corporation to the County as described herein will neither impair nor jeopardize the provision of adequate service to the public at just and reasonable rates and should, therefore, be approved.

Accordingly, IT IS ORDERED THAT:

- 1) Pursuant to §§ 56-89 and 56-90 of the Code of Virginia, South Anna Service Corporation is hereby granted approval to sell its operating assets used to provide wastewater utility services to the residents of the Country Club Hills Subdivision in Hanover County, Virginia, to the County at the sales price of \$300,000.00, and under the terms and conditions as described herein.
- 2) The approval granted herein shall have no ratemaking implications.
- 3) South Anna Service Corporation shall submit a report to the Commission's Director of Public Utility Accounting within 30 days of the consummation of the above-referenced sale, subject to extension by the Director of Public Utility Accounting, Such report shall include the date of the sale and the actual sales price.
- 4) There appearing nothing further to be done in this matter, it hereby is dismissed.



**CASE NO. PUA-2002-00010**  
**JULY 17, 2002**

JOINT PETITION OF  
 COMCAST BUSINESS COMMUNICATIONS OF VIRGINIA, LLC,  
 JONES TELECOMMUNICATIONS OF VIRGINIA, INC.,  
 and  
 COMCAST CORPORATION

For approval of transfer of ultimate control of Comcast Business Communications of Virginia, Inc.

**ORDER GRANTING APPROVAL**

On March 5, 2002, Comcast Business Communications of Virginia, LLC ("CBC"),<sup>1</sup> Jones Telecommunications of Virginia, Inc. ("Jones-VA"),<sup>2</sup> and Comcast Corporation ("Comcast") filed a joint petition with the State Corporation Commission ("Commission") requesting approval, pursuant to § 56-88.1 of the Code of Virginia ("Code"), to transfer ownership and control of Comcast, the ultimate parent of CBC and Jones-VA to a newly-created ultimate parent, AT&T Comcast Corporation ("AT&T Comcast"). Jones-VA and CBC together are referred to as "Comcast Subsidiaries." Jones-VA, CBC, and Comcast are collectively referred to as "Petitioners."

Comcast Business Communications, Inc. ("Comcast Inc."), is a Virginia limited liability company headquartered in Morrestown, New Jersey, and is a wholly owned subsidiary of Comcast Business Communications Holdings, Inc. ("Holdings"), which, in turn, is a wholly owned, indirect subsidiary of Comcast. Comcast Inc. is the parent of CBC.

Jones-VA is a Virginia corporation and is a wholly owned, indirect subsidiary of Comcast Cable Communications, Inc., which, in turn, is a wholly owned subsidiary of Comcast. Through Jones-VA and other affiliates, Comcast provides telephony services to approximately 46,000 customers in a number of its cable franchise areas in Virginia and Michigan.

All of the stock of the Comcast Subsidiaries is indirectly owned by Comcast, a publicly traded Pennsylvania corporation located in Philadelphia, Pennsylvania. Comcast is primarily engaged in the development, management, and operation of broadband cable networks. Although publicly held, approximately 86.7% of the voting power of Comcast is held by Sural LLC, which is controlled by Brian L. Roberts, President of Comcast. Sural LLC holds approximately 3% of the total equity of Comcast, but its shares have enhanced voting rights.

As a result of the transactions described in the joint petition, Comcast will become a wholly owned subsidiary of AT&T Comcast, a Pennsylvania corporation also headquartered in Philadelphia, Pennsylvania. Currently, AT&T Comcast is a "shell" company, equally owned by AT&T Corp. and Comcast.

AT&T Corp. ("AT&T"), a publicly traded New York corporation headquartered in New York, New York, that currently operates its broadband business as the AT&T Broadband unit. AT&T has formed AT&T Broadband Corp., now a shell company, to hold the business comprising the AT&T Broadband unit, and this corporation will become a subsidiary of AT&T Comcast.<sup>3</sup> AT&T Broadband is and will continue to be headquartered in Englewood, Colorado.

Pursuant to an Agreement and Plan of Merger dated December 19, 2001, between Comcast and AT&T (the "Agreement"), AT&T Comcast is being formed to hold AT&T Corp.'s broadband business<sup>4</sup> and all of Comcast's businesses. Upon completion of the transaction, Comcast will be a wholly owned subsidiary of AT&T Comcast. The broadband business will be conducted through a separate subsidiary of AT&T Comcast. The Petitioners represent that the change in Comcast's control will not affect the identities of the utilities providing services, CBC and Jones-VA, or the rates, terms, and conditions under which services are currently being provided in Virginia. The only change is that the ultimate owner of the Comcast Subsidiaries will be AT&T Comcast Corporation, rather than Comcast.

On March 29, 2002, the Commission issued its Order for Notice and Comment. On April 5, 2002, the Commission issued an Order granting the Petitioners' request to publish the notice prescribed in the above-referenced order as classified advertising rather than display advertising. That Order also extended the period of review of the joint petition through July 31, 2002, and extended the procedural schedule established in the Commission's March 29th Order. Petitioners filed proofs of notice and service on May 9, 2002.

On May 20, 2002, the county of Arlington, Virginia (the "County"), filed Comments on the joint petition. In its Comments, the County expressed concern regarding the financial ability of AT&T Comcast to meet its service obligations under a cable certificate granted by the County. The County, therefore, requested the Commission to pay particular attention to the financial aspect of the joint petition.

On May 31, 2002, Staff filed its Report. Staff reviewed the proposed transactions from a financial standpoint, with respect to the actual and potential effects of such transactions on telecommunications competition in Virginia, and with respect to the effect of those transactions on rates and service

<sup>1</sup> CBC is authorized to provide local and interexchange telecommunications services in Virginia. See Case No. PUC-2000-00294, Certificate Nos. TT-141A and T-546 dated March 23, 2001.

<sup>2</sup> By Order dated June 28, 1996, in Case No. PUC-1996-00003, Jones-VA was granted a certificate to provide local exchange telecommunications services within the City of Alexandria and the counties of Arlington, Fairfax, and Prince William, including all cities and incorporated areas within those counties.

<sup>3</sup> Both the existing unit and the new corporation are referred to herein as "AT&T Broadband."

<sup>4</sup> The transfer of AT&T Broadband from AT&T to AT&T Comcast is the subject of a separate but concurrent joint petition filed with the Commission on March 7, 2002 ("AT&T Broadband Petition"). That case was docketed PUA-2002-00012.

in Virginia. Such rates and services were examined to the extent of the Commission's jurisdiction in the matter; namely, CBC and Jones-VA, the Virginia telecommunications operating entities.

Staff had no objection to the approval of the proposed transactions from a financial perspective.

In evaluating the joint petition with respect to competitive activity in Virginia, Staff considered the merger transactions' effect on CBC and Jones-VA. Staff evaluated the long distance and local exchange markets with respect to any actual or potential anti-competitive effects of the merger and the resulting negative impact on just and reasonable rates pursuant to § 56-90 of the Code.

Staff found that the potential for interexchange competition should not be affected by the transfer of control of CBC and Jones-VA since those companies would not likely have competed against each other.<sup>5</sup> With respect to the local exchange market, Staff considered the combined transfer of control of CBC and Jones-VA to AT&T Comcast, along with the transfer of control of AT&T Broadband Phone of Virginia, Inc., to AT&T Comcast. Staff found that such transfers would likely have no negative effect on the potential for competition in that market. The service territories for cable companies are separate, and each entity generally competes for local exchange service in the territory where it provides cable service. Staff, therefore, did not object to the proposed change of control of CBC and Jones-VA as it relates to current or potential interexchange or local exchange competitive activity in Virginia.

Staff had a concern regarding Jones-VA's service quality performance, primarily with regard to billing complaints. Staff, however, did not oppose the change in ownership and control of CBC and Jones-VA from Comcast to AT&T Comcast, subject to the following requirements:

1. Jones-VA shall begin reporting service quality results pursuant to 20 VAC 5-400-80 or any other service quality standard the Commission may adopt, beginning with the first full month following Commission approval of the change of control.
2. Jones-VA must achieve a satisfactory rating in all relevant service quality areas pursuant to 20 VAC 5-400-80 or any other service quality standards the Commission may adopt, beginning with the 4th quarter 2002 reporting period.

Staff also recommends that a report of action be filed within 30 days of consummating the merger transactions wherein the Petitioners notify the Commission that such transactions have taken place.

On June 17, 2002, the Petitioners filed a Response to the Staff's Report in the above-captioned matter ("Response"). In their Response, the Petitioners request the Commission to approve the transactions set forth in their joint petition without requiring the service reporting detailed in Staff's Report.

In support of their request, the Petitioners state that Jones-VA is implementing a new Billing and Operational Support System ("OSS") that will address many of the shortcomings of the current system that gave rise to the billing complaints noted in Staff's Report. Implementation of such System is expected to be complete during the third quarter of 2002. The Petitioners also state that Jones-VA had no deficiencies with respect to other service standards as set forth in the Commission's Rules Governing Service Standards for Local Exchange Telephone Companies ("Rules"), 20 VAC 5-400-80, and that it should not be required to report service quality results that other similarly situated competitive local exchange carriers are not required to report.<sup>6</sup> Finally, the Petitioners state that Jones-VA commits to take all necessary steps to achieve a satisfactory rating in all relevant service quality areas pursuant to the Rules. The Petitioners note existing remedies available to the Commission if Jones-VA's service falls below the criteria established in the Rules.<sup>7</sup> The Petitioners request that, if the Commission determines that service reporting requirements are necessary, such reporting should be required only for a limited duration.

NOW THE COMMISSION, having considered the joint petition, the Comments on the joint petition, the Staff Report, and the Response thereto, is of the opinion and finds that approval of the joint petition will not jeopardize or impair adequate service at just and reasonable rates. We will approve the joint petition without service quality reporting requirements. We recognize that Jones-VA is in the process of implementing a new billing system, and we would expect billing complaints to continue to decrease with the completion of that system. We note, however, that, although companies under the 20,000 access line threshold are not required to report service quality results, such companies must be in a position to obtain such data in the event Staff should request it. We will, therefore, expect CBC and Jones-VA to have such data available upon request.

Accordingly, IT IS ORDERED THAT:

- (1) Pursuant to §§ 56-88.1 and 56-90 of the Code, approval is hereby granted for the Agreement and Plan of Merger, as described in the joint petition.
- (2) The Petitioners shall file a Report of Action with the Clerk of the Commission no later than 30 days following the consummation of the merger transactions described in their joint petition.
- (3) There being nothing further to be done in this matter, it is hereby dismissed.

<sup>5</sup> CBC does not have an approved interexchange tariff in Virginia. Jones-VA is not certificated to provide interexchange telecommunications services in Virginia.

<sup>6</sup> Because Jones-VA does not provide service to more than 20,000 access lines, it would not otherwise be obligated to provide reports to the Commission's Division of Communications. CBC does not as yet serve any customers in Virginia.

<sup>7</sup> The Petitioners specifically reference §§ 56-247, 56-483, and 12.1-33 of the Code.

**CASE NO. PUA-2002-00012  
JULY 17, 2002**

JOINT PETITION OF  
AT&T CORP.  
and  
AT&T COMCAST CORPORATION

For approval to change control of AT&T Broadband Phone of Virginia, Inc., to AT&T Comcast Corporation

**ORDER GRANTING APPROVAL**

On March 7, 2002, AT&T Corp. ("AT&T") and AT&T Comcast Corporation ("AT&T Comcast") (collectively, the "Petitioners") filed a joint petition with the State Corporation Commission ("Commission") requesting approval pursuant to § 56-88.1 of the Code of Virginia ("Code") to transfer ownership and control of AT&T Broadband Phone of Virginia, Inc. ("AT&T Broadband Phone of VA"),<sup>1</sup> to AT&T Comcast. Pursuant to an Agreement and Plan of Merger dated December 19, 2001 (the "Agreement"), Comcast Corporation ("Comcast") and AT&T agreed to a transaction whereby Comcast and AT&T would combine their broadband business by forming a new company, AT&T Comcast.<sup>2</sup>

AT&T is a New York corporation with headquarters in New York, New York, that currently operates its broadband business as the AT&T Broadband unit. AT&T has formed AT&T Broadband Corp., now a shell corporation, to hold the business composing the AT&T Broadband unit. AT&T is the ultimate parent of AT&T Broadband Phone of VA. On its own, or through its subsidiaries, AT&T is authorized to provide domestic and international telecommunications services throughout the United States.

AT&T Broadband<sup>3</sup> provides cable television, video programming, telephony, and high-speed cable Internet services over its broadband networks across the United States. It markets cable telephony service to approximately 7,000,000 households in 16 markets and has in excess of 1,000,000 customers. In the Richmond area, AT&T Broadband Phone of VA currently has more than 28,000 telephony customers.

AT&T Comcast Corporation ("AT&T Comcast") is a Pennsylvania corporation headquartered in Philadelphia, Pennsylvania. AT&T Comcast is a shell corporation that is equally owned by AT&T and Comcast. Upon completion of the transactions for which approval is requested in this proceeding and the Jones Comcast Petition, AT&T Comcast will be the publicly traded holding company for the businesses of Comcast and AT&T Broadband. At that time, AT&T Comcast will be owned by the shareholders of AT&T and Comcast.

The Petitioners state that the proposed merger will result in a change in the ultimate owners of AT&T Broadband Phone of VA but will not involve any immediate change in the manner in which AT&T Broadband Phone of VA provides service to its Virginia customers. AT&T Broadband Phone of VA will continue to provide telecommunications services in Virginia pursuant to tariffs on file with the Commission.

The Petitioners represent that, following the change of control, AT&T Broadband Phone of VA will continue to be led by a team of well-qualified telecommunications managers, including existing AT&T Broadband Phone of VA personnel. AT&T Broadband Phone of VA and AT&T Broadband will honor all commitments to AT&T Broadband Phone of VA's existing customers.

After the proposed transactions, AT&T Broadband Phone of VA will continue to offer its local exchange and interexchange telecommunications services. These services eventually will be marketed under the name of Comcast rather than AT&T. There will be no change in the direct ownership of AT&T Broadband Phone of VA, only the ultimate ownership of that company will change from AT&T to AT&T Comcast.

Under the Agreement and after receiving the necessary shareholder and governmental approvals, a series of transactions will be implemented to consummate the merger of AT&T Broadband (including AT&T Broadband Phone of VA) with all of Comcast's businesses. AT&T will contribute all of the assets of AT&T Broadband to a new, wholly owned holding company, AT&T Broadband. AT&T will then spin off the AT&T Broadband unit to the shareholders of AT&T. Immediately following the spin-off, Comcast and AT&T Broadband will merge with different, wholly owned subsidiaries of AT&T Comcast.

Specifically, Comcast will merge into Comcast Acquisition Corporation, a newly formed, wholly owned shell subsidiary of AT&T Comcast, with Comcast as the surviving entity. AT&T Broadband will merge into AT&T Broadband Acquisition Corp., also a newly formed, wholly owned shell subsidiary of AT&T Comcast, with AT&T Broadband as the surviving entity.

The Petitioners contemplate that AT&T Comcast may form a wholly owned limited liability company to hold the stock of AT&T Broadband. Such a step, which may be needed to facilitate future financing, would be taken at or soon after the closing of the transaction described herein. In order to avoid the need for further Commission consideration of this possible intra-corporate change, the Petitioners are requesting approval of this transaction as part of their joint petition.

Following these steps, AT&T Comcast will be the new public company of AT&T Broadband and Comcast, which will be wholly owned "brother/sister" subsidiaries of AT&T Comcast. As a result, AT&T Comcast will consist of both companies' interests in programming services, with both companies' telecommunications services as well as other assets owned by the two companies.

<sup>1</sup> AT&T Broadband Phone of VA provides local and interexchange telecommunications services in the City of Richmond, the Town of Ashland, and the counties of Goochland, Henrico, Hanover, and Louisa pursuant to Certificate Nos. T-371b and TT-30C.

<sup>2</sup> The combination of AT&T Comcast with Comcast Corporation is the subject of a separate but concurrent joint petition filed with the Commission by Comcast and certain of its subsidiaries on March 5, 2002 ("Jones Comcast Petition"). That case was docketed PUA-2002-00010.

<sup>3</sup> Both the existing unit and the new corporation are referred to herein as "AT&T Broadband."

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

Upon completion of the merger, each Comcast shareholder will receive one share of the corresponding class of AT&T Comcast stock in exchange for each share of Comcast stock. Each AT&T Broadband shareholder will receive approximately .34 shares of AT&T Comcast stock in exchange for each AT&T Broadband share, subject to adjustment as provided for in the Agreement.

On March 29, 2002, the Commission issued its Order for Notice and Comment. On April 5, 2002, the Commission entered an order granting the Petitioners' request to publish the notice prescribed in the above-referenced order as classified advertising rather than display advertising. That Order also extended the period of review of the joint petition through July 31, 2002, and extended the procedural schedule established in the Commission's March 29th Order. The Petitioners filed proofs of notice and service on May 9, 2002.

On May 20, 2002, the county of Arlington, Virginia (the "County"), filed Comments on the joint petition. In its Comments, the County expressed concern regarding the financial ability of AT&T Comcast to meet its service obligations under a cable certificate granted by the County. The County, therefore, requested the Commission to pay particular attention to the financial aspect of the above-referenced transactions.

On May 31, 2002, Staff filed its Report. Staff reviewed the proposed transactions from a financial standpoint, with respect to the actual and potential effects of such transactions on telecommunications competition in Virginia, and with respect to the effect of those transactions on rates and service in Virginia. Such rates and services were examined to the extent of the Commission's jurisdiction in the matter; namely, the telecommunications services provided by AT&T Broadband Phone of VA.

Staff had no objection to the approval of the proposed transactions from a financial perspective. Staff stated that, because the assets of AT&T Broadband and Comcast will be combined, the combined entity may be able to attract capital better than each individual entity. Staff agreed with the Petitioners that, although AT&T Comcast's financial ratios on a stand-alone basis are less favorable than Comcast's, AT&T Comcast's ratios are more favorable than the ratios of AT&T Broadband, individually. Staff noted that AT&T Broadband will obtain its financing through AT&T Comcast's business planning process and that the Petitioners represent that the new AT&T Comcast will be financially strong.

In evaluating the joint petition with respect to competitive activity in Virginia, Staff considered the transactions' effect on AT&T Broadband Phone of VA. Staff evaluated the long distance and the local exchange markets with respect to any actual or potential anti-competitive effect of the merger and the resulting negative impact on just and reasonable rates pursuant to § 56-90 of the Code. Staff did not object to the proposed change of control of AT&T Broadband of VA as it relates to current or potential interexchange and local exchange competitive activity in Virginia. Staff also noted, however, that the Commission does not regulate the provision of cable service.

Staff had concerns regarding AT&T Broadband Phone of VA's service quality performance. Staff was concerned that current service problems may continue or become worse after the proposed transfer and that there would be an adverse impact on the provision of adequate service. Staff, however, did not oppose approval of the joint petition, subject to the following requirements:

1. AT&T Broadband Phone of VA must achieve a satisfactory rating in all relevant service quality areas pursuant to 20 VAC 5-400-80 or any other service quality standards the Commission may adopt, beginning with the 4th quarter 2002 reporting period;
2. AT&T Broadband Phone of VA shall make personnel available to immediately respond to Commission complaints and other Staff inquiries during normal business hours;
3. AT&T Broadband Phone of VA shall resolve out-of-service Commission complaints within 24 hours of notification by Staff. If the condition cannot be resolved within 24 hours, AT&T Broadband Phone of VA shall provide to the Staff a detailed, written explanation, which would include the projected time frame for resolution; and
4. AT&T Broadband Phone of VA shall resolve or provide a status of other Commission complaints within five business days of notification by Staff.

Staff also recommends that a Report of Action be filed within 30 days of consummating the merger transactions wherein the Petitioners will provide notification that such transactions have taken place.

On June 17, 2002, the Petitioners filed Comments on the Staff's Report ("Comments"). In their Comments, the Petitioners request that the Commission approve the joint petition without any requirements or conditions. The Petitioners note that they submitted a Plan of Action to the Commission's Division of Communications and implemented such Plan three months ago. Attached to those Comments was a June 12, 2002, Amended Plan of Action designed to address the service quality requirements detailed in Staff's Report. Subsequently, the Petitioners submitted a revised Amended Plan of Action dated June 25, 2002, which included remedial action to address remaining service concerns in Staff's Report. The Amended Plan of Action dated June 25, 2002, is attached hereto (Attachment A).

In a letter dated July 11, 2002, Staff advised counsel for the Petitioners that the June 25, 2002, Amended Plan of Action satisfies the service quality concerns detailed in Staff's Report.

NOW THE COMMISSION, having considered the joint petition, Comments filed by the County, Staff's Report, and the Comments thereto, finds that approval of the joint petition will not jeopardize or impair adequate service at just and reasonable rates. We note Staff's letter dated July 11, 2002, wherein Staff advised the Petitioners that the Amended Plan of Action dated June 25, 2002, satisfies the service quality concerns detailed in Staff's May 31, 2002, Report. Additionally, we note further remedial action available through the Commission's Rules Governing Service Standards for Local Exchange Telephone Companies, 20 VAC 5-400-80, and other provisions of the Code. Although we will approve the joint petition without the requirements detailed in Staff's Report, we will direct AT&T Broadband Phone of VA to implement the remedial service quality action detailed in its Amended Plan of Action dated June 25, 2002.

Accordingly, IT IS ORDERED THAT:

(1) Pursuant to §§ 56-88.1 and 56-90 of the Code of Virginia, approval is hereby granted for the Agreement and Plan of Merger, as described in the joint petition.

(2) AT&T Broadband Phone of VA shall implement the remedial service quality actions detailed in its Amended Plan of Action dated June 25, 2002.

(3) The Petitioners shall file a Report of Action with the Clerk of the Commission no later than 30 days following the consummation of the transactions detailed herein.

(4) There being nothing further to be done in this matter, it is hereby dismissed.

NOTE: A copy of Attachment A is on file and may be examined at the State Corporation Commission, Clerk's Office, Document Control Center, Tyler Building, First Floor, 1300 East Main Street, Richmond, Virginia.

**CASE NO. PUA-2002-00013  
MAY 24, 2002**

APPLICATION OF  
COLUMBIA GAS OF VIRGINIA, INC.

For approval pursuant to the Utility Affiliates Act

**ORDER GRANTING APPROVAL**

On March 1, 2002, Columbia Gas of Virginia, Inc. ("CGV," the "Company"), filed an application with the State Corporation Commission ("Commission") pursuant to Chapter 4 of Title 56 of the Code of Virginia. In that application, CGV requests approval of an arrangement for the provision of office space, support services, and certain other items and for the payment of those items and services between CGV and NiSource Corporate Services Company and Columbia Gas Transmission Corporation.

CGV is a natural gas distribution company serving approximately 200,000 customers in central Virginia, southside Virginia, Piedmont, and most of the Shenandoah Valley, as well as portions of Northern and Southwest Virginia. CGV is a wholly owned subsidiary of Columbia Energy Group ("CEG"), which itself is a wholly owned subsidiary of NiSource Inc.

NiSource Corporate Services Company ("NCSC"), which was formerly called Columbia Energy Group Service Corporation, is a direct subsidiary of NiSource Inc. By Final Order dated July 14, 2000, the Commission approved the merger of NiSource Inc. and CEG, which became effective November 1, 2000. Both CEG and NiSource Inc. are registered holding companies under the federal Public Utility Holding Company Act of 1935 ("PUHCA") and are duly organized and existing under the laws of the State of Delaware. After the merger, NiSource Inc. merged its service company, NCSC, into Columbia Energy Group Service Corporation. Columbia Energy Group Service Corporation then changed its name to NCSC.

Columbia Gas Transmission Corporation ("TCO") is an interstate natural gas transportation company whose pipeline network in Virginia currently consists of approximately 1,117 miles of pipeline serving five natural gas local distribution companies in Virginia, including CGV. TCO is also a subsidiary of CEG.

Pursuant to provisions of a Service Agreement between Columbia Gas System Service Corporation and Commonwealth Gas Services, Inc., approved by the Commission's Order Approving Service Agreement in Case No. PUA-1981-00100 (PUA810100), CGV receives a variety of services from NCSC. Prior to the merger of NiSource Inc. and CEG, employees of Columbia Energy Group Service Corporation were generally located either at CEG's headquarters in Herndon, Virginia, or in Marble Cliff, Ohio.

On January 1, 2001, certain CGV employees, as well as a number of other employees throughout the NiSource organization, including certain "Shared Services" employees located in Columbus, Ohio, became employees of NCSC. CGV maintains that the Service Agreement clearly permits the provision of services from NCSC to CGV. CGV states, however, that the Service Agreement does not appear to contemplate the provision of services or office space necessary to facilitate the arrangement under which some NCSC employees would be physically located on-site within CGV facilities. While the Company agrees that it appears that it should have obtained Commission approval for the modification to the arrangement prior to the transfer of local CGV employees to NCSC, the Company represents such failure was inadvertent and without prejudice to its customers or any other party.

CGV, therefore, requests approval of an arrangement whereby CGV may provide office space, office equipment, office supplies, telecommunications services, and other items and services necessary for conducting everyday business. CGV will provide the office space, office equipment, support services, and other items for use by NCSC employees located in CGV's Richmond, Virginia headquarters and, to the extent necessary, other CGV offices throughout Virginia. Since the number of NCSC employees working out of CGV's offices may change from time to time, the Company requests that the arrangement be approved for any NCSC employees that may now or in the future be working out of CGV's offices.

CGV also requests approval to allow TCO employees to utilize office space, office equipment, office supplies, telecommunications services, and other items and services in CGV offices on a temporary or long-term basis. Similarly, CGV requests approval to allow CGV employees to utilize office space, office equipment, telecommunications services, office supplies, and other items and services in TCO offices on a temporary or long-term basis.

For the items and services provided to NCSC, CGV will be compensated at a rate consistent with the compensation provisions of the previously approved Service Agreement in Case No. PUA-1981-00100, which is at cost, including applicable overhead. CGV will be compensated for such items and services provided to TCO employees and will pay for such items and services received from TCO as follows: (a) all expenses will be charged to the corresponding affiliate based on cost, including pertinent overheads; and (b) where office space between CGV and TCO is owned by one party, the entity using the assets will pay the owner of the assets an allocated share of the depreciation and operating and maintenance expenses, including pertinent overheads.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

The Company states that the proposed arrangements for the provision of the office space, support services, and other items by CGV to NCSC and between CGV and TCO are in the public interest. The Company further states that its customers will benefit from the proposed arrangement with NCSC because it facilitates the fullest possible access by CGV to NCSC employees who are experienced in issues and operations of public utilities in general and of CGV's operations in particular. CGV represents that the provision of office space, office equipment, and office items by CGV will enable NCSC personnel to be directly accessible to CGV personnel and will facilitate the ongoing relationship between CGV and NCSC. Similarly, customers will benefit from the proposed arrangement between CGV and TCO because it allows for the most economical and cost-effective use of their respective facilities.

The Company represents that the Service Agreement approved by the Commission in Case No. PUA-1981-00100 between Columbia Gas System Service Corporation and Commonwealth Gas Services, Inc., clearly permits the provision of services between CGV and NCSC. The Company bases its representation on the definitions used for "Company" and "Client" in an attachment to the Service Agreement.

Regarding the arrangement for the provision of services or office space by CGV to NCSC, no formal agreement exists. CGV proposes to provide office space and services necessary to conduct normal business operations. These services include utilities to provide environmental control, janitorial services, telecommunications services, copy services, maintenance of space and office supplies of a de minimis nature, and other such services. CGV does not propose to provide computers, pagers, and cellular telephones to NCSC employees.

The Company represents that virtually all of the NCSC employees noted in the application are former CGV employees. They were transferred to the NCSC payroll in 2001. The job responsibilities and duties of those former CGV employees have not changed because they work for the benefit of CGV customers.

Under the proposed arrangement, CGV will not charge NCSC for items or services when the work is performed solely for CGV's benefit. The Company states that the intent of the filing is not to develop an elaborate system to bill office space for these employees. Since the costs billed to NCSC will then be billed back to CGV as the direct beneficiary of the service, the result will be the same under either billing system. The Company states that administration of such a process will increase costs to CGV and will not add value to CGV customers. The Company states that it intends to provide a basis to ensure proper billing of office space costs and related expenditures on those rare occasions when one of these employees provides services to an affiliated company.

Regarding the proposed arrangement between CGV and TCO, as with NCSC, no formal arrangement exists. The same types of services will be provided in the arrangement between CGV and NCSC. The intent of the arrangement is to provide approval for CGV's use of TCO office space and TCO's use of CGV office space in some of the local offices. A limited number of employees from one affiliate company would be able to use office space already leased/owned by the other affiliate company. As explained by CGV, it may be more economical for one or two CGV employees to use space in a TCO building rather than trying to find office space in an area where CGV does not own any buildings. The Company anticipates that this arrangement would apply to less than 20 employees.

THE COMMISSION, upon consideration of the application and representations of the Company and having been advised by its Staff, is of the opinion that the Service Agreement, as approved previously, does not clearly permit the provision of the above-referenced services to be provided from NCSC to CGV. While we do not believe that a new service agreement between NCSC and CGV needs to be filed for approval under the Affiliates Act, we do believe that a revised page to the Service Agreement or a letter should be submitted to the Commission's Director of Public Utility Accounting. Such page or letter must incorporate the current affiliated entities. We believe this is necessary to enable the Commission and its Staff to monitor CGV's current affiliate arrangements.

Regarding the arrangements for the provision of services or office space by CGV to NCSC and between CGV and TCO, we believe the arrangements are in the public interest and should be approved on a prospective basis only. However, regarding the arrangement for the provision of services or office space by CGV to NCSC, we believe that CGV should take steps to charge NCSC for any items or services received from CGV. If all work performed by NCSC is for the benefit of CGV, then such charges should be billed back to CGV. However, sufficient records should be maintained so that the Company can determine the portion of such charges that should be charged back to CGV. We believe that CGV should implement a system for tracking charges and for billing services rendered to enable the Company and the Staff to examine and track charges more accurately. We believe the Company should be allowed 90 days to implement such a system.

Accordingly, IT IS ORDERED THAT:

- 1) Pursuant to § 56-77 of the Code of Virginia, Columbia Gas of Virginia, Inc., is hereby granted approval to enter into the arrangements with NiSource Corporate Services Company and Columbia Gas Transmission Corporation under the terms and conditions and for the purposes described herein, on a prospective basis only.
- 2) Within 90 days from the date of this Order, subject to extension by the Commission's Director of Public Utility Accounting, the Company shall have a system in place to track and bill charges for services provided to NCSC under the approved arrangement and shall notify the Director of Public Utility Accounting that such system is in place.
- 3) Within 30 days from the date of this Order, the Company shall submit to the Director of Public Utility Accounting, subject to extension by the Director of Public Utility Accounting, a revised page to the Service Agreement or a letter showing the current parties to the Service Agreement as NiSource Corporate Services Company and Columbia Gas of Virginia, Inc.
- 4) CGV shall take the steps necessary to ensure that applications for approval of affiliate transactions are filed with the Commission in a timely manner and that future violations of the Affiliates Act do not occur.
- 5) Should any terms and conditions of the arrangements change from those approved herein, or if any changes in the terms and conditions of the Service Agreement change from those previously approved, Commission approval shall be required for such changes.
- 6) The Company shall promptly notify the Director of Public Utility Accounting of any changes in the parties to the Service Agreement from those currently existing.

- 7) The approvals granted herein shall have no ratemaking implications.
- 8) The approvals granted herein shall not preclude the Commission from exercising the provisions of §§ 56-78 and 56-80 of the Code of Virginia hereafter.
- 9) The Commission reserves the authority to examine the books and records of any affiliate in connection with the approvals granted herein whether or not the Commission regulates such affiliate.
- 10) If Annual Informational and/or General Rate Case Filings are not based on a calendar year, then CGV shall include the affiliate information contained in the Annual Report of Affiliate Transactions in such filings.
- 11) The arrangements approved herein shall be included in CGV's Annual Report of Affiliate Transactions submitted to the Commission's Director of Public Utility Accounting.
- 12) There appearing nothing further to be done in this matter, it hereby is dismissed.

**CASE NO. PUA-2002-00014  
APRIL 22, 2002**

PETITION OF  
VIRGINIA ELECTRIC AND POWER COMPANY  
and  
DOMINION ENERGY MARKETING, INC.

For an exemption of wholesale power contract assignments from the filing and prior approval requirements of § 56-77 of the Code of Virginia or, in the alternative, for approval of assignment of Master Power Purchase and Sale Agreement, Master Power Purchase and Sale Agreement Confirmation Letter, and Limited Agency Agreement to Dominion Energy Marketing, Inc., and for expedited consideration

**ORDER GRANTING EXEMPTION**

On March 8, 2002, Virginia Electric and Power Company ("Dominion Virginia Power", "Company") and Dominion Energy Marketing, Inc. ("DEMI"), (collectively, the "Petitioners") filed a petition with the State Corporation Commission ("Commission") under the Affiliates Act for an exemption from the filing and prior approval requirements of § 56-77 of the Code of Virginia or, in the alternative, for approval for the assignment of a Master Power Purchase and Sale Agreement, Master Power Purchase and Sale Agreement Confirmation Letter, and Limited Agency Agreement (collectively, the "Agreement") from Dominion Virginia Power to DEMI.

Dominion Virginia Power is a Virginia public service corporation providing retail electric service to customers in its service territory in Virginia and North Carolina and is wholly owned by Dominion Resources, Inc. ("DRI"). DEMI is a Delaware corporation participating in the wholesale market for purchases and sales of electric energy as well as participating in the market for related financial derivatives. DEMI is an indirect wholly owned subsidiary of DRI.

Dominion Virginia Power requests an exemption from the filing and prior approval requirements of the Affiliates Act or, in the alternative, approval for the assignment of the Agreement from Dominion Virginia Power to DEMI. The Agreement is between Dominion Virginia Power and the Borough of Tarentum, Pennsylvania (the "Borough").

Pursuant to the Agreement, Dominion Virginia Power has the exclusive right and obligation to supply 100% of the Borough's requirements of wholesale energy and all ancillary services for the Borough's customers, representing a peak load of approximately 9MW. Service under the contract began on March 16, 2002, and is set to end on March 31, 2005. Service under the contract will be provided within the Allegheny Power Control Area and, after the effective date of the PJM West proposed tariffs (estimated to be April 1, 2002), within PJM West. The Company states that, although there is no requirement in the contract that Dominion Virginia Power serve the Borough through a specific energy source, once the PJM West proposed tariffs become effective, providing energy from PJM West is the most efficient way for the Company (and DEMI, by assignment) to fulfill its obligations to the Borough under the Agreement. DRI will guarantee DEMI's obligations under the Agreement.

As a result of the proposed assignment of the Agreement, Dominion Virginia Power will be released from all associated liability under the Agreement. Dominion Virginia Power states that the proposed assignment of the Agreement would enable the Company to avoid the possible establishment of a tax nexus with states other than Virginia, North Carolina, and West Virginia. The Company represents that, to the extent activities pursuant to the Agreement create a tax nexus with states other than Virginia, North Carolina, and West Virginia, DEMI will be subject to state taxes at a much lesser amount in such states because Dominion Virginia Power's taxable income will not be used to compute the state tax amount. The Company further represents that the assignment would have no detrimental impact to Dominion Virginia Power ratepayers because the sales of power to the Borough involve power generated from facilities that are not Dominion Virginia Power system resources, are not located in Virginia, are not subject to cost of service regulation in Virginia, and are not, and will not be, financially supported by Dominion Virginia Power customers.

THE COMMISSION, upon consideration of the petition and representations of the Petitioners and having been advised by its Staff, is of the opinion and finds that exemption of wholesale power contract assignments from the filing and prior approval requirements of § 56-77 of the Code of Virginia is in the public interest and should be granted provided that such contracts do not use in-system resources or external resources dedicated to Dominion Virginia Power's retail service in Virginia.

Accordingly, IT IS ORDERED THAT:

- 1) Pursuant to § 56-77 of the Code of Virginia, the requested exemption of the assignments of wholesale power contracts from the filing and prior approval requirements of § 56-77 of the Code of Virginia is hereby granted, provided that such contracts do not use Dominion Virginia Power in-system resources or external resources dedicated to Dominion Virginia Power's retail service in Virginia.
- 2) Such exemption shall apply to the assignment from Dominion Virginia Power to DEMI of the Agreement as described herein and for such future assignments provided that the above-described conditions are met.
- 3) The exemption granted herein shall have no ratemaking implications.
- 4) The exemption granted herein shall not preclude the Commission from exercising the provisions of §§ 56-78 and 56-80 of the Code of Virginia hereafter.
- 5) The Commission reserves the authority to examine the books and records of any affiliate in connection with the exemption granted herein whether or not the Commission regulates such affiliate.
- 6) The Company shall include such assignments in its Annual Report of Affiliate Transactions to be submitted to the Director of Public Utility Accounting of the Commission by no later than May 1 of each year for the preceding calendar year, subject to extension by the Director of Public Utility Accounting of the Commission.
- 7) If Annual Informational and/or General Rate Case Filings are not based on a calendar year, then Dominion Virginia Power shall include the affiliate information contained in the Annual Report of Affiliate Transactions in such filings.
- 8) There appearing nothing further to be done in this matter, it hereby is dismissed.

**CASE NO. PUA-2002-00015  
JUNE 14, 2002**

APPLICATION OF  
COLUMBIA GAS OF VIRGINIA INC

For approval of certain affiliate transactions under Chapter 4 of Title 56 of the Code of Virginia

**ORDER GRANTING AUTHORITY**

On March 18, 2002, Columbia Gas of Virginia ("Columbia" or "Company") filed an application with the State Corporation Commission ("Commission") under Chapter 4 of Title 56 of the Code of Virginia ("Code"). The Company requests approval of a Master License Agreement ("Agreement") and associated Master License Supplements ("Supplements") between Columbia and CNS Microwave, Inc. ("CNS Microwave"), which would govern their affiliate relationships and allow CNS Microwave to charge Columbia a license fee for the location and operation of Columbia's communications facilities on CNS Microwave's property.

Columbia relies upon a variety of third party service providers for communications services and programs that are integral to the effective operation and maintenance of its natural gas distribution system and the reliability of its supply of natural gas to its customers. Such services include the installation and operation of radio networks, remote control and telemetering devices, microwave relay systems, and a variety of other applications of electronics in the field of communications. To facilitate such services, Columbia acquires space on or within buildings, towers, facilities, and/or real property (the "Properties") from third parties for the installation and operation of its radio communications facilities.

Columbia Gas Transmission Corporation ("Columbia Transmission") facilitated such Columbia communications services pursuant to the Commission's January 26, 1988 Order Granting Authority in Case No. PUA-1987-00060 (PUA870060). In that Order, the Commission permitted Columbia to install a collinear antenna with a three-quarter inch feedline on Columbia Transmission's communications towers in Lexington, Staunton, and Fork Mountain, Virginia (the "Facilities").<sup>1</sup> However, Columbia was never charged and never paid any license fees or rental charges to Columbia Transmission.

Columbia and Columbia Transmission are wholly owned subsidiaries of the Columbia Energy Group ("CEG"), which itself is a wholly owned subsidiary of NiSource Inc. On October 14, 1996, CEG formed Columbia Network Services Corporation and its subsidiary CNS Microwave. At that time, certain Columbia Transmission assets were transferred to CNS Microwave, including the above-referenced towers. Columbia's Facilities continue to be attached to those Properties although Columbia pays no rents or fees to CNS Microwave for locating and operating its Facilities on CNS Microwave's Properties. The Agreement defines the terms and conditions which govern the relationship between Columbia and CNS Microwave with respect to particular sites on which CNS Microwave may wish to license space to Columbia for the installation and operation of certain communications facilities and equipment.

Under the Agreement, one or more separate Supplements will be executed for the license of each specific property, or group of properties, that the parties agree to license. Accordingly, the parties intend to enter into separate Supplements to cover each of the three individual sites upon which Columbia maintains its Facilities. As reflected in each Supplement, the cost-based rate will be established at \$228.00 per month per location, to be paid annually.

Because Columbia believes that similar Supplements may be required in the future, the Company requests the Commission to allow it to execute future additional Supplements under the Agreement without requiring separate approvals. Columbia will be charged a monthly license fee, to be paid

<sup>1</sup> Such areas are within Columbia's certificated service area.



annually, for each location of property that may be provided by CNS Microwave for the placement of Columbia Facilities. The fee is based on CNS Microwave's fully distributed cost of acquiring, licensing, operating, and maintaining the Property upon which Columbia locates its Facilities.

Under the Supplements, as filed, the initial payment by Columbia to CNS Microwave will be due on December 31, 2001, for the period of service ending on that date and beginning as follows: March 1, 2000, for the Property located in Lexington, Virginia; May 1, 2000, for the Property located in Fork Mountain, Virginia; and June 1, 2000, for the Property located in Staunton, Virginia.

The Company represents that approval of the Agreement and the corresponding execution of Supplements is in the public interest in that they facilitate cost-effective siting of Columbia's Facilities, which are needed for efficient operations. The Company represents that the license fee that it will pay CNS Microwave is below prevailing market prices.

NOW THE COMMISSION having considered the application, the applicable law, and having been advised by its Staff, is of the opinion that the above-referenced Supplements should be modified to state that the initial period of service for which payment is due should commence on the date of execution of the Agreement and Supplements. Payment for such service shall be due the following December 31st. We are also of the opinion and find that the above-referenced Agreement and Supplements, as modified herein, are in the public interest and should be approved.

Accordingly, IT IS ORDERED THAT:

- 1) Pursuant to § 56-77 of the Code Columbia is hereby granted approval to enter into the Agreement and Supplements with CNS Microwave, as described and modified herein, subject to the pricing restriction detailed herein.
- 2) The license fee to be paid to CNS Microwave shall be the lesser of CNS Microwave's fully distributed cost or the cost of obtaining such services from an outside party, the market price.
- 3) Any amendment to the Agreement or change in the terms and conditions of the Agreement shall require further Commission approval.
- 4) An Executed Agreement and Supplements shall be submitted to the Commission's Document Control Center within 60 days of this Order, subject to extension by the Director of Public Utility Accounting. Any additional Supplements entered into by Columbia under this Agreement shall be submitted to the Commission's Division of Public Utility Accounting within 60 days, subject to extension by the Director of Public Utility Accounting.
- 5) The approval granted herein shall have no ratemaking implications.
- 6) The approval granted herein shall not preclude the Commission from exercising the provisions of §§ 56-78 and 56-80 of the Code.
- 7) The Commission reserves the right and authority to examine the books and records of any affiliate in connection with the approval granted herein whether or not the Commission regulates such affiliate.
- 8) The Company shall include affiliate information related to the Agreement and Supplements in its Annual Report of Affiliate Transactions.
- 9) If Annual Informational and/or General Rate Case Filings are not based on a calendar year, then the Company shall include the affiliate information contained in its Annual Report of Affiliate Transactions in such filings.
- 10) There appearing nothing further to be done in this matter, it is hereby dismissed.

**CASE NO. PUA-2002-00017  
AUGUST 27, 2002**

PETITION OF  
AQUASOURCE UTILITY, INC.,

For authority to dispose of control of certain utility assets known as Cherry Hill Water Company

**ORDER GRANTING AUTHORITY**

On March 27, 2002, AquaSource Utility, Inc. ("AquaSource" or the "Petitioner"), filed a petition with the State Corporation Commission ("Commission"), pursuant to Chapter 5 of Title 56 of the Code of Virginia, seeking authority to dispose of the control of the assets of a water system known as Cherry Hill Water Company.

Cherry Hill Water Company ("Cherry Hill") is located in Bedford County, Virginia, and currently serves 46 customers. The assets of Cherry Hill are currently held by AquaSource. In 1999, AquaSource acquired the Cherry Hill assets from Dewey E. Holdaway, who held the assets as a sole proprietor. Cherry Hill, because it serves less than 50 fifty customers, is not incorporated as a public service company and does not hold a certificate of public convenience and necessity.

AquaSource is a Texas corporation and is a subsidiary of AquaSource, Inc. AquaSource, Inc., is a subsidiary of DQE, Inc., a publicly traded holding company. AquaSource, Inc., owns water and wastewater utilities and also owns non-regulated water and wastewater related businesses such as construction and engineering companies, water and wastewater system leasing and fabrication businesses, and contract operation services for other owners of water and wastewater facilities.

The Petitioner requests approval to transfer the assets of Cherry Hill to the Bedford County Public Service Authority ("Bedford County P.S.A.") for consideration of \$1.00. Under this transaction, certain assets of the Cherry Hill water system will become the property of the Bedford County P.S.A. The assets to be transferred to the Bedford County P.S.A. include all distribution lines and meter sets. After the transaction has been completed, the Bedford County P.S.A. will own all of the assets of Cherry Hill necessary to connect the customers of Cherry Hill to its water system. The assets not transferred from Cherry Hill to the Bedford County P.S.A. will be removed from service.

After the Bedford County P.S.A. establishes a permanent connection of Cherry Hill customers to its water system, AquaSource will abandon and cap the two existing water wells. AquaSource will also remove the ground storage tank, the hydroneumatic tank, and any appurtenances from the pump house.

On July 22, 2002, the customers of Cherry Hill received notice of the proposed transfer. This notice stated that, after the transfer is made, water service would be provided by the Bedford County P.S.A. The notice further stated that, because Bedford County P.S.A.'s rates are different from Cherry Hill's rates, the transfer would result in some increases in water bills. The notice also stated that, without the proposed transfer, AquaSource would need to make system improvements, which could increase current water rates by as much as 100%. Customers were given until August 15, 2002, to provide comments. No comments have been received regarding this case.

THE COMMISSION, upon consideration of the petition and representations of the Petitioner and having been advised by its Staff, is of the opinion and finds that the above-described disposal of utility assets will neither impair nor jeopardize the provision of adequate service to the public at just and reasonable rates and should, therefore, be approved.

Accordingly, IT IS ORDERED THAT:

- 1) Pursuant to §§ 56-89 and 56-90 of the Code of Virginia, AquaSource is hereby granted authority to dispose of and transfer the assets of Cherry Hill Water Company to the Bedford County P.S.A., as described herein.
- 2) Applicants shall submit to the Commission's Director of Public Utility Accounting a report of the action taken pursuant to the approval granted herein within thirty days of the transaction taking place, subject to extension by the Director of Public Utility Accounting. Such report shall include the date the acquisition took place, the actual sales price, and the actual accounting entries reflecting the transaction.
- (3) The approval granted herein shall have no ratemaking implications.
- (4) There appearing nothing further to be done in this matter, it hereby is dismissed.

**CASE NO. PUA-2002-00018  
MAY 24, 2002**

PETITION OF  
VIRGINIA ELECTRIC AND COMPANY, PLEASANTS ENERGY, LLC,  
ARMSTRONG ENERGY LIMITED PARTNERSHIP, L.L.L.P.  
and  
TROY ENERGY, LLC.

For approval of service agreements with affiliates for purchase of test power

**ORDER DENYING STAFF'S MOTION  
AND DISMISSING PROCEEDING**

In a motion filed on April 8, 2002, in the above-captioned proceeding, Staff requested the State Corporation Commission ("Commission") to continue its jurisdiction, pursuant to § 56-80 of the Code of Virginia, over the terms and conditions of its Order dated December 13, 2001, in Case No. PUA-2001-00061, and to suspend the effectiveness of such Order pending further findings of the Commission. In support of that Motion, Staff noted the similarity between this proceeding and one recently considered by the Commission in Case No. PUA-2002-00002.<sup>1</sup>

On April 18, 2002, the Petitioners filed a Response to Staff's Motion wherein they asked the Commission to deny that Motion. The Petitioners state that the test power agreements that are the subject of the above-captioned proceeding have been superseded by new agreements under consideration in Case No. PUA-2002-00002. The Petitioners note that it is new agreements under which the Company and other petitioners seek to operate, and they request that all matters related to such agreements be addressed in that proceeding.

NOW THE COMMISSION, having considered the above-referenced pleadings, is of the opinion and finds that the Staff's Motion should be denied and that this case should be dismissed.

<sup>1</sup> In this proceeding, like the affiliated entities in Case No. PUA-2002-00002, Pleasants Energy LLC, Armstrong Energy Limited Partnership, L.L.L.P., and Troy Energy, LLC, are exempt wholesale generator affiliates of Virginia Electric and Power Company ("Dominion Virginia Power") (collectively, the "Petitioners") and, as such, are subject to § 32(k) of the Public Utility Holding Company Act of 1935 ("PUHCA"), 15 U.S.C.A. § 79Z-5a (1997).

Accordingly, IT IS ORDERED THAT:

(1) Staff's Motion requesting exercise of continuing jurisdiction over the terms and conditions of Commission's Order dated December 13, 2001, in Case No. PUA-2001-00061 is hereby denied.

(2) This case is hereby dismissed from the Commission's docket of active cases.

## DIVISION OF COMMUNICATIONS

### CASE NOS. PUC-1996-00134, PUC-1997-00071, PUC-1997-00072, PUC-1998-00098, PUC-1999-00121, PUC-2000-00192, and PUC-2000-00266 OCTOBER 28, 2002

APPLICATION OF  
VERIZON SOUTH INC.

Annual Informational Filings

#### FINAL ORDER

On October 12, 2000, Verizon South Inc. ("Verizon South" or "Company") f/k/a GTE South Incorporated, together with the Staff of the State Corporation Commission ("Commission"), the Office of the Attorney General's Division of Consumer Counsel, and AT&T Communications of Virginia, Inc., filed a Motion to Approve Joint Agreement and a Joint Agreement executed by those entities. A comprehensive settlement of Verizon South's outstanding annual informational filing cases for the calendar years 1995-1999, together with the upcoming filing covering the Company's operations during calendar year 2000, was submitted in the Joint Agreement. As proposed, customers of Verizon South would receive an aggregate refund of \$200 million, inclusive of interest.

On December 15, 2000, the Commission entered an Order Approving Joint Agreement and Requiring Refund that set forth the provisions Verizon South was to use in refunding its excessive earnings and interest to its customers. All refunds were to be made no later than ninety (90) days from the date of said Order, or March 15, 2001. Additionally, Verizon South was to file a report with the Clerk of the Commission by April 30, 2001, explaining how all refunds had been made and documenting the status of any unclaimed refunds. As set forth in the December 15, 2000, Order, the disposition of any unclaimed refunds was to be determined by future order of the Commission.

As ordered, on April 30, 2001, Verizon South filed a report on the status of the refunds. Attempts were still being made to locate customers. Periodic reports were filed with the Commission throughout the remainder of 2001. In January 2002, Verizon South submitted a list to the Commission setting forth the outstanding check amounts remaining.

In June 2002, Verizon South mailed due diligence letters to approximately 30,000 customers with outstanding refund checks greater than \$100. The letter informed the customers that checks previously issued to them remained uncashed. Customers were advised to contact Verizon South so that a replacement check could be issued. As a result of this effort, approximately 3,000 checks were reissued. On October 2, 2002, the Commission was advised that Verizon South, after all efforts at issuance and re-issuance of checks for refunds, has approximately \$11 million in unclaimed funds from the initial \$200 million refund effort.

On October 8, 2002, a Staff Motion for Order Directing Remittance of Unclaimed Funds was filed. In response to that motion, we find as follows:

- (1) that pursuant to § 55-210.6:2 of the Code of Virginia, the unclaimed funds held by Verizon South Inc. in these proceedings are presumed abandoned;
- (2) that pursuant to § 55-210.12.D of the Code of Virginia, Verizon South is required to report and remit all such unclaimed funds to the Treasurer of the Commonwealth of Virginia, or his designee, by November 1, 2002; and
- (3) that there being no objection, the Staff's motion should be granted.

Accordingly, IT IS THEREFORE ORDERED THAT:

- (1) The Staff's Motion for Order Directing Remittance of Unclaimed Funds filed on October 8, 2002, is hereby GRANTED.
- (2) As provided in § 55-210.1 *et seq.* of the Code of Virginia, Verizon South Inc. shall report and make remittance of all unclaimed refunds held by Verizon South Inc. in these cases and shall make a report to the Director of the Division of Communications after completion of the ordered remittance.
- (3) There being nothing further to come before the Commission in these matters, these cases are hereby closed and dismissed from the file of active cases.

**CASE NO. PUC-1997-00129  
MAY 22, 2002**

APPLICATION OF  
VERIZON VIRGINIA INC.  
and  
VIC-RMTS-DC, L.L.C. d/b/a ONEPOINT COMMUNICATIONS

For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996

**DISMISSAL ORDER**

On May 28, 1997, Verizon Virginia Inc. ("Verizon Virginia") and VIC-RMTS-DC, L.L.C. d/b/a OnePoint ("OnePoint"), filed an interconnection agreement ("Agreement"), entered under §§ 251 and 252 of the Telecommunications Act of 1996 ("the Act"), 47 U.S.C. §§ 251 and 252, for State Corporation Commission ("Commission") approval pursuant to § 252(e) of the Act, 47 U.S.C. § 252(e). This Agreement was approved by Order Approving Agreement dated November 6, 1997, in Case No. PUC-1997-00129.

On March 1, 2002, Verizon Virginia filed a joint application for approval of a Supplemental Agreement between Verizon Virginia and VIC-RMTS-DC, L.L.C. d/b/a Verizon Avenue. This Supplemental Agreement was assigned Case No. PUC-2002-00035 and has been approved by separate Order. As verified by letter from counsel for the Applicant dated March 1, 2002, we find that the Agreement approved in Case No. PUC-1997-00129 has been replaced by the Supplemental Agreement approved in Case No. PUC-2002-00035. Therefore, Case No. PUC-1997-00129 should be dismissed.

Accordingly, IT IS ORDERED THAT the Supplemental Agreement approved in Case No. PUC-2002-00035 shall supersede the Agreement approved in Case No. PUC-1997-00129, and the captioned matter is hereby dismissed from the Commission's docket of active cases.

**CASE NOS. PUC970135 and PUC010263  
APRIL 9, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
At the relation of the  
STATE CORPORATION COMMISSION

*Ex Parte*, in re: Implementation of Requirements of § 214(e) of the Telecommunications Act of 1996

IN RE:  
APPLICATION OF VIRGINIA CELLULAR LLC

For designation as an eligible telecommunications provider under 47 U.S.C. § 214(e)(2)

**ORDER**

On September 15, 1997, the State Corporation Commission ("Commission") established the docket in Case No. PUC970135 to consider the requests of local exchange carriers ("LECs") to be designated as eligible telecommunications carriers ("ETC designation") to receive universal service support pursuant to § 214(e) of the Telecommunications Act of 1996, 47 U.S.C. § 251 *et seq.*, ("Act") and associated Federal Regulations.<sup>1</sup> The Commission's exercise of its jurisdiction under § 214(e)(2) of the Act has been to establish a simple and streamlined process for telecommunications carriers to certify their eligibility with a minimum of regulatory burden placed upon each applicant. All Virginia carriers receiving an ETC designation have merely been required to file an affidavit which, among other matters, certifies that all requirements of the Act for designation are met.<sup>2</sup>

Until the above-captioned Application was filed in Case No. PUC010263 by Virginia Cellular LLC ("Virginia Cellular" or "Applicant") for ETC designation, these proceedings have been uncontested. This is the first application by a Commercial Mobile Radio Service ("CMRS") carrier for ETC designation.<sup>3</sup> Pursuant to the Order Requesting Comments, Objections, or Requests for Hearing, issued by the Commission on January 24, 2002, the Virginia Telecommunications Industry Association ("VTIA") and NTELOS Telephone Inc. ("NTELOS") filed their respective comments and requests for hearing on February 20, 2002. Virginia Cellular filed Reply Comments on March 6, 2002.<sup>4</sup>

<sup>1</sup> 47 C.F.R. § 54.201-207.

<sup>2</sup> See Order issued November 21, 1997, in Case No. PUC970135, pp. 2-4 ("November 21, 1997, Order"). Also, the annual certification procedure to comply with 47 C.F.R. §§ 54.313 and 314 has been reduced to filing a form affidavit approved by the Commission in a Preliminary Order, issued August 29, 2001, in Case No. PUC010172.

<sup>3</sup> Virginia Cellular is a CMRS carrier as defined in 47 U.S.C. § 153(27) and is authorized as the "A-band" cellular carrier for the Virginia 6 Rural Service Area, serving the counties of Rockingham, Augusta, Nelson, and Highland and the cities of Harrisonburg, Staunton, and Waynesboro.

<sup>4</sup> On March 4, 2002, Virginia Cellular filed a Consent Motion requesting until March 6, 2002, to file Reply Comments. There being no objection, we now grant the Consent Motion.

The comments of NTELOS and VTIA both contest the sufficiency of the Application and claim Virginia Cellular has failed to demonstrate how the public interest will be served.<sup>5</sup> NTELOS and VTIA each allude in their comments to other expected applications for ETC designation by wireless and CLEC carriers to follow this case of first impression. For that reason, we are asked by VTIA and NTELOS to convene a hearing and establish certain standards for the provisioning of the nine services specified in 47 C.F.R. § 54.101.<sup>6</sup> Each applicant is required to provide these nine services to be eligible for ETC designation.

VTIA further comments that "[i]t is not clear how the designation of Virginia Cellular as an ETC will affect the distribution of Universal Funds to the existing carriers in any given rural exchange area." Virginia Cellular replies that this "macroeconomic concern" need not be addressed with this Application. Rather, the Federal Communications Commission ("FCC") and the Federal State Joint Board on Universal Service are reported by Virginia Cellular to be conducting ongoing proceedings to ensure the solvency of the high-cost support fund.<sup>7</sup> Presumably, VTIA views any public interest served by Virginia Cellular's ETC designation to depend upon whether there would be a consequent diminution of universal service funds.

Virginia Cellular cites the authority of § 214(e)(6) of the Act for this Commission to send Applicant to the FCC for ETC designation if this Commission declines to act on its Application.<sup>8</sup> In its Reply Comments, Virginia Cellular reports that the "FCC has been actively processing ETC applications on behalf of states which have declined to exercise jurisdiction [over CMRS carriers]. Its internal processing time has been six months, and it has met that timeline in almost all of its proceedings [and] . . . most, if not all of the issues raised by the commenters have been previously addressed by the FCC in its prior orders involving applications for ETC status."<sup>9</sup>

The Commission finds that § 214(e)(6) of the Act is applicable to Virginia Cellular's Application as this Commission has not asserted jurisdiction over CMRS carriers and that the Applicant should apply to the FCC for ETC designation.<sup>10</sup> The Applicant points out that if Virginia Cellular is designated as an ETC carrier, then the Commission must redefine the service areas of NTELOS and Shenandoah, pursuant to 47 C.F.R. § 54.207(c).<sup>11</sup> The Applicant has indicated a willingness to propose a plan to redefine these companies' service areas and may submit such a plan with its application to the FCC for ETC designation.

If necessary, this Commission will participate with the FCC and Federal-State Joint Board in redefining the service areas of NTELOS and Shenandoah for "the purpose of determining universal service obligations and support mechanisms." (47 C.F.R. § 54.207(a))<sup>12</sup> Although the FCC will make the final determination on Virginia Cellular's requests, we need to leave this docket open in case there is additional action we must take with respect to defining the service areas of NTELOS and Shenandoah.<sup>13</sup>

NOW UPON CONSIDERATION of all the pleadings of record and the applicable law, the Commission is of the opinion that Virginia Cellular should request the FCC to grant the requested ETC designation, pursuant to 47 U.S.C. § 214(e)(6).

Accordingly, IT IS ORDERED THAT Case No. PUC010263 will remain open for further order of the Commission.

<sup>5</sup> § 214(e)(2) of the Act requires that an ETC designation in areas served by a rural telephone company be based upon a finding that the designation is in the public interest. The Commission did recognize in its November 21, 1997, Order that any carrier seeking ETC designation in a rural area would have the burden of proving that such designation is in the public interest if challenged. Virginia Cellular is seeking ETC designation in the service territories of the following rural telephone companies: Shenandoah Telephone Company ("Shenandoah"), Clifton Forge Waynesboro Telephone Company ("NTELOS"), New Hope Telephone Company, North River Cooperative, Highland Telephone Cooperative, and Mountain Grove-Williamsville Telephone Company ("MGW").

<sup>6</sup> The nine services required to be offered include: voice grade access to the public switched network; local usage; dual tone multi-frequency signaling or its functional equivalent; single-party service or its functional equivalent; access to emergency services; access to operator services; access to interexchange service; access to directory assistance; and toll limitation for qualifying low-income consumers. Also, the services must be advertised in appropriate media sources. See In Re: Federal-State Joint Board of Universal Service, Report and Order, CC Docket No. 96-45, ¶ 145 (May 8, 1997) ("Universal Service Report & Order").

<sup>7</sup> Reply Comments at p. 5.

<sup>8</sup> Pursuant to § 332(c)(3), 47 U.S.C. § 332(c)(3), state regulation of the entry of or the rates charged by any commercial mobile service or any private mobile service is preempted. The Commission has deregulated all Virginia radio common carriers and cellular mobile radio communications carriers. See Final Order issued October 23, 1995, Case No. PUC950062.

<sup>9</sup> Reply Comments at p. 3.

<sup>10</sup> The action is similar to that taken by the Commission in Case No. PUC010172 in its August 29, 2001, Order that required cooperatives to certify directly with the FCC.

<sup>11</sup> The Commission believes that the service area of MGW does not necessarily need to be redefined if Virginia Cellular is designated as an ETC in that territory. However, if the FCC determines otherwise, the Commission will consider additional action if necessary.

<sup>12</sup> Pursuant to 47 C.F.R. § 54.207(c), if the Applicant proposes to redefine these two companies' service areas, the FCC's procedures require the Commission's agreement on the definitions.

<sup>13</sup> At this juncture, it is unclear whether the Commission will need to address the redefinitions once disaggregation plans are filed at the FCC pursuant to 47 C.F.R. § 54.315(a).

**CASE NO. PUC-1997-00148  
JUNE 13, 2002**

APPLICATION OF  
VERIZON VIRGINIA INC.  
and  
US WEST INTERPRISE AMERICA, INC.

For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996

**DISMISSAL ORDER**

On September 12, 1997, Verizon Virginia Inc. ("Verizon Virginia") and US West Interprise America, Inc. ("US West") filed an interconnection agreement ("Agreement"), entered under §§ 251 and 252 of the Telecommunications Act of 1996 (the "Act"), 47 U.S.C. §§ 251 and 252, for State Corporation Commission ("Commission") approval pursuant to § 252(e) of the Act, 47 U.S.C. § 252(e). This Agreement was approved by Order Approving Agreement dated November 25, 1997, in Case No. PUC-1997-00148.

On February 10, 2000, Verizon Virginia filed an application for approval of an interconnection agreement between Verizon Virginia and US WEST Interprise America of Virginia, Inc. This agreement was assigned Case No. PUC-2000-00031 was approved by Order dated May 4, 2000. As verified by letter from the Director – Regulatory Virginia for Verizon Virginia dated May 2, 2002, we find that the Agreement approved in Case No. PUC-1997-00148 has been replaced by the Agreement approved in Case No. PUC-2000-00031. Therefore, Case No. PUC-1997-00148 should be dismissed.

Accordingly, IT IS ORDERED THAT the agreement approved in Case No. PUC-2000-00031 shall supersede the agreement approved in Case No. PUC-1997-00148, and the captioned matter is hereby dismissed from the Commission's docket of active cases.

**CASE NO. PUC-1997-00171  
SEPTEMBER 24, 2002**

APPLICATION OF  
CENTRAL TELEPHONE COMPANY OF VIRGINIA  
and  
CFW NETWORK, INC.

For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996

**DISMISSAL ORDER**

On October 31, 1997, Central Telephone Company of Virginia ("Centel") and CFW Network, Inc. ("CFW"), filed an interconnection agreement ("Agreement"), entered under §§ 251 and 252 of the Telecommunications Act of 1996 (the "Act"), 47 U.S.C. §§ 251 and 252, for State Corporation Commission ("Commission") approval pursuant to § 252(e) of the Act, 47 U.S.C. § 252(e). This Agreement was approved by Order Approving Agreement dated January 29, 1998, in Case No. PUC-1997-00171.

On July 30, 2002, United Telephone-Southeast, Inc., and Centel (collectively, "Sprint") filed a joint application for approval of an interconnection agreement between Sprint and NTELOS Network, Inc. f/k/a CFW Network, Inc. This agreement was assigned Case No. PUC-2002-00150 and has been approved by separate Order. As verified by letter from counsel for Sprint dated July 29, 2002, we find that the Agreement approved in Case No. PUC-1997-00171 has been replaced by the Agreement approved in Case No. PUC-2002-00150. Therefore, Case No. PUC-1997-00171 should be dismissed.

Accordingly, IT IS ORDERED THAT the agreement approved in Case No. PUC-2002-00150 shall supersede the agreement approved in Case No. PUC-1997-00171, and the captioned matter is hereby dismissed from the Commission's docket of active cases.

**CASE NO. PUC-1998-00023  
OCTOBER 15, 2002**

APPLICATION OF  
UNITED TELEPHONE-SOUTHEAST, INC.  
AND CENTRAL TELEPHONE COMPANY OF VIRGINIA  
and  
UNITED STATES CELLULAR, INC.

For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996

**DISMISSAL ORDER**

On March 9, 1998, United Telephone-Southeast, Inc. and Central Telephone Company of Virginia (collectively "Sprint"), and United States Cellular, Inc. ("USC"), filed an interconnection agreement ("Agreement"), entered under §§ 251 and 252 of the Telecommunications Act of 1996 ("the Act"), 47 U.S.C. §§ 251 and 252, for State Corporation Commission ("Commission") approval pursuant to § 252(e) of the Act, 47 U.S.C. § 252(e). This Agreement was approved by Order Approving Agreement dated June 8, 1998, in Case No. PUC-1998-00023.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

On August 12, 2002, Sprint filed a joint application for approval of an interconnection agreement between Sprint and USC. This agreement was assigned Case No. PUC-2002-00163 and has been approved by separate Order. As verified by letter from counsel for the Applicant dated August 9, 2002, we find that the Agreement approved in Case No. PUC-1998-00023 has been replaced by the Agreement approved in Case No. PUC-2002-00163. Therefore, Case No. PUC-1998-00023 should be dismissed.

Accordingly, IT IS ORDERED THAT the agreement approved in Case No. PUC-2002-000163 shall supersede the agreement approved in Case No. PUC-1998-00023, and the captioned matter is hereby dismissed from the Commission's docket of active cases.

**CASE NO. PUC-1998-00054  
JUNE 13, 2002**

APPLICATION OF  
VERIZON VIRGINIA INC.  
and  
XCOM TELEPHONY OF VIRGINIA, INC.

For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996

**DISMISSAL ORDER**

On April 9, 1998, Verizon Virginia Inc. ("Verizon Virginia") and XCOM Telephony of Virginia, Inc. ("XCOM"), filed an interconnection agreement ("Agreement"), entered under §§ 251 and 252 of the Telecommunications Act of 1996 (the "Act"), 47 U.S.C. §§ 251 and 252, for State Corporation Commission ("Commission") approval pursuant to § 252(e) of the Act, 47 U.S.C. § 252(e). This Agreement was approved by Order Approving Agreement dated June 18, 1998, in Case No. PUC-1998-00054. By letter dated July 23, 1998, XCOM notified the Commission that the Agreement approved on June 18, 1998, had been assigned to its affiliate, Level 3 Communications, LLC, ("Level 3").

On January 26, 2001, Verizon Virginia filed an application for approval of an interconnection agreement between Verizon Virginia and Level 3. This agreement was assigned Case No. PUC-2001-00024 and was approved by Order dated February 23, 2001. As verified by letter from the Director – Regulatory Virginia for Verizon Virginia dated May 2, 2002, we find that the Agreement approved in Case No. PUC-1998-00054 has been replaced by the Agreement approved in Case No. PUC-2001-00024. Therefore, Case No. PUC-1998-00054 should be dismissed.

Accordingly, IT IS ORDERED THAT the agreement approved in Case No. PUC-2001-00024 shall supersede the agreement approved in Case No. PUC-1998-00054, and the captioned matter is hereby dismissed from the Commission's docket of active cases.

**CASE NO. PUC-1998-00061  
JUNE 13, 2002**

APPLICATION OF  
VERIZON VIRGINIA INC.  
and  
STARPOWER COMMUNICATIONS, L.L.C.

For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996

**DISMISSAL ORDER**

On April 20, 1998, Verizon Virginia Inc. ("Verizon Virginia") and Starpower Communications, L.L.C. ("Starpower"), filed an interconnection agreement ("Agreement"), entered under §§ 251 and 252 of the Telecommunications Act of 1996 (the "Act"), 47 U.S.C. §§ 251 and 252, for State Corporation Commission ("Commission") approval pursuant to § 252(e) of the Act, 47 U.S.C. § 252(e). This Agreement was approved by Order Approving Agreement dated June 17, 1998, in Case No. PUC-1998-00061.

On February 2, 2000, Verizon Virginia filed an application for approval of an interconnection agreement between Verizon Virginia and Starpower. This agreement was assigned Case No. PUC-2000-00025 and was approved by Order dated April 25, 2000. As verified by letter from the Director – Regulatory Virginia for Verizon Virginia dated May 2, 2002, we find that the Agreement approved in Case No. PUC-1998-00061 has been replaced by the Agreement approved in Case No. PUC-2000-00025. Therefore, Case No. PUC-1998-00061 should be dismissed.

Accordingly, IT IS ORDERED THAT the agreement approved in Case No. PUC-2000-00025 shall supersede the agreement approved in Case No. PUC-1998-00061, and the captioned matter is hereby dismissed from the Commission's docket of active cases.



**CASE NO. PUC-1998-00104  
JUNE 13, 2002**

APPLICATION OF  
VERIZON VIRGINIA INC.  
and  
NA COMMUNICATIONS, INC.

For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996

**DISMISSAL ORDER**

On July 13, 1998, Verizon Virginia Inc. ("Verizon Virginia") and NA Communications, Inc. ("NACI"), filed an interconnection agreement ("Agreement"), entered under §§ 251 and 252 of the Telecommunications Act of 1996 (the "Act"), 47 U.S.C. §§ 251 and 252, for State Corporation Commission ("Commission") approval pursuant to § 252(e) of the Act, 47 U.S.C. § 252(e). This Agreement was approved by Order Approving Agreement dated September 15, 1998, in Case No. PUC-1998-00104.

On May 23, 2000, Verizon Virginia filed an application for approval of an interconnection agreement between Verizon Virginia and NACI. This agreement was assigned Case No. PUC-2000-00145 and was approved by Order dated July 14, 2000. As verified by letter from the Director – Regulatory Virginia for Verizon Virginia dated May 2, 2002, we find that the Agreement approved in Case No. PUC-1998-00104 has been replaced by the Agreement approved in Case No. PUC-2000-00145. Therefore, Case No. PUC-1998-00104 should be dismissed.

Accordingly, IT IS ORDERED THAT the agreement approved in Case No. PUC-2000-00145 shall supersede the agreement approved in Case No. PUC-1998-00104, and the captioned matter is hereby dismissed from the Commission's docket of active cases.

**CASE NO. PUC-1998-00147  
JUNE 13, 2002**

APPLICATION OF  
VERIZON VIRGINIA INC.  
and  
ICG TELECOM GROUP OF VIRGINIA, INC.

For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996

**DISMISSAL ORDER**

On September 24, 1998, Verizon Virginia Inc. ("Verizon Virginia") and ICG Telecom Group of Virginia, Inc. ("ICG"), filed an interconnection agreement ("Agreement"), entered under §§ 251 and 252 of the Telecommunications Act of 1996 (the "Act"), 47 U.S.C. §§ 251 and 252, for State Corporation Commission ("Commission") approval pursuant to § 252(e) of the Act, 47 U.S.C. § 252(e). This Agreement was approved by Order Approving Agreement dated December 7, 1998, in Case No. PUC-1998-00147.

On February 10, 2000, Verizon Virginia filed an application for approval of an interconnection agreement between Verizon Virginia and ICG. This agreement was assigned Case No. PUC-2000-00034 and was approved by Order dated April 25, 2000. As verified by letter from the Director – Regulatory Virginia for Verizon Virginia dated May 2, 2002, we find that the Agreement approved in Case No. PUC-1998-00147 has been replaced by the Agreement approved in Case No. PUC-2000-00034. Therefore, Case No. PUC-1998-00147 should be dismissed.

Accordingly, IT IS ORDERED THAT the agreement approved in Case No. PUC-2000-00034 shall supersede the agreement approved in Case No. PUC-1998-00147, and the captioned matter is hereby dismissed from the Commission's docket of active cases.

**CASE NO. PUC-1998-00148  
JUNE 21, 2002**

APPLICATION OF  
VERIZON VIRGINIA INC.  
and  
NET-TEL COMMUNICATIONS CORPORATION

For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996

**DISMISSAL ORDER**

On September 24, 1998, Verizon Virginia Inc. ("Verizon Virginia") and NET-Tel Communications Corporation ("NET-Tel"), filed an interconnection agreement ("Agreement"), entered under §§ 251 and 252 of the Telecommunications Act of 1996 (the "Act"), 47 U.S.C. §§ 251 and 252, for State Corporation Commission ("Commission") approval pursuant to § 252(e) of the Act, 47 U.S.C. § 252(e). This Agreement was approved by Order Approving Agreement dated December 2, 1998, in Case No. PUC-1998-00148.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

On July 21, 2000, Verizon Virginia filed an application for approval of an interconnection agreement between Verizon Virginia and NET-Tel. This agreement was assigned Case No. PUC-2000-00203 and was approved by Order dated October 19, 2000. As verified by letter from the Director – Regulatory Virginia for Verizon Virginia dated May 2, 2002, we find that the Agreement approved in Case No. PUC-1998-00148 has been replaced by the Agreement approved in Case No. PUC-2000-00203. Therefore, Case No. PUC-1998-00148 should be dismissed.

Accordingly, IT IS ORDERED THAT the agreement approved in Case No. PUC-2000-00203 shall supersede the agreement approved in Case No. PUC-1998-00148, and the captioned matter is hereby dismissed from the Commission's docket of active cases.

**CASE NO. PUC-1998-00174  
JUNE 13, 2002**

APPLICATION OF  
VERIZON VIRGINIA INC.  
and  
NEXTLINK VIRGINIA, L.L.C.

For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996

**DISMISSAL ORDER**

On November 16, 1998, Verizon Virginia Inc. ("Verizon Virginia") and NEXTLINK Virginia, L.L.C. ("NEXTLINK"), filed an interconnection agreement ("Agreement"), entered under §§ 251 and 252 of the Telecommunications Act of 1996 (the "Act"), 47 U.S.C. §§ 251 and 252, for State Corporation Commission ("Commission") approval pursuant to § 252(e) of the Act, 47 U.S.C. § 252(e). This Agreement was approved by Order Approving Agreement dated February 10, 1999, in Case No. PUC-1998-00174.

On November 30, 2000, Verizon Virginia filed an application for approval of an interconnection agreement between Verizon Virginia and NEXTLINK. This agreement was assigned Case No. PUC-2000-00315 and was approved by Order dated February 5, 2001. As verified by letter from the Director – Regulatory Virginia for Verizon Virginia dated May 2, 2002, we find that the Agreement approved in Case No. PUC-1998-00174 has been replaced by the Agreement approved in Case No. PUC-2000-00315. Therefore, Case No. PUC-1998-00174 should be dismissed.

Accordingly, IT IS ORDERED THAT the agreement approved in Case No. PUC-2000-00315 shall supersede the agreement approved in Case No. PUC-1998-00174, and the captioned matter is hereby dismissed from the Commission's docket of active cases.

**CASE NO. PUC-1999-00031  
JUNE 13, 2002**

APPLICATION OF  
VERIZON VIRGINIA INC.  
and  
US LEC OF VIRGINIA, L.L.C.

For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996

**DISMISSAL ORDER**

On February 19, 1999, Verizon Virginia Inc. ("Verizon Virginia") and US LEC of Virginia, L.L.C. ("US LEC"), filed an interconnection agreement ("Agreement"), entered under §§ 251 and 252 of the Telecommunications Act of 1996 (the "Act"), 47 U.S.C. §§ 251 and 252, for State Corporation Commission ("Commission") approval pursuant to § 252(e) of the Act, 47 U.S.C. § 252(e). This Agreement was approved by Order Approving Agreement dated April 23, 1999, in Case No. PUC-1999-00031.

On October 1, 1999, Verizon Virginia filed an application for approval of an interconnection agreement between Verizon Virginia and US LEC. This agreement was assigned Case No. PUC-1999-00166 and was approved by Order dated December 17, 1999. As verified by letter from the Director – Regulatory Virginia for Verizon Virginia dated May 2, 2002, we find that the Agreement approved in Case No. PUC-1999-00031 has been replaced by the Agreement approved in Case No. PUC-1999-00166. Therefore, Case No. PUC-1999-00031 should be dismissed.

Accordingly, IT IS ORDERED THAT the agreement approved in Case No. PUC-1999-00166 shall supersede the agreement approved in Case No. PUC-1999-00031, and the captioned matter is hereby dismissed from the Commission's docket of active cases.

**CASE NO. PUC-1999-00105  
JUNE 13, 2002**

APPLICATION OF  
VERIZON VIRGINIA INC.  
and  
ESSEX TELECOMMUNICATIONS OF VIRGINIA, INC.

For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996

**DISMISSAL ORDER**

On June 4, 1999, Verizon Virginia Inc. ("Verizon Virginia") and Essex Telecommunications of Virginia, Inc. ("Essex"), filed an interconnection agreement ("Agreement"), entered under §§ 251 and 252 of the Telecommunications Act of 1996 (the "Act"), 47 U.S.C. §§ 251 and 252, for State Corporation Commission ("Commission") approval pursuant to § 252(e) of the Act, 47 U.S.C. § 252(e). This Agreement was approved by Order Approving Agreement dated August 24, 1999, in Case No. PUC-1999-00105.

On August 14, 2000, Verizon Virginia filed an application for approval of an interconnection agreement between Verizon Virginia and Essex. This agreement was assigned Case No. PUC-2000-00227 and was approved by Order dated September 22, 2000. As verified by letter from the Director – Regulatory Virginia for Verizon Virginia dated May 2, 2002, we find that the Agreement approved in Case No. PUC-1999-00105 has been replaced by the Agreement approved in Case No. PUC-2000-00227. Therefore, Case No. PUC-1999-00105 should be dismissed.

Accordingly, IT IS ORDERED THAT the agreement approved in Case No. PUC-2000-00227 shall supersede the agreement approved in Case No. PUC-1999-00105, and the captioned matter is hereby dismissed from the Commission's docket of active cases.

**CASE NO. PUC-1999-00110  
AUGUST 16, 2002**

PETITION OF  
COX VIRGINIA TELCOM, INC.

For approval of relocation of network interface device to minimum point of entry

**ORDER OF DISMISSAL**

On June 9, 1999, Cox Virginia Telcom, Inc. ("Cox"), filed with the State Corporation Commission ("Commission") its Petition on behalf of complainants Breeden Company and PGR Real Estate (collectively, "Complainants") in the above-captioned case.<sup>1</sup> Pursuant to a Preliminary Order issued July 30, 1999, Verizon Virginia filed its Motion to Dismiss and Answer on August 25, 1999. Cox filed its Response on September 15, 1999, also as provided in the Preliminary Order.

On May 7, 2001, the Commission denied Verizon Virginia's Motion to Dismiss and directed that the parties pursue negotiations and file a joint statement of remaining issues with supporting information.<sup>2</sup>

The Commission adopted an agreed statement of issues and appointed a Hearing Examiner to conduct further proceedings, pursuant to 20 VAC 5-20-120 A.<sup>3</sup>

Following further negotiations by the parties and with the assistance of the Division of Communications, the parties reported to the Hearing Examiner that the issues identified by the Commission for resolution (the agreed statement of issues filed by the parties) were, in the words of the Hearing Examiner, largely resolved or rendered moot. On July 8, 2002, Cox filed a letter with the Hearing Examiner which, among other matters, requested that its Petition be dismissed without prejudice. Verizon Virginia did not object.

On July 22, 2002, the Report of Howard P. Anderson, Jr., Hearing Examiner, was filed. No party filed comments as provided for under 5 VAC 5-20-120 C.

<sup>1</sup> The Petition requested that Verizon Virginia Inc. ("Verizon Virginia") be ordered to comply with Rule B7, 20 VAC 5-400-20 (recodified as 20 VAC 5-401-30 (1 and 2)), by relocating the Network Interface Device ("NID") to each living unit in Complainants' Multiple Dwelling Unit ("MDU") properties to the Minimum Point of Entry ("MPOE"); that Complainants be charged no more than reasonable time and materials for the relocation; and that Verizon Virginia convey to Complainants all of the Intrabuilding Network Cabling for a price no greater than its fully depreciated net book value. The Petition requested that Verizon Virginia be ordered to furnish and install on an expedited basis such NIDs at the MPOE that will facilitate cross-connection by Cox and any other CLEC authorized in the future to cross-connection by Cox and any other CLEC authorized in the future to cross-connect on Complainants' premises. The Commission was further requested to determine the reasonable rates and charges for the requested services and facilities to be provided by Verizon Virginia and to enjoin Verizon Virginia from refusing or failing to furnish and install, or impeding the reengineering and reconfiguration, of Complainants' telecommunications facilities as requested herein.

<sup>2</sup> See Order Directing Joint Statement of Issues to be Filed issued May 7, 2001. Pursuant to an Order Granting Extension, issued June 7, 2001, the parties filed their respective Statement of Issues on July 6, 2001.

<sup>3</sup> Cox presented seven additional issues, which were rejected for hearing. See Order Assigning Hearing Examiner issued August 6, 2001.

On August 12, 2002, Cox filed Comments on the Hearing Examiner's Report. Cox differs with the account given by the Hearing Examiner of how Cox ultimately developed a method of access to MDU properties using cable television properties held by an affiliate. Nevertheless, Cox does not dispute the report that it has achieved access to such MDU properties. Cox does caution that the issues reported largely resolved and rendered moot may yet be resurrected if Verizon Virginia reverses its agreement to move the demarcation point to the MPOE for garden-style apartments at the property owner's request.

Assuming this issue would arise again, Cox further notes that it does not agree with Verizon Virginia's position, reported by the Hearing Examiner, that Verizon Virginia's union contracts prohibit non-union personnel from participating in the actual move of the wiring to a neutral cross-connect box.

The Commission notes that the Hearing Examiner's Report was made without benefit of a formal hearing and transcript of proceedings. Without such record, it is possible that Cox did not establish with specificity, as its Comments now seek to establish, the precise character of the resolutions reached by the parties. We recognize the tenuous nature of the resolution reached by the parties, which is indicated by Cox seeking dismissal of its Petition without prejudice, i.e., Cox reserves the right to refile its Petition.

Pursuant to the Commission's Order Assigning Hearing Examiner, the seven additional issues presented by Cox were referred to the Hearing Examiner for determination of whether they were of such industry-wide concern that a rulemaking proceeding should be commenced.<sup>4</sup> The Hearing Examiner noted that with the exception of Cox, no other CLEC has sought relief regarding these seven additional issues.

The Hearing Examiner recommends that no rulemaking is required to address these seven additional issues and that the appropriate remedy for Cox is to file a petition regarding the issues still pertinent. The Hearing Examiner recommends that this matter be dismissed without prejudice.

The Commission is of the opinion that the Report of Howard P. Anderson, Jr., Hearing Examiner, and all of the recommendations therein be approved and adopted.

Accordingly, IT IS ORDERED THAT:

- (1) The Report of the Hearing Examiner and all recommendations contained therein are hereby approved and adopted.
- (2) This matter is hereby dismissed without prejudice.

<sup>4</sup> Cox stated these issues as follows:

1. Is Verizon Virginia legally required to arrange for the removal of demarcations from individual units back to the property's MPOE or to an intervening point designated by the landlord/agent or the MDU within 45 days of receiving such request?
2. In a significant number of existing MDUs, the demarcation point is in each apartment. In this situation, typically Verizon Virginia has a pedestal close to the place where the building wiring emerges from the building, and it is difficult for Cox to gain access to such wiring. In these situations, should Verizon Virginia be required to have a neutral cross-connect box installed to make that building wiring (at each Verizon Virginia pedestal) accessible to Cox or to convert its pedestal into a neutral cross-connect box? If so, how should the costs of such installation be determined, and who should bear those costs?
3. Which, if any, of Verizon Virginia's tariff provisions are applicable to the relocation of demarcations to the MPOE?
4. Are there any Metrics in Case No. PUC-2000-00035 that apply to Verizon Virginia's furnishing MDU access to CLECs?
5. In all new MDU installations, should Verizon Virginia provision the wiring so that there is a neutral cross-connect box at the property or building MPOE and such MPOE is the point of demarcation? Should Verizon Virginia also get the owner of the property to affirmatively agree that the demarcation point should be placed in a particular place (e.g., at each building or at the MPOE of the property)?
6. What is an appropriate price for an unbundled sub-loop? What terms and conditions should apply to leasing such a sub-loop?
7. Should any decisions made in this case applying to Verizon Virginia also apply to Verizon South Inc.?

**CASE NO. PUC-1999-00127  
OCTOBER 4, 2002**

APPLICATION OF  
VERIZON VIRGINIA INC.  
and  
NOS COMMUNICATIONS, INC.

For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996

**DISMISSAL ORDER**

On July 16, 1999, Verizon Virginia Inc. ("Verizon Virginia") and NOS Communications, Inc. ("NOS"), filed an interconnection agreement ("Agreement"), entered under §§ 251 and 252 of the Telecommunications Act of 1996 (the "Act"), 47 U.S.C. §§ 251 and 252, for State Corporation

Commission ("Commission") approval pursuant to § 252(e) of the Act, 47 U.S.C. § 252(e). This Agreement was approved by Order Approving Agreement dated October 14, 1999, in Case No. PUC-1999-00127.

On August 12, 2002, Verizon Virginia filed a joint application for approval of an interconnection agreement between Verizon Virginia and NOS. This agreement was assigned Case No. PUC-2002-00167 and has been approved by separate Order. As verified by letter from counsel for the Applicant dated August 9, 2002, we find that the Agreement approved in Case No. PUC-1999-00127 has been replaced by the Agreement approved in Case No. PUC-2002-00167. Therefore, Case No. PUC-1999-00127 should be dismissed.

Accordingly, IT IS ORDERED THAT the agreement approved in Case No. PUC-2002-00167 shall supersede the agreement approved in Case No. PUC-1999-00127, and the captioned matter is hereby dismissed from the Commission's docket of active cases.

**CASE NO. PUC990157  
JANUARY 23, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
ROBERT E. LEE JONES, JR.

v.

MCI WORLDCOM NETWORK SERVICES OF VIRGINIA, INC.,  
and  
MCI WORLDCOM COMMUNICATIONS OF VIRGINIA, INC.

**ORDER ON RECONSIDERATION**

On August 22, 2001, the State Corporation Commission ("Commission") issued its Final Order in this complaint proceeding brought by Robert E. Lee Jones, Jr., an inmate at a Virginia Department of Corrections ("DOC") facility.

On September 7, 2001, MCI WORLDCOM Network Services of Virginia, Inc., and MCI WORLDCOM Communications of Virginia, Inc. (collectively, "MCI WORLDCOM" or "the Company"), filed a timely petition for reconsideration and a motion to suspend the Final Order. On September 11, 2001, we issued an Order Granting Petition for Reconsideration and Motion to Suspend Final Order. On reconsideration, we reinstate the judgment of our Final Order and set forth a revised schedule for MCI WORLDCOM to make the filings directed in the Final Order.

MCI WORLDCOM claims in its petition that:

- (1) Virginia Code § 56-234 precludes the Commission from regulating the rates charged between MCI WORLDCOM and the DOC;
- (2) MCI WORLDCOM's Inmate Telephone Service ("ITS") is provided on a competitive basis;
- (3) The Commission violated its own rules in determining that MCI WORLDCOM's ITS service is not competitive;
- (4) It is inappropriate to single out MCI WORLDCOM's ITS service and judge whether it is being provided on a competitive basis;
- (5) The Commission failed to consider certain practical consequences of its Final Order; and
- (6) The Commission should reconsider its decision to determine in another docket whether refunds should be provided to ITS customers.

MCI WORLDCOM's first two arguments do not warrant further discussion on reconsideration. The Commission has articulated its findings on the jurisdictional issue both in the Final Order as well as in our Order of September 26, 2000. The Petition for Reconsideration raises no arguments on this issue that we have not previously addressed. Similarly, we have previously considered MCI WORLDCOM's arguments on the "competitive basis" issue, and we continue to disagree with the Company. The Final Order sufficiently explains our findings that MCI WORLDCOM's intrastate interexchange telecommunications services under the ITS are not provided on a competitive basis. We will, therefore, not address these arguments further.

Further, MCI WORLDCOM contends that the Commission "clearly violated" 20 VAC 5-400-60 K of our rules governing the certification of interexchange carriers.<sup>1</sup> The Company raises this issue for the first time in its petition for reconsideration. The petition states that "the Commission did not provide notice to the public, nor did it provide an opportunity for any interested party to be heard regarding the question of competition among interexchange carriers for providing this service." MCI WORLDCOM asserts that the Final Order affects other carriers.

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<sup>1</sup> This rule states:

Should the Commission ever determine, after notice to the public and any affected interexchange carriers and after an opportunity is afforded for any interested party to be heard, that competition, although previously found by the Commission to exist, has ceased to exist among interexchange carriers, it may, pursuant to § 56-241 of the Code of Virginia, require that the rates of such carriers be determined pursuant to Chapter 10 (§ 56-232 *et seq.*) of Title 56 of the Code of Virginia.

This rule was amended and recodified at 20 VAC 5-411-70, effective October 17, 2001. See Commonwealth of Virginia ex rel. State Corp. Comm'n, Ex parte: In The Matter Of Updating Certain Regulations Relating to Telecommunications, Case No. PUC010122, Final Order, Oct. 17, 2001. The amendments to this rule were not substantive.

We are not convinced that the rule cited by MCI WORLDCOM is applicable to this case inasmuch as this matter was brought before the Commission by an individual as a complaint against a single carrier concerning a specific set of facts and circumstances relative to the Company's Maximum Security Collect service.

MCI WORLDCOM is the only carrier that provides this telecommunications service to DOC inmates and their call recipients. Other carriers may provide similar service through arrangements with other correctional institutions. Any determination considering the competitive nature of interexchange telecommunications services from other correctional facilities and which are provided by other carriers, whether in the context of a complaint proceeding or a Commission-initiated investigation, would be based on the facts and circumstances specific to that arrangement.

Even if the rule cited by the Company is applicable to this proceeding, MCI WORLDCOM lacks standing to complain of a procedural error on the grounds that it prejudiced some other party.<sup>2</sup> To the extent the Commission did not issue formal notice of this complaint proceeding to the public or to any other carrier, and assuming such notice was required, MCI WORLDCOM has not demonstrated how such lack of notice to others prejudiced the Company.<sup>3</sup>

As with its first two arguments, MCI WORLDCOM's position that it is inappropriate to single out the Company's ITS service and judge whether it is being provided on a competitive basis in compliance with § 56-481.1 was litigated fully before the Commission, and we addressed this issue in some detail in our Final Order. We do not find any new argument in the petition for reconsideration that warrants further discussion on this issue.

MCI WORLDCOM argues that the Commission's Final Order failed to recognize various "practical problems" that will result from subjecting rates charged under the ITS to regulation under Chapter 10. In our Final Order, we stated:

Because we find that the intrastate interexchange collect call service provided by MCI WORLDCOM under the DOC Inmate Telephone System is not provided on a competitive basis consistent with § 56-481.1, we must impose traditional ratemaking procedures for this interexchange service.<sup>4</sup>

We recognize that our decision may present MCI WORLDCOM, as well as the Commission and our Staff, with certain regulatory issues not previously encountered by the Company. However, we cannot abdicate our obligations to ensure compliance with the requirements of § 56-481.1 even though certain practical difficulties may arise. The Commission will endeavor to mitigate, to the extent we can, any undue additional regulatory burdens on the Company occasioned by its provisioning of its Maximum Security Collect service under the ITS on a non-competitive basis.

MCI WORLDCOM's last argument is that we should reconsider our decision to determine, in another docket, whether refunds should be provided to ITS customers for charges that did not comport with the Company's filed tariff during the period January 1, 1999, through August 31, 2000. The Company believes that any decision as to refunds should be made in this complaint proceeding. We decline to make that determination in this docket.

In the Final Order, we stated that we would docket MCI WORLDCOM's September 1, 2000, tariff filing by separate order in Case No. PUC000237 and that the Company shall file in that docket an accounting of its charges to customers during the period its charges were not in compliance with its tariff. We delayed proceeding with this tariff filing after suspending our Final Order in response to the petition for reconsideration in this matter. Case No. PUC000237 is moving forward by Order entered today.<sup>5</sup>

Finally, MCI WORLDCOM's petition for reconsideration requests that if the Commission denies the petition, we stay the effectiveness of the Final Order while the Company prosecutes an appeal before the Supreme Court of Virginia. The Commission would consider such a request at the appropriate time. At this time, no appeal has been filed.

Accordingly, IT IS ORDERED THAT:

(1) The rates and charges for MCI WORLDCOM's Maximum Security Collect call intrastate interexchange telecommunications service remain interim and subject to refund as of the date of our Final Order in this proceeding, or August 22, 2001.

(2) On or before May 20, 2002, MCI WORLDCOM shall file with the Commission, in Case No. PUC000237, rates and charges for its Maximum Security Collect call intrastate interexchange telecommunications service, with supporting cost data, based on the ratemaking provisions of Chapter 10 of Title 56 of the Code of Virginia.

(3) MCI WORLDCOM's September 1, 2000, tariff filing for its Maximum Security Collect call service will proceed in Case No. PUC000237 consistent with the findings in the August 22, 2001, Final Order and this Order on Reconsideration.

<sup>2</sup> See Kenneth Culp Davis & Richard J. Pierce Jr., *Administrative Law* (3<sup>d</sup> ed. 1994) § 7.3 at 300. (A party lacks standing to complain of a procedural error unless that error disadvantaged the party.)

<sup>3</sup> As for the public's awareness of this proceeding, we note that parties who joined the case included a Special Counsel (appointed by the Governor) for the Division of Consumer Counsel, Office of Attorney General; the Virginia Chapter of Citizens United for Rehabilitation of Errants ("Virginia CURE"); and numerous individual consumers of MCI WORLDCOM's service. The DOC also participated as a party.

<sup>4</sup> Final Order at 17.

<sup>5</sup> We note that MCI WORLDCOM's Maximum Security tariff filed September 1, 2000, has been accepted, effective the date of its filing. The rates and charges under this tariff were not suspended but were made interim and subject to refund only from the date of our Final Order and not retroactive to any prior period. MCI WORLDCOM's petition contends that its rates have been suspended and that the period for investigation of these rates is limited to 150 days pursuant to § 56-238. This contention fails to recognize the Commission's authority to entertain at any time complaints from consumers relative to a utility's tariffed rates and charges. See, e.g., *Commonwealth of Virginia, ex rel. Linden v. Shenandoah Elec. Coop.*, Case No. PUE930004, 1994 SCC Ann. Rep't 347.

(4) There being nothing further to come before the Commission in this docket, the Final Order of August 22, 2001, is reinstated, this matter is dismissed, and the papers filed herein shall be placed in the Commission's file for ended causes.

**CASE NO. PUC990157  
FEBRUARY 15, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
ROBERT E. LEE JONES, JR.

v.

MCI WORLDCOM NETWORK SERVICES OF VIRGINIA, INC.,  
and  
MCI WORLDCOM COMMUNICATIONS OF VIRGINIA, INC.

**ORDER GRANTING PARTIAL SUSPENSION  
UPON POSTING OF APPEAL BOND**

On January 23, 2002, the State Corporation Commission ("Commission") issued an Order on Reconsideration in this matter. On February 4, 2002, MCI WORLDCOM Network Services of Virginia, Inc., and MCI WORLDCOM Communications of Virginia, Inc. (collectively "MCI WORLDCOM"), filed a Notice of Appeal pursuant to Rules 5:9 and 5:21 of the Rules of the Supreme Court of Virginia.<sup>1</sup>

On February 8, 2002, MCI WORLDCOM filed its Petition to Suspend, which requests the Commission to suspend the requirement, pending appeal, to file on May 20, 2002, in Case No. PUC000237, intrastate rates and charges for its Inmate Telephone Service ("ITS") "with supporting cost data, based on the ratemaking provisions of Chapter 10 of Title 56 of the Code of Virginia."<sup>2</sup>

MCI WORLDCOM further requests the Commission to exempt from regulation, pending appeal, any transactions that may otherwise be reviewed under the Utility Stock and Affiliates Acts, Chapters 3 and 4 to Title 56 of the Code of Virginia. MCI WORLDCOM notes that § 56-55 of the Code of Virginia defines public service companies regulated under the Utilities Stock Act as public utilities "subject to regulation as to rates and service by the State Corporation Commission under the provisions of Chapter 10 . . . of this title. . . ." It is also noted that the Utility Affiliates Act, Chapter 4 to Title 56 of the Code of Virginia, regulates similarly defined public utilities. Therefore, by our finding that ITS rates should be based upon the ratemaking provisions of Chapter 10, MCI WORLDCOM now seeks exemption from regulation of undefined transactions.

Finally, MCI WORLDCOM requests the Commission to grant the requested suspension of our Order on Reconsideration without the filing of a suspending bond or irrevocable letter of credit, as set forth in § 8.01-676.1(H) of the Code of Virginia.

The Commission finds that Ordering Paragraph No. (2) of the Order on Reconsideration should be suspended, pending appeal.<sup>3</sup>

The Commission finds that no further relief, including exemption from regulation of undefined transactions, is warranted, pending appeal.

The Commission is confident of the ability of MCI WORLDCOM to meet its obligations under the Orders of this Commission and of the Supreme Court of Virginia. Nevertheless, § 8.01-676.1(H) of the Code of Virginia requires the filing of a suspending bond or irrevocable letter of credit. Therefore, we will require MCI WORLDCOM to file an unsecured appeal bond in the amount of ten thousand dollars (\$10,000) with the Clerk of the Commission before the partial suspension granted herein becomes effective.

Accordingly, IT IS ORDERED THAT:

(1) Ordering Paragraph No. (2) of the Order on Reconsideration, issued January 23, 2002, is suspended, pending appeal and consistent with the findings above.

(2) MCI WORLDCOM is hereby ordered to file with the Clerk of the Commission an unsecured appeal bond in the amount of ten thousand dollars (\$10,000).

(3) The remainder of MCI WORLDCOM's Petition to Suspend is hereby denied.

(4) There being nothing further, this case is closed.

<sup>1</sup> MCI WORLDCOM notes its appeal both of the Final Order, entered August 22, 2001 (subsequently suspended on September 11, 2001), and of the Order on Reconsideration entered January 23, 2002.

<sup>2</sup> The ITS refers to the Maximum Security Collect call intrastate interexchange telecommunications service, as identified in Ordering Paragraph No. 2 of the Order on Reconsideration, entered January 23, 2002.

<sup>3</sup> Ordering Paragraph No. (2) provides:

On or before May 20, 2002, MCI WORLDCOM shall file with the Commission, in Case No. PUC000237, rates and charges for its Maximum Security Collect call intrastate interexchange telecommunications service, with supporting cost data, based on the ratemaking provisions of Chapter 10 of Title 56 of the Code of Virginia.

**CASE NO. PUC990159  
FEBRUARY 15, 2002**

STATE CORPORATION COMMISSION

Ex Parte: In re: Investigation of area code relief for the 804 Numbering Plan Area

**ORDER OF DISMISSAL**

By Order dated December 1, 2000, the State Corporation Commission ("Commission") adopted the findings in the Hearing Examiner's Report and approved Alternative 3b for area code relief for the 804 area code.

The ordered area code relief was completed on January 15, 2002, with the implementation of the 434 area code. Therefore, the Commission finds that this case should be dismissed.

Accordingly, IT IS ORDERED THAT this case is hereby dismissed.

**CASE NO. PUC-1999-00170  
JULY 10, 2002**

APPLICATION OF  
UNITED TELEPHONE-SOUTHEAST, INC.  
and  
PHONELINK, INC.

For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996

**DISMISSAL ORDER**

On May 30, 2002, United Telephone-Southeast, Inc. ("United") and PhoneLink, Inc. ("PhoneLink"), filed an interconnection agreement ("Agreement"), entered under §§ 251 and 252 of the Telecommunications Act of 1996 ("the Act"), 47 U.S.C. §§ 251 and 252, for State Corporation Commission ("Commission") approval pursuant to § 252(e) of the Act, 47 U.S.C. § 252(e). This Agreement was approved by Order Approving Agreement dated June 26, 2002, in Case No. PUC-2002-00108.

On October 4, 1999, United filed a joint application for approval of an interconnection agreement between United and PhoneLink. This agreement was assigned Case No. PUC-1999-00170 and approved on November 30, 1999. As verified by letter from counsel for the Applicant dated June 5, 2002, we find that the Agreement approved in Case No. PUC-1999-00170 has been replaced by the Agreement approved in Case No. PUC-2002-00108. Therefore, Case No. PUC-1999-00170 should be dismissed.

Accordingly, IT IS ORDERED THAT the agreement approved in Case No. PUC-2002-00108 shall supersede the agreement approved in Case No. PUC-1999-00170, and the captioned matter is hereby dismissed from the Commission's docket of active cases.

**CASE NOS. PUC-1999-00181 and PUC-1999-00184  
MAY 3, 2002**

APPLICATION OF  
UNITED TELEPHONE-SOUTHEAST, INC.  
and  
NOW COMMUNICATIONS, INC.

and

CENTRAL TELEPHONE COMPANY OF VIRGINIA  
and  
NOW COMMUNICATIONS, INC.

For approval of interconnection agreements under § 252(e) of the Telecommunications Act of 1996

**DISMISSAL ORDER**

On October 12, 1999, United Telephone-Southeast, Inc., and Central Telephone Company of Virginia, (collectively "United/Centel") and NOW Communications, Inc. ("NOW"), filed interconnection agreements ("Agreements"), entered under §§ 251 and 252 of the Telecommunications Act of 1996 ("the Act"), 47 U.S.C. §§ 251 and 252, for State Corporation Commission ("Commission") approval pursuant to § 252(e) of the Act, 47 U.S.C. § 252(e). These Agreements were approved by Orders Approving Agreements dated January 10, 2000, in Case Nos. PUC-1999-00184 and PUC-1999-00181.

On February 25, 2002, United/Centel (filing collectively as "Sprint") filed a joint application for approval of an interconnection agreement between Sprint and NOW. This agreement was assigned Case No. PUC-2002-00031 and has been approved by separate Order. As verified by letter from



counsel for the Applicant dated February 25, 2002, we find that the Agreements approved in Case Nos. PUC-1999-00184 and PUC-1999-00181 have been replaced by the Agreement approved in Case No. PUC-2002-00031. Therefore, Case Nos. PUC-1999-00184 and PUC-1999-00181 should be dismissed.

Accordingly, IT IS ORDERED THAT the agreement approved in Case No. PUC-2002-00031 shall supersede the agreements approved in Case Nos. PUC-1999-00184 and PUC-1999-00181, and the captioned matters are hereby dismissed from the Commission's docket of active cases.

**CASE NO. PUC-1999-00205  
OCTOBER 4, 2002**

APPLICATION OF  
UNITED TELEPHONE - SOUTHEAST, INC.  
AND CENTRAL TELEPHONE COMPANY OF VIRGINIA  
and  
COMM SOUTH COMPANIES, INC.

For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996

**DISMISSAL ORDER**

On November 1, 1999, United Telephone - Southeast, Inc. and Central Telephone Company of Virginia ("Sprint") and Comm South Companies, Inc. ("Comm South"), filed an interconnection agreement ("Agreement"), entered under §§ 251 and 252 of the Telecommunications Act of 1996 (the "Act"), 47 U.S.C. §§ 251 and 252, for State Corporation Commission ("Commission") approval pursuant to § 252(e) of the Act, 47 U.S.C. § 252(e). This Agreement was approved by Order Approving Agreement dated January 27, 2000, in Case No. PUC-1999-00205.

On September 11, 2002, Sprint filed a joint application for approval of an interconnection agreement between Sprint and Comm South Companies of Virginia, Inc.<sup>1</sup> This agreement was assigned Case No. PUC-2002-00186 and has been approved by separate Order. As verified by letter from counsel for the Applicant dated September 9, 2002, we find that the Agreement approved in Case No. PUC-1999-00205 has been replaced by the Agreement approved in Case No. PUC-2002-00186. Therefore, Case No. PUC-1999-00205 should be dismissed.

Accordingly, IT IS ORDERED THAT the agreement approved in Case No. PUC-2002-00186 shall supersede the agreement approved in Case No. PUC-1999-00205, and the captioned matter is hereby dismissed from the Commission's docket of active cases.

<sup>1</sup> Comm South is the parent of Comm South Companies of Virginia, Inc.

**CASE NO. PUC-1999-00216  
OCTOBER 29, 2002**

APPLICATION OF  
VERIZON VIRGINIA INC.  
and  
IG2, INC.

For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996

**DISMISSAL ORDER**

On November 23, 1999, Verizon Virginia Inc. ("Verizon Virginia") and IG2, Inc. ("IG2"), filed an interconnection agreement ("Agreement"), entered under §§ 251 and 252 of the Telecommunications Act of 1996 (the "Act"), 47 U.S.C. §§ 251 and 252, for State Corporation Commission ("Commission") approval pursuant to § 252(e) of the Act, 47 U.S.C. § 252(e). This Agreement was approved by Order Approving Agreement dated February 16, 2000, in Case No. PUC-1999-00216. This agreement was amended on September 20, 2001.

On August 9, 2002, Verizon Virginia filed a joint application for approval of an interconnection agreement between Verizon Virginia and IG2. This agreement was assigned Case No. PUC-2002-00161 and has been approved by separate Order. As verified by letter from counsel for the Applicant dated August 9, 2002, we find that the Agreement approved in Case No. PUC-1999-00216 has been replaced by the Agreement approved in Case No. PUC-2002-00161. Therefore, Case No. PUC-1999-00216 should be dismissed.

Accordingly, IT IS ORDERED THAT the agreement approved in Case No. PUC-2002-00161 shall supersede the agreement approved in Case No. PUC-1999-00216, and the captioned matter is hereby dismissed from the Commission's docket of active cases.

**CASE NO. PUC-1999-00225  
AUGUST 9, 2002**

APPLICATION OF  
CENTRAL TELEPHONE COMPANY OF VIRGINIA  
and  
DSLNET COMMUNICATIONS OF VIRGINIA, INC.

For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996

**DISMISSAL ORDER**

On December 2, 1999, Central Telephone Company of Virginia ("Sprint") and DSLnet Communications of Virginia, Inc. ("DSLnet"), filed an interconnection agreement ("Agreement"), entered under §§ 251 and 252 of the Telecommunications Act of 1996 ("the Act"), 47 U.S.C. §§ 251 and 252, for State Corporation Commission ("Commission") approval pursuant to § 252(e) of the Act, 47 U.S.C. § 252(e). This Agreement was approved by Order Approving Agreement dated February 29, 2000, in Case No. PUC-1999-00225. The Commission subsequently entered an Order Approving Amendment dated August 3, 2000, and an Order Approving Amendment dated March 13, 2001.

On July 9, 2002, Sprint filed a joint application for approval of an interconnection agreement between Sprint and DSLnet. This agreement was assigned Case No. PUC-2002-000136 and has been approved by separate Order. As verified by letter from counsel for the Applicant dated July 8, 2002, we find that the Agreement approved in Case No. PUC-1999-00225 has been replaced by the Agreement approved in Case No. PUC-2002-00136. Therefore, Case No. PUC-1999-00225 should be dismissed.

Accordingly, IT IS ORDERED THAT the agreement approved in Case No. PUC-2002-00136 shall supersede the agreement approved in Case No. PUC-1999-00225, and the captioned matter is hereby dismissed from the Commission's docket of active cases.

**CASE NO. PUC-1999-00226  
AUGUST 9, 2002**

APPLICATION OF  
UNITED TELEPHONE - SOUTHEAST, INC.  
and  
DSLNET COMMUNICATIONS OF VIRGINIA, INC.

For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996

**DISMISSAL ORDER**

On December 2, 1999, United Telephone - Southeast, Inc. ("Sprint"), and DSLnet Communications of Virginia, Inc. ("DSLnet"), filed an interconnection agreement ("Agreement"), entered under §§ 251 and 252 of the Telecommunications Act of 1996 ("the Act"), 47 U.S.C. §§ 251 and 252, for State Corporation Commission ("Commission") approval pursuant to § 252(e) of the Act, 47 U.S.C. § 252(e). This Agreement was approved by Order Approving Agreement dated February 29, 2000, in Case No. PUC-1999-00226. The Commission subsequently entered an Order Approving Amendment dated August 3, 2000, and an Order Approving Amendment dated March 13, 2001.

On July 9, 2002, Sprint filed a joint application for approval of an interconnection agreement between Sprint and DSLnet. This agreement was assigned Case No. PUC-2002-000136 and has been approved by separate Order. As verified by letter from counsel for the Applicant dated July 8, 2002, we find that the Agreement approved in Case No. PUC-1999-00226 has been replaced by the Agreement approved in Case No. PUC-2002-00136. Therefore, Case No. PUC-1999-00226 should be dismissed.

Accordingly, IT IS ORDERED THAT the agreement approved in Case No. PUC-2002-00136 shall supersede the agreement approved in Case No. PUC-1999-00226, and the captioned matter is hereby dismissed from the Commission's docket of active cases.

**CASE NO. PUC990234  
JANUARY 8, 2002**

APPLICATION OF  
CENTRAL TELEPHONE COMPANY OF VIRGINIA  
AND UNITED TELEPHONE - SOUTHEAST, INC.  
and  
BUSINESS TELECOM INC.

For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996

**DISMISSAL ORDER**

On December 10, 1999, Central Telephone Company of Virginia and United Telephone - Southeast, Inc. ("Sprint"), and Business Telecom Inc. ("BTI") filed an interconnection agreement ("Agreement"), entered under §§ 251 and 252 of the Telecommunications Act of 1996 ("the Act"), 47 U.S.C.

§§ 251 and 252, for State Corporation Commission ("Commission") approval pursuant to § 252(e) of the Act, 47 U.S.C. § 252(e). This Agreement was approved by Order Approving Agreement dated March 3, 2000, in Case No. PUC990234.

On August 7, 2001, Sprint filed a joint application for approval of an interconnection agreement between Sprint and BTI. This agreement was assigned Case No. PUC010170 and has been approved by separate Order. As verified by letter from counsel for the Applicant dated August 6, 2001, we find that the Agreement approved in Case No. PUC990234 has been replaced by the Agreement approved in Case No. PUC010170. Therefore, Case No. PUC990234 should be dismissed.

Accordingly, IT IS ORDERED THAT the agreement approved in Case No. PUC010170 shall supersede the agreement approved in Case No. PUC990234, and the captioned matter is hereby dismissed from the Commission's docket of active cases.

**CASE NO. PUC-2000-00020**  
**AUGUST 16, 2002**

COMMONWEALTH OF VIRGINIA, ex rel.  
STATE CORPORATION COMMISSION

Ex Parte: In re: Investigation of area code relief for the 757 Numbering Plan Area

**ORDER OF DISMISSAL**

On October 10, 2001, the State Corporation Commission ("Commission") issued an Order Taking Report of Chief Hearing Examiner Under Advisement and Postponing Area Code Relief ("Order") in this matter. At the time of the Order, the Commission accepted the Staff's projected exhaust date of the first quarter of 2004 as reasonable.

Pursuant to the Order, on August 9, 2002, the Staff filed a report ("Report") of its investigation of area code relief for the 757 numbering plan area ("NPA"). According to the Report, the North American Numbering Plan Administration ("NANPA") reported on April 19, 2002, that its new projected exhaust for the 757 NPA has been revised from the first quarter of 2003 to the first quarter of 2007. The Staff conducted an analysis of NANPA's data supporting the new projected exhaust for the first quarter of 2007 and confirmed that this projection is reasonable.

After reviewing the Staff's Report, the Commission is of the opinion that no further action is warranted and that this case should be dismissed. The Commission is also of the opinion that sufficient time will elapse before area code relief is required for the 757 NPA so as to warrant a completely new investigation.

Accordingly, IT IS ORDERED THAT this matter is now dismissed.

**CASE NO. PUC-2000-00026**  
**APRIL 25, 2002**

COMMONWEALTH OF VIRGINIA, ex rel.  
STATE CORPORATION COMMISSION

Ex Parte: Establishment of a Collaborative Committee to Investigate Market Opening Measures

**FINAL ORDER**

In an Order issued March 2, 2000, the State Corporation Commission ("Commission") established a Collaborative Committee to consider and recommend specific local telecommunications market opening measures.<sup>1</sup> The Commission directed Verizon Virginia Inc. ("Verizon Virginia") and Verizon South Inc. ("Verizon South") to participate fully in the Collaborative Committee and empowered the Director of the Division of Communications ("Director") to convene and manage the Collaborative Committee.

The Collaborative Committee has succeeded in reaching industry consensus on several important and complex matters to date and has made significant progress in accomplishing its original tasks.<sup>2</sup> Accordingly, the Commission concludes that this docket may now be closed. However, the Commission believes the Collaborative Committee has proven to be a useful regulatory tool and should be continued under the direction of the Director as a vehicle for addressing other telecommunications industry concerns, as needed.<sup>3</sup> The Director is, therefore, delegated continued full authority to manage current and future work efforts of the Collaborative Committee. We encourage Verizon Virginia, Verizon South, and other interested parties to continue their participation in the Collaborative Committee.

<sup>1</sup> Adopted as a result of the Commission's approval of the merger of Bell Atlantic Corporation and GTE Corporation in Case No. PUC-2000-00100.

<sup>2</sup> The Commission is aware that the Collaborative Committee has addressed both performance standards and a remedy plan for Verizon Virginia and has begun addressing both of those for Verizon South, as required by the Commission's March 2, 2000, Order.

<sup>3</sup> The Commission required the ongoing use of the Collaborative Committee in considering future changes to Verizon Virginia's performance standards in its January 4, 2002, Order in Case No. PUC-2001-00206. In addition, this finding is consistent with recommendations to develop alternative dispute resolution mechanisms, as contained in both the internal and Legislative studies of the Commission undertaken in 2000-01. In an Order dated October 22, 2001, in Case No. PUC-2001-00100, the Commission adopted Rules for an Alternative Dispute Resolution Process for telecommunications carriers.

Accordingly, IT IS ORDERED THAT:

- (1) The Director of the Division of Communications is delegated continued authority to oversee the current and future work of the Collaborative Committee and to direct its work effort as provided above.
- (2) There being nothing further to come before the Commission, this case is closed.

**CASE NO. PUC000027  
FEBRUARY 27, 2002**

APPLICATION OF  
VERIZON SOUTH INC.

For approval of its Tariff Filing to Introduce Collocation Service

**ORDER ACCEPTING REVISION FILED  
FEBRUARY 7, 2002, TO COLLOCATION  
SERVICE TARIFF ON INTERIM BASIS**

The Collocation Service Tariff filed by Verizon South Inc. ("Verizon South" or "Company") was approved by the State Corporation Commission ("Commission") on an interim basis on February 29, 2000.<sup>1</sup> On February 7, 2002, Verizon South filed a further revision to its Collocation Service Tariff ("February 7, 2002, tariff revision"). The effective date of the February 7, 2002, tariff revision is March 11, 2002.

According to the Company's February 7, 2002, tariff revision, Verizon South's Collocation Service Tariff is being amended to add a 45-day provisioning interval for specified collocation augment requests and to revise tariff language pertinent to DC power inspection and penalties. Also, revisions are made that clarify terms and conditions for forecasting and terminating collocation arrangements.

The Commission finds that the February 7, 2002, tariff revision should be accepted on an interim basis effective March 11, 2002.

Accordingly, IT IS ORDERED THAT:

- (1) Verizon South's February 7, 2002, tariff revision is hereby approved on an interim basis, effective March 11, 2002, subject to refunds of collocation charges and/or modifications in terms and conditions.
- (2) Verizon South shall serve upon all parties having previously filed comments, as well as the Attorney General, copies of its February 7, 2002, tariff revision within ten (10) days from the date of this Order. Verizon South shall promptly furnish a copy of its February 7, 2002, tariff revision to any person requesting a copy. Requests may be directed to Lydia R. Pulley, Vice President and General Counsel, Verizon South Inc., 600 East Main Street, Suite 1100, Richmond, Virginia 23219-2441.
- (3) This matter is continued generally.

<sup>1</sup> Additional revisions were approved on an interim basis on July 12, 2000, December 19, 2000, and October 10, 2001.

**CASE NO. PUC-2000-00027  
OCTOBER 25, 2002**

APPLICATION OF  
VERIZON SOUTH INC.

For approval of its Tariff Filing to Introduce Collocation Service

**ORDER ACCEPTING REVISION FILED  
OCTOBER 17, 2002, TO COLLOCATION  
SERVICE TARIFF ON INTERIM BASIS**

The Collocation Service Tariff filed by Verizon South Inc. ("Verizon South" or "Company") was approved by the State Corporation Commission ("Commission") on an interim basis on February 29, 2000.<sup>1</sup> On October 17, 2002, Verizon South filed a further revision to its Collocation Service Tariff ("October 17, 2002, tariff revision"). The effective date of the October 17, 2002, tariff revision is November 17, 2002.

According to the Company's October 17, 2002, tariff revision, Verizon South's Collocation Service Tariff is being amended to reduce the billing increment for the DC Power monthly charge from "per 40 load amps" to "per load amp." Also, the billing increment for the Environmental Conditioning monthly recurring charge is being amended from "per 40 load amps" to "per load amp." This change is reported to allow Competitive Local Exchange Carriers to reduce their monthly recurring charges when their arrangements require less than 40 amps of DC Power.

<sup>1</sup> Additional revisions were approved on an interim basis on July 12, 2000, December 19, 2000, October 10, 2000, and February 27, 2002.

In addition, the non-recurring charge for DC Power is being disaggregated into three non-recurring charges: Engineering Per Project, Cable Pull/Termination Per Cable, and Ground Wire Per Wire.

The Commission finds that the October 17, 2002, tariff revision should be accepted on an interim basis effective November 17, 2002.

Accordingly, IT IS ORDERED THAT:

(1) Verizon South's October 17, 2002, tariff revision is hereby approved on an interim basis, effective November 17, 2002, subject to refunds of collocation charges and/or modifications in terms and conditions.

(2) Verizon South shall serve upon all parties having previously filed comments, as well as the Attorney General, copies of its October 17, 2002, tariff revision within ten (10) days from the date of this Order. Verizon South shall promptly furnish a copy of its October 17, 2002, tariff revision to any person requesting a copy. Requests may be directed to Lydia R. Pulley, Vice President, Secretary, and General Counsel, Verizon South Inc., 600 East Main Street, Suite 1100, Richmond, Virginia 23219-2441.

(3) This matter is continued generally.

**CASE NO. PUC-2000-00036  
MAY 9, 2002**

APPLICATION OF  
VERIZON SOUTH INC.  
and  
CHESAPEAKE TELECOMMUNICATIONS CORPORATION

For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996

**DISMISSAL ORDER**

On February 11, 2000, Verizon South Inc. ("Verizon South") and Chesapeake Telecommunications Corporation ("CTC"), filed an interconnection agreement ("Agreement"), entered under §§ 251 and 252 of the Telecommunications Act of 1996 ("the Act"), 47 U.S.C. §§ 251 and 252, for State Corporation Commission ("Commission") approval pursuant to § 252(e) of the Act, 47 U.S.C. § 252(e). This Agreement was approved by Order Approving Agreement dated April 26, 2000, in Case No. PUC-2000-00036.<sup>1</sup>

On April 2, 2002, Verizon South filed a joint application for approval of an interconnection agreement between Verizon South and CTC. This agreement was assigned Case No. PUC-2002-00077 and has been approved by separate Order. As verified by letter from counsel for Verizon South dated April 2, 2002, we find that the Agreement approved in Case No. PUC-2000-00036 has been replaced by the Agreement approved in Case No. PUC-2002-00077. Therefore, Case No. PUC-2000-00036 should be dismissed.

Accordingly, IT IS ORDERED THAT the agreement approved in Case No. PUC-2002-00077 shall supersede the agreement approved in Case No. PUC-2000-00036, and the captioned matter is hereby dismissed from the Commission's docket of active cases.

<sup>1</sup> An Amendment to that Agreement was subsequently approved by the Commission by Order dated December 12, 2001.

**CASE NO. PUC-2000-00143  
APRIL 29, 2002**

APPLICATION OF  
GTE SOUTH INCORPORATED  
and  
SBC TELECOM, INC.

For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996

**DISMISSAL ORDER**

On May 17, 2000, GTE South Incorporated ("GTE") and SBC Telecom, Inc. ("SBC"), filed an interconnection agreement ("Agreement"), entered under §§ 251 and 252 of the Telecommunications Act of 1996 ("the Act"), 47 U.S.C. §§ 251 and 252, for State Corporation Commission ("Commission") approval pursuant to § 252(e) of the Act, 47 U.S.C. § 252(e). This Agreement was approved by Order Approving Agreement dated June 22, 2000, in Case No. PUC-2000-00143.

On March 29, 2002, Verizon South Inc. ("Verizon South") and SBC filed a joint application for approval of an interconnection agreement between Verizon South and SBC. This agreement was assigned Case No. PUC-2002-00076 and has been approved by separate Order. As verified by letter from counsel for the Applicant dated April 16, 2002, we find that the Agreement approved in Case No. PUC-2000-00143 has been replaced by the Agreement approved in Case No. PUC-2002-00076. Therefore, Case No. PUC-2000-00143 should be dismissed.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

Accordingly, IT IS ORDERED THAT the agreement approved in Case No. PUC-2002-00076 shall supersede the agreement approved in Case No. PUC-2000-00143, and the captioned matter is hereby dismissed from the Commission's docket of active cases.

**CASE NO. PUC-2000-00171  
OCTOBER 10, 2002**

APPLICATION OF  
VERIZON VIRGINIA INC.  
and  
ONESTAR LONG DISTANCE, INC.

For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996

**DISMISSAL ORDER**

On June 16, 2000, Verizon Virginia Inc. ("Verizon Virginia") and OneStar Long Distance, Inc. filed an interconnection agreement ("Agreement"), entered under §§ 251 and 252 of the Telecommunications Act of 1996 ("the Act"), 47 U.S.C. §§ 251 and 252, for State Corporation Commission ("Commission") approval pursuant to § 252(e) of the Act, 47 U.S.C. § 252(e). This Agreement was approved by Order Approving Agreement dated August 14, 2000, in Case No. PUC-2000-00171.

On August 12, 2002, Verizon Virginia filed a joint application for approval of an interconnection agreement between Verizon Virginia and OneStar Communications, LLC. This agreement was assigned Case No. PUC-2002-00166 and has been approved by separate Order. As verified by letter from counsel for the Applicant dated August 9, 2002, we find that the Agreement approved in Case No. PUC-2000-00171 has been replaced by the Agreement approved in Case No. PUC-2002-00166. Therefore, Case No. PUC-2000-00171 should be dismissed.

Accordingly, IT IS ORDERED THAT the agreement approved in Case No. PUC-2002-00166 shall supersede the agreement approved in Case No. PUC-2000-00171, and the captioned matter is hereby dismissed from the Commission's docket of active cases.

**CASE NO. PUC-2000-00179  
JULY 16, 2002**

APPLICATION OF  
VERIZON VIRGINIA INC.  
and  
SBC TELECOM, INC.

For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996

**DISMISSAL ORDER**

On June 26, 2000, Verizon Virginia Inc. ("Verizon Virginia") and SBC Telecom, Inc. ("SBCT"), filed an interconnection agreement ("Agreement"), entered under §§ 251 and 252 of the Telecommunications Act of 1996 (the "Act"), 47 U.S.C. §§ 251 and 252, for State Corporation Commission ("Commission") approval pursuant to § 252(e) of the Act, 47 U.S.C. § 252 (e). This Agreement was approved by Order Approving Agreement dated September 20, 2000, in Case No. PUC-2000-00179. The Agreement was amended by Order Approving Amendment issued December 20, 2000.

On May 10, 2002, Verizon Virginia filed a joint application for approval of an interconnection agreement between Verizon Virginia and SBCT. This agreement was assigned Case No. PUC-2002-00098 and has been approved by separate Order. As verified by letter from counsel for the Applicant dated May 10, 2002, we find that the Agreement approved in Case No. PUC-2000-00179 has been replaced by the Agreement approved in Case No. PUC-2002-00098. Therefore, Case No. PUC-2000-00179 should be dismissed.

Accordingly, IT IS ORDERED THAT the agreement approved in Case No. PUC-2002-00098 shall supersede the agreement approved in Case No. PUC-2000-00179, and the captioned matter is hereby dismissed from the Commission's docket of active cases.

**CASE NO. PUC-2000-00204  
MAY 3, 2002**

JOINT APPLICATION OF  
VERIZON VIRGINIA INC.  
and  
VERIZON SOUTH INC.

To expand local calling between various exchanges

**ORDER AUTHORIZING IMPLEMENTATION OF  
FIFTH PHASE EXPANDED LOCAL CALLING**

On November 2, 2001, Verizon Virginia Inc. ("Verizon Virginia") and Verizon South Inc. ("Verizon South") (hereinafter collectively referred to as "Joint Applicants") filed with the State Corporation Commission ("Commission") their fifth Joint Application to Expand Local Calling in Part (hereinafter "fifth Joint Application").<sup>1</sup> This fifth Joint Application proposed to implement phase five of their expanded local calling plan ("ELCP"), which involved routes between exchanges that are primarily interLATA.<sup>2</sup> The Joint Applicants identified these routes in Attachment A to the fifth Joint Application. The Joint Applicants proposed that all routes for expanded calling between the affected exchanges in phase five of its ELCP be reciprocal.

In the Commission's Fifth Order Prescribing Notice, issued December 3, 2001, ("December 3, 2001, Order") the Commission noted that customers in the Verizon Virginia and Verizon South exchanges shown in Attachment C to the fifth Joint Application would be billed in a higher rate group upon implementation of the ELCP. Therefore, in its December 3, 2001, Order, the Commission found that customers in the Attachment C exchanges should first receive notice and an opportunity to comment or request a hearing on whether to implement the expanded calling. Those exchanges are as follows: Bowling Green, Boykins, Capron, Charlotte Court House, Colonial Beach, Courtland, Drakes Branch, Emporia, Ladysmith, Kilmarnock, Port Royal, Calverton, Clover, Mineral, and The Plains. In the same Order, the Commission also deferred approval of all the routes that do not involve rate increases identified in Attachment B of the fifth Joint Application.<sup>3</sup> The purpose of this deferral was to provide additional time for the Joint Applicants to file community of interest information on all the proposed interLATA routes in order to support any subsequent filings for waivers to the FCC. To date, the Joint Applicants have not filed or completed such community of interest information. As this additional information is not necessary for the Commission's approval, we will address the routes for the exchanges identified in Attachment B of the fifth Joint Application in this Order.

On January 11, 2002, the Joint Applicants, by counsel, filed Proof of Notice to their customers in the required exchanges identified above. In response to the notice given, approximately 70 comments were filed in this case. Of the 15 exchanges noticed, nine had a total of three or fewer comments filed.<sup>4</sup> Of the remaining six exchanges, there were six against the ELCP and two undetermined in Chancellor; four for the ELCP in Charlotte Court House, which included a supporting petition with close to 800 signatures; 11 against the plan in Colonial Beach; four against the ELCP in Kilmarnock;<sup>5</sup> one for and three against the ELCP in Calverton; one for and four against the Plan in Clover; and 17 against the ELCP in Mineral.<sup>6</sup> One interested person in the Clover exchange requested permission to attend a hearing if a hearing was convened; otherwise, there were no requests for a hearing.

NOW THE COMMISSION, upon consideration of the fifth Joint Application and with due regard to all comments filed, finds that the Joint Applicants are authorized to implement all routes identified in the fifth phase of the ELCP. However, the Commission recognizes that some customers will experience increases in their basic local exchange services rates in the rate regrouping process to expand their local calling scopes. Therefore, we further find that Verizon Virginia and Verizon South should notify its customers in these exchanges at the time of the ELCP implementation<sup>7</sup> of applicable local exchange service options, including measured service and exchange only service. These service options may help mitigate the impact of the higher rates resulting from the subject regroupings.<sup>8</sup> Further, the Commission finds that the Joint Applicants shall file appropriate applications with the FCC seeking the necessary waivers, including sufficient community of interest information to support the waivers, to implement the proposed interLATA routes that have

<sup>1</sup> Phased implementation of expanded local calling is in satisfaction of a condition of this Commission's approval of the Joint Applicants' merger, ordered November 29, 1999, in Case No. PUC-1999-00100.

<sup>2</sup> These routes are between contiguous exchanges located in different regional calling areas or LATAs. Before any interLATA routes are implemented, the Joint Applicants must obtain waivers from the Federal Communications Commission ("FCC") and file copies of these waivers in this case.

<sup>3</sup> Attachment B identifies the following exchanges among others: Allwood, Arcola, Barnesville, Big Prater, Bridgewater, Capron, Claremont, Franklin, Gloucester, Haymarket, Kilmarnock (flat rate service), King & Queen, King George, Maxie, Nokesville, Pamplin, Raphine, Reedville, Rock Gap, Stafford, Stony Creek, Surry, Tappahannock, Triangle, and Weyers Cave.

<sup>4</sup> This includes two for and one against the ELCP in Bowling Green; one against in Boykins; one against the ELCP in Drakes Branch; three against in Courtland; one against in Emporia; one for and one against the ELCP in Ladysmith; one for in Port Royal; and one for and one against the ELCP in The Plains exchange.

<sup>5</sup> The only increase in this portion of the ELCP is for Verizon South's Optional Local Calling Plan. There would be no increase for basic local service in this exchange.

<sup>6</sup> We note that several letters from the Mineral exchange identified a desire for extended calling to Richmond. The Mineral exchange is not contiguous with the Richmond exchange; therefore, Mineral cannot obtain two-way local calling to Richmond without also getting calling to some intermediary exchange(s) that are contiguous. The instant expanded calling proposal to include the Goochland exchange would at least make the new Mineral calling scope contiguous with the Richmond calling area. Such an arrangement would allow customers in Mineral to pursue an extension to its local calling area to include Richmond pursuant to § 56-484.2 of the Code of Virginia. The monthly residential increase in the Mineral exchange would be \$1.02 for basic flat rate service for extended service.

<sup>7</sup> However, implementation of this phase of the ELCP may only take place if the FCC grants the requested interLATA waivers.

<sup>8</sup> The Commission recognizes that these options were also described in the information previously sent out with the Joint Applicants' notice for comment.

been approved in this fifth phase of the ELCP and should file with the Clerk of the Commission copies of such filings and any subsequent FCC orders regarding the requested waivers in this docket.

Accordingly, IT IS ORDERED THAT:

(1) Joint Applicants shall seek the necessary waivers from the FCC regarding the proposed interLATA routes in the fifth Joint Application in order to implement the fifth phase of the ELCP.

(2) Joint Applicants shall file its application for waiver with the FCC no later than August 30, 2002, and shall file with the Clerk of the Commission copies of such filings and any subsequent FCC orders regarding the requested waivers in this case.

(3) Joint Applicants are authorized to implement the fifth phase of the ELCP, conditioned upon the FCC's grant of the necessary waivers and in accordance with the findings made herein.

(4) Joint Applicants shall give notice of applicable local exchange service options, including measured service and exchange only service, to their customers in the exchanges identified in Attachment C to the Joint Application at the time of the implementation of the fifth phase of the ELCP.

(5) This case is continued generally.

**CASE NO. PUC-2000-00204  
NOVEMBER 14, 2002**

JOINT APPLICATION OF  
VERIZON VIRGINIA INC.  
and  
VERIZON SOUTH INC.

To expand local calling between various exchanges

**ORDER AUTHORIZING IMPLEMENTATION OF  
SUPPLEMENTAL PHASE EXPANDED LOCAL CALLING**

On August 29, 2002, Verizon Virginia Inc. ("Verizon Virginia") and Verizon South Inc. ("Verizon South") (hereinafter collectively referred to as "Joint Applicants") filed with the State Corporation Commission ("Commission") a further Joint Application to Expand Local Calling in Part (hereinafter "supplemental Joint Application").<sup>1</sup> This supplemental Joint Application proposed to implement an additional intraLATA route that should be included in the expanded local calling plan ("ELCP"). This route is between Verizon Virginia's Mechanicsville exchange and Verizon South's Dawn exchange.

In the Commission's Supplemental Order Prescribing Notice, issued September 13, 2002, ("September 13, 2002, Order") the Commission noted that customers in Verizon South's Dawn exchange would be billed in a higher rate group upon implementation of the ELCP. Therefore, in its September 13, 2002, Order, the Commission found that customers in the Dawn exchange should first receive notice and an opportunity to comment or request a hearing on whether to implement the expanded calling.

On October 24, 2002, Verizon South, by counsel, filed Proof of Notice to its customers in the Dawn exchange. In response to the notice given, one comment opposing the ELCP was filed in this case.

NOW THE COMMISSION, upon consideration of the supplemental Joint Application and with due regard to the comment filed, finds that the Joint Applicants should be authorized to implement the route between the Dawn and Mechanicsville exchanges in the supplemental phase of the ELCP. However, the Commission recognizes that some customers will experience increases in their basic local exchange service rates in the rate regrouping process to expand their local calling scopes.<sup>2</sup> Therefore, we further find that Verizon South should notify its customers in the Dawn exchange at the time of the ELCP implementation of applicable local exchange service options, including measured service and exchange only service. These service options may help mitigate the impact of the higher rates resulting from the subject regroupings.

Accordingly, IT IS ORDERED THAT:

(1) Joint Applicants shall implement the supplemental phase of the ELCP for the route between the Dawn and Mechanicsville exchanges.

(2) Verizon South shall give notice of applicable local exchange service options, including measured service and exchange only service, to their customers in the Dawn exchange upon the implementation of the supplemental phase of the ELCP.

(3) This case is continued generally.

<sup>1</sup> Phased implementation of expanded local calling is in satisfaction of a condition of this Commission's approval of the Joint Applicants' merger, ordered November 29, 1999, in Case No. PUC-1999-00100.

<sup>2</sup> The Commission recognizes that these options were also described in the information previously sent out with Verizon South's notice for comment.



**CASE NO. PUC000217  
MARCH 19, 2002**

APPLICATION OF  
VERIZON VIRGINIA INC.

To amend its certificates to reflect new corporate name

**ORDER CLOSING CASE**

On August 4, 2000, the State Corporation Commission ("Commission") entered an Order Reissuing Certificates in this matter. The certificates of public convenience and necessity held in Verizon Virginia Inc.'s ("Verizon Virginia") former corporate name, Bell Atlantic-Virginia, Inc., were cancelled and reissued to reflect Verizon Virginia's new corporate name. The August 4, 2000, Order also required Verizon Virginia to provide revised tariffs to the Division of Communications reflecting the name change by November 1, 2000. New tariffs reflecting the new corporate name were filed as ordered on October 19, 2000.

NOW THE COMMISSION, being duly advised that all provisions of the August 4, 2000, Order have been met, is of the opinion and finds that this matter should be closed.

Accordingly, IT IS THEREFORE ORDERED THAT this matter shall be closed and the papers herein placed in the file for ended causes.

**CASE NO. PUC000218  
MARCH 19, 2002**

APPLICATION OF  
VERIZON SOUTH INC.

To amend its certificates to reflect new corporate name

**ORDER CLOSING CASE**

On August 4, 2000, the State Corporation Commission ("Commission") entered an Order Reissuing Certificates ("Order") in this matter. The certificates of public convenience and necessity held in Verizon South Inc.'s ("Verizon South") former corporate name, GTE South, Incorporated, were cancelled and reissued to reflect Verizon South's new corporate name. The Order also required Verizon South to provide revised tariffs to the Division of Communications reflecting the name change by November 1, 2000. However, new tariffs reflecting the new corporate name were filed on August 1, 2000, prior to the Commission's August 4, 2000, Order. The August 1, 2000, tariffs were accepted, and the Commission did not require Verizon South to file anything further in order to conform with the August 4, 2000, Order.

NOW THE COMMISSION, being duly advised that all provisions of the August 4, 2000, Order have been met, is of the opinion and finds that this matter should be closed.

Accordingly, IT IS THEREFORE ORDERED that this matter shall be closed and the papers filed herein placed in the file for ended causes.

**CASE NO. PUC-2000-00262  
JUNE 4, 2002**

PETITION OF  
CAVALIER TELEPHONE, LLC

For emergency relief to halt unlawful customer disconnects by Verizon Virginia Inc.

**DISMISSAL ORDER**

On January 29, 2001, the State Corporation Commission ("Commission") issued an Order Granting Injunction ("Injunction Order"), which required ongoing monthly reports by the parties detailing the incidence of premature disconnections of service to customers switching their service to service provided by Cavalier Telephone, LLC ("Cavalier"). The Commission now takes judicial notice that this information is now received as part of Verizon Virginia Inc.'s ("Verizon Virginia") reporting requirements adopted pursuant to the Commission's Order Establishing Carrier Performance Standards with Implementation Schedule and Ongoing Procedure to Change Metrics issued January 4, 2002, in Case No. PUC-2002-00206. The monthly reporting ordered in this case is duplicative and, therefore, no longer necessary.

Accordingly, IT IS ORDERED THAT:

(1) The monthly reporting requirements of Cavalier, Verizon Virginia, and the Commission Staff are hereby terminated, and Ordering Paragraph Nos. 2 and 3 of the Injunction Order are hereby vacated.

(2) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. PUC000304  
MARCH 13, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION

Ex Parte: In the matter of implementation of number conservation measures granted to Virginia by the Federal Communications Commission in its Order released July 20, 2000

**ORDER DISMISSING CASE**

On July 20, 2000, the Federal Communications Commission ("FCC") delegated to the State Corporation Commission ("Commission") authority to implement number conservation measures, including authority to institute thousand-block number pooling in the 804, 757, and 540 area codes.

By Order dated February 16, 2001, the Commission named Telcordia Technologies ("Telcordia") as its interim number pooling administrator and implemented a thousand-block number pooling trial in the 804/434 area code on June 15, 2001. By Order dated March 27, 2001, we implemented pooling trials in the 757 and 540 area codes on October 12, 2001, and November 15, 2001, respectively. On October 11, 2001, we entered an Order transitioning authority to administer Virginia's number pooling trials from Telcordia to NeuStar, Inc., the national thousand-block number pooling administrator selected by the FCC. The national pooling rollout is set to begin this month, and that process is moving forward as scheduled.

Because Virginia's pooling trials in the 804/434, 757, and 540 area codes have concluded and the national rollout has begun, there is no further action required by the Commission in this case. We, therefore, find that this docket should be closed.

Accordingly, IT IS ORDERED THAT this case be, and hereby is, DISMISSED from the docket of active cases.

**CASE NO. PUC000310  
APRIL 5, 2002**

APPLICATION OF  
CENTRAL TELEPHONE COMPANY OF VIRGINIA AND UNITED TELEPHONE-SOUTHEAST, INC.  
and  
NPCR, INC.

For approval of a commercial mobile radio services interconnection agreement under § 252(e) of the Telecommunications Act of 1996

**DISMISSAL ORDER**

On November 20, 2000, Central Telephone Company of Virginia and United Telephone-Southeast, Inc. (collectively "Sprint"), and NPCR, Inc. ("NPCR"), filed an interconnection agreement ("Agreement"), entered under §§ 251 and 252 of the Telecommunications Act of 1996 ("the Act"), 47 U.S.C. §§ 251 and 252, for State Corporation Commission ("Commission") approval pursuant to § 252(e) of the Act, 47 U.S.C. § 252(e). This Agreement was approved by Order Approving Agreement dated February 20, 2001, in Case No. PUC000310.

On February 15, 2002, Sprint filed a joint application for approval of an interconnection agreement between Sprint and NPCR, Inc. d/b/a Nextel Partners. This agreement was assigned Case No. PUC020022 and has been approved by separate Order. Pursuant to our records as verified by the cover letter in Case No. PUC020022, we find that the Agreement approved in Case No. PUC000310 has been replaced by the Agreement approved in Case No. PUC020022. Therefore, Case No. PUC000310 should be dismissed.

Accordingly, IT IS ORDERED THAT the agreement approved in Case No. PUC020022 shall supersede the agreement approved in Case No. PUC000310, and the captioned matter is hereby dismissed from the Commission's docket of active cases.

**CASE NO. PUC-2000-00320  
AUGUST 7, 2002**

APPLICATION OF  
UNITED TELEPHONE-SOUTHEAST, INC.,  
and  
CENTRAL TELEPHONE COMPANY OF VIRGINIA  
and  
MOUNTAINET TELEPHONE COMPANY, INC.

For approval of an interconnection agreement under Section 252(e) of the Telecommunications Act of 1996

**DISMISSAL ORDER**

On December 4, 2000, United Telephone – Southeast, Inc., and Central Telephone Company of Virginia ("Sprint") and Mountainet Telephone Company, Inc. ("Mountainet"), filed an interconnection agreement ("Agreement"), entered under §§ 251 and 252 of the Telecommunications Act of 1996 ("the Act"), 47 U.S.C. §§ 251 and 252, for State Corporation Commission ("Commission") approval pursuant to § 252(e) of the Act, 47 U.S.C. § 252(e). The Agreement was approved by Order Approving Agreement dated February 23, 2001, in Case No. PUC-2000-00320.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

On May 30, 2002, Sprint filed a joint application for approval of an interconnection agreement between Sprint and MountainNet. This agreement was assigned Case No. PUC-2002-00107 and has been approved. Per letter enclosed with its application, Sprint stated that PUC-2002-00107 replaced the prior approved agreements in PUC-2000-00320. Therefore, Case No. PUC-2000-00320 should be dismissed.

NOW THE COMMISSION, having considered the matter, is of the opinion and finds that the agreement approved in Case No. PUC-2002-00107 supersedes the agreement approved in Case No. PUC-2000-00320 and that the captioned proceeding should be dismissed.

Accordingly, IT IS ORDERED THAT the agreement approved in Case No. PUC-2002-00107 shall supersede the agreement approved in Case No. PUC-2000-00320, and the captioned matter is hereby dismissed from the Commission's docket of active cases.

**CASE NO. PUC010005  
JANUARY 8, 2002**

APPLICATION OF  
VERIZON SOUTH INC.  
and  
PREFERRED CARRIER SERVICES OF VIRGINIA, INC.

For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996

**DISMISSAL ORDER**

On January 4, 2001, Verizon South Inc. ("Verizon South") and Preferred Carrier Services of Virginia, Inc. ("PCS-V"), filed an interconnection agreement ("Agreement"), entered under §§ 251 and 252 of the Telecommunications Act of 1996 ("the Act"), 47 U.S.C. §§ 251 and 252, for State Corporation Commission ("Commission") approval pursuant to § 252(e) of the Act, 47 U.S.C. § 252(e). This Agreement was approved by Order Approving Agreement dated February 23, 2001, in Case No. PUC010005.

On November 7, 2001, Verizon South filed a joint application for approval of an interconnection agreement between Verizon South and PCS-V. This agreement was assigned Case No. PUC010231 and has been approved by separate Order. As verified by letter from counsel for the Applicant dated November 7, 2001, we find that the Agreement approved in Case No. PUC010005 has been replaced by the Agreement approved in Case No. PUC010231. Therefore, Case No. PUC010005 should be dismissed.

Accordingly, IT IS ORDERED THAT the agreement approved in Case No. PUC010231 shall supersede the agreement approved in Case No. PUC010005, and the captioned matter is hereby dismissed from the Commission's docket of active cases.

**CASE NO. PUC-2001-00027  
JUNE 19, 2002**

JOINT APPLICATION OF  
CENTRAL TELEPHONE COMPANY OF VIRGINIA  
AND UNITED TELEPHONE - SOUTHEAST, INC.  
and  
METROCALL, INC.

For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996

**DISMISSAL ORDER**

On January 31, 2001, Central Telephone Company of Virginia and United Telephone - Southeast, Inc. (collectively, "Sprint"), and Metrocall, Inc. ("Metrocall"), filed an interconnection agreement ("Agreement"), entered under §§ 251 and 252 of the Telecommunications Act of 1996 (the "Act"), 47 U.S.C. §§ 251 and 252, for State Corporation Commission ("Commission") approval pursuant to § 252(e) of the Act, 47 U.S.C. § 252(e). This Agreement was approved by Order Approving Agreement dated April 2, 2001, in Case No. PUC-2001-00027.

On May 13, 2002, Sprint filed an application for approval of an interconnection agreement between Sprint and Metrocall. This agreement was assigned Case No. PUC-2002-00099, and is being considered in a separate Order. As verified by a letter from counsel for Sprint dated May 10, 2002, we find that the Agreement approved in Case No. PUC-2001-00027 has been superseded by the Agreement under consideration in Case No. PUC-2002-00099. Therefore, Case No. PUC-2001-00027 should be dismissed.

Accordingly, IT IS ORDERED THAT the agreement approved in Case No. PUC-2002-00099 shall supersede the agreement approved in Case No. PUC-2001-00027, and the captioned matter is hereby dismissed from the Commission's docket of active cases.

**CASE NO. PUC010028  
JANUARY 10, 2002**

APPLICATION OF  
VERIZON VIRGINIA INC.  
and  
Z-TEL COMMUNICATIONS OF VIRGINIA, INC.

For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996

**DISMISSAL ORDER**

On January 31, 2001, Verizon Virginia Inc. ("Verizon Virginia") and Z-Tel Communications of Virginia, Inc. ("Z-Tel"), filed an interconnection agreement ("Agreement"), entered under §§ 251 and 252 of the Telecommunications Act of 1996 ("the Act"), 47 U.S.C. §§ 251 and 252, for State Corporation Commission ("Commission") approval pursuant to § 252(e) of the Act, 47 U.S.C. § 252(e). This Agreement was approved by Order Approving Agreement dated March 30, 2001, in Case No. PUC010028.

On November 8, 2001, Verizon Virginia filed a joint application for approval of an interconnection agreement between Verizon Virginia and Z-Tel. This agreement was assigned Case No. PUC010235 and has been approved by separate Order. As verified by letter from counsel for Verizon Virginia dated November 8, 2001, we find that the Agreement approved in Case No. PUC010028 has been replaced by the Agreement approved in Case No. PUC010235. Therefore, Case No. PUC010028 should be dismissed.

Accordingly, IT IS ORDERED THAT the agreement approved in Case No. PUC010235 shall supersede the agreement approved in Case No. PUC010028, and the captioned matter is hereby dismissed from the Commission's docket of active cases.

**CASE NO. PUC-2001-00043  
SEPTEMBER 27, 2002**

APPLICATION OF  
VERIZON VIRGINIA INC.  
and  
EGIX NETWORK SERVICES OF VIRGINIA, INC.

For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996

**DISMISSAL ORDER**

On February 20, 2001, Verizon Virginia Inc. ("Verizon Virginia") and Egix Network Services of Virginia, Inc. ("Egix"), filed an interconnection agreement ("Agreement"), entered under §§ 251 and 252 of the Telecommunications Act of 1996 (the "Act"), 47 U.S.C. §§ 251 and 252, for State Corporation Commission ("Commission") approval pursuant to § 252(e) of the Act, 47 U.S.C. § 252(e). This Agreement was approved by Order Approving Agreement dated April 19, 2001, in Case No. PUC-2001-00043.

On August 12, 2002, Verizon Virginia filed a joint application for approval of an interconnection agreement between Verizon Virginia and Egix. This agreement was assigned Case No. PUC-2002-00165 and has been approved by separate Order. As verified by letter from counsel for the Applicant dated August 9, 2002, we find that the Agreement approved in Case No. PUC-2001-00043 has been replaced by the Agreement approved in Case No. PUC-2002-00165. Therefore, Case No. PUC-2001-00043 should be dismissed.

Accordingly, IT IS ORDERED THAT the agreement approved in Case No. PUC-2002-00165 shall supersede the agreement approved in Case No. PUC-2001-00043, and the captioned matter is hereby dismissed from the Commission's docket of active cases.

**CASE NO. PUC-2001-00106  
NOVEMBER 8, 2002**

APPLICATION OF  
VERIZON SOUTH INC.  
and  
LIGHTWAVE COMMUNICATIONS, LLC

For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996

**DISMISSAL ORDER**

On April 20, 2001, Verizon South Inc. ("Verizon") and LightWave Communications, LLC ("LightWave"), filed an interconnection agreement ("Agreement"), entered under §§ 251 and 252 of the Telecommunications Act of 1996 (the "Act"), 47 U.S.C. §§ 251 and 252, for State Corporation Commission ("Commission") approval pursuant to § 252(e) of the Act, 47 U.S.C. § 252(e). This Agreement was approved by Order Approving Agreement dated June 22, 2001, in Case No. PUC-2001-00106.

On October 1, 2002, Verizon South filed a joint application for approval of an interconnection agreement between Verizon South and Lightwave Communications, LLC.<sup>1</sup> This agreement was assigned Case No. PUC-2002-00195 and has been approved by separate Order. As verified by letter from counsel for the Applicant dated October 1, 2002, we find that the Agreement approved in Case No. PUC-2001-00106 has been replaced by the Agreement approved in Case No. PUC-2002-00195. Therefore, Case No. PUC-2001-00106 should be dismissed.

Accordingly, IT IS ORDERED THAT the agreement approved in Case No. PUC-2002-00195 shall supersede the agreement approved in Case No. PUC-2001-00106, and the captioned matter is hereby dismissed from the Commission's docket of active cases.

<sup>1</sup> The name certificated in Virginia is LightWave Communications, LLC.

**CASE NO. PUC010128  
MARCH 5, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION

**Ex Parte:** In the matter of establishing rules governing the discontinuance of local exchange telecommunications services provided by competitive local exchange carriers

**ORDER PROMULGATING RULES  
GOVERNING THE DISCONTINUANCE OF LOCAL  
EXCHANGE TELECOMMUNICATIONS SERVICES  
BY COMPETITIVE LOCAL EXCHANGE CARRIERS  
AND REQUESTING FURTHER COMMENTS**

The State Corporation Commission ("Commission") initiated a rulemaking in the above-captioned proceeding on June 20, 2001,<sup>1</sup> to address the potential disruption of local exchange telecommunications services to customers of competitive local exchange carriers ("CLECs").

**Background**

The Commission noted in the Order For Notice and Comment that the increasing financial difficulties facing CLECs have resulted in a number of bankruptcy filings. In fact, even more recent events in the financial markets have also forced a number of other CLECs to reevaluate their business plans, and some have pulled out of certain markets or selected states. The Commission is aware that customers in Virginia have certainly been impacted by these events as evidenced by the number of requests filed by CLECs to discontinue service in the Commonwealth.<sup>2</sup>

**Notice and Comment**

Pursuant to the Order For Notice and Comment, the proposed Discontinuance Rules were published in the Virginia Register of Regulations on July 16, 2001, and were made available in the office of the Commission's Clerk, as well as on the Commission's website.

Comments were filed by the Building Owners and Managers Association, International ("Building Owners and Managers"), XO Virginia, LLC ("XO"), ALLTEL Communications, Inc. ("ALLTEL"), Cox Virginia Telcom, Inc. ("Cox"), Virginia Cable Telecommunications Association ("Virginia Cable"), Cavalier Telephone LLC ("Cavalier"), AT&T Communications of Virginia, Inc. ("AT&T"), Verizon Virginia Inc. and Verizon South Inc. ("Verizon"), and Sprint Communications Company of Virginia, Inc., Central Telephone Company of Virginia, and United Telephone-Southeast Inc. ("Sprint/Central/United"). MCI WorldCom, Inc. ("WorldCom"), filed a letter in lieu of comments. No requests for hearing were received.

Most of the commenting CLECs urged the Commission to expand the application of all of the Discontinuance Rules to cover incumbent local exchange carriers ("ILECs"). However, this rulemaking was established specifically to promulgate rules and adopt procedures governing the discontinuance of local exchange telecommunications services by CLECs as required in the Rules Governing the Offering of Competitive Local Exchange Service, 20 VAC

<sup>1</sup> On June 20, 2001, the Commission issued an Order for Notice and Comment or Requests for Hearing ("Order For Notice and Comment"), which proposed Rules Governing the Discontinuance of Local Exchange Telecommunications Services Provided by Competitive Local Exchange Carriers ("Discontinuance Rules"). On July 27, 2001, the Commission issued an Order Granting Extension of Time to file comments.

<sup>2</sup> The following CLECs have been granted authority to discontinue service since June 2001: Broadslate Networks of Virginia, Inc. (PUC020016, Order issued 2/21/02); BroadStreet Communications of Virginia, LLC (PUC010258, Order issued 12/28/01, and PUC010198, Orders issued 10/19/01 and 11/21/01); Rhythms Links, Inc. – Virginia (PUC010177, Orders issued 9/5/01 and 11/9/01); OnSite Access Local, LLC (PUC010173, Order issued 12/19/01); 2<sup>nd</sup> Century Communications of Virginia, Inc. (PUC010160, Order issued 8/28/01); BroadBand Office Communications – Virginia, Inc. (PUC010147, Order issued 8/3/01); FairPoint Communications Corp. – Virginia (PUC010248, Order issued 1/10/02); and Teligent of Virginia, Inc. (PUC010245, Order issued 12/14/01). In addition, the following CLECs have been granted authority to cancel certificates since June 2001: LightSource Telecom II, LLC (PUC010259, Order issued 1/10/02); NewSouth Communications of Virginia, Inc. (PUC010250, Order issued 12/19/01); MPower Communications of Virginia, Inc. (PUC010247, Order issued 12/19/01); PICUS Communications LLC (PUC010210, Order issued 11/21/01); OpenBand of Virginia, Inc. (PUC010159, Order issued 11/7/01); Conectiv Communications of Virginia, Inc. (PUC010149, Order issued 7/31/01); Urban Media of Virginia, Inc. (PUC010137, Order issued 6/26/01); LightBonding.com VA Inc. (PUC010132, Order issued 6/26/01); and @Link Networks of Virginia, Inc. (PUC010126, Order issued 6/27/01).

5-400-180 ("Local Rules") at § D 7.<sup>3</sup> The Commission declines to expand coverage of the Discontinuance Rules to the ILECs beyond the duties already established for the ILECs in these Rules.<sup>4</sup>

Cox proposes in its comments that the application of the Discontinuance Rules should be limited to the provision of basic local exchange telecommunications services. For example, under Cox's proposal, CLECs would not be required to obtain Commission approval to discontinue data-only services. We find that all customers of a CLEC should be afforded protection from unexpected discontinuance of service; therefore, we decline to limit the application of the Discontinuance Rules to only basic local exchange telecommunications services.

Comments by ALLTEL, Cavalier, and the Building Owners and Managers support a requirement that the Discontinuance Rules require ILECs to take back customers from discontinuing CLECs. All other comments opposed such a take-back requirement. The Commission is not convinced there is a need for such a take-back requirement and declines at this time to impose such duty on the ILECs within the context of the Discontinuance Rules. To the contrary, the Commission believes that customers and LECs (both ILECs and CLECs) are better served by allowing the customers of a discontinuing CLEC to move their service to the LEC of their choice whenever possible.

### **Further Comments Requested**

The Commission recognizes that the complexities of "transferring" customers' service between carriers, particularly when a large number of a discontinuing carrier's customers must choose a new carrier in a very short timeframe, presents a risk that not all customers will be able to obtain service from a new LEC before their old CLEC discontinues service. Therefore, the Commission is considering whether it should prescribe specific procedures in the Discontinuance Rules to ensure that the transfer of customers from a discontinuing CLEC to other LECs will be as seamless and expedient as possible. XO has proposed such rules in its comments (pp. 10-12),<sup>5</sup> filed July 30, 2001. The Commission finds that all parties may file further comments on these rules proposed by XO or offer alternative rules for our consideration.

Furthermore, as evidenced by a recent incident in Virginia, the Commission is concerned that these Discontinuance Rules, as modified herein, do not address certain situations that may prevent a CLEC from giving adequate notice to its customers before service is actually discontinued. In particular, if a CLEC is utilizing network services of another carrier other than the ILEC, it is possible that the underlying carrier's discontinuance of service to the CLEC for whatever reason (i.e., nonpayment for services by the CLEC) may result in the disruption of service to the CLEC's customers. While under this scenario it would still be expected that the CLEC would be required to file for discontinuance of service under the Discontinuance Rules, it may not have adequate time to do so if the underlying carrier is not obligated to provide sufficient advance notice to the CLEC. Therefore, the Commission is requesting comments and/or proposed rules from interested parties on whether it should adopt rules that govern the responsibilities of other carriers that provide network services to CLECs. These comments should address whether such rules are necessary to serve the public interest in Virginia and under what authority the Commission can require certain carriers (i.e., those that may be providing interstate service as back haul providers) to comply with any rules we may adopt.

NOW THE COMMISSION, upon consideration of the record of this Case, the comments filed, and the applicable law, is of the opinion and finds that the Discontinuance Rules set out in Attachment A hereto should be adopted.<sup>6</sup>

While it is not necessary for us to comment on each and every rule where we have made changes, several of the rules that were significantly revised from the earlier proposed rules warrant discussion. We would note that many of these revisions were made to reflect the underlying concerns expressed by the parties in this proceeding.

### **Rule 10<sup>2</sup>**

A definition of "partial discontinuance" was added to this section.

### **Rule 20**

The information required in a formal petition to discontinue the provision of service has been expanded in subsection A 1 to include the identification of the serving arrangements utilized by the CLEC. In addition, the Commission has added and clarified in subsections C 1 through 5 the minimum information that should be included in the notice sent to customers prior to discontinuance.

### **Rule 30**

The information required in a formal petition for partial discontinuance has been expanded in subsections A 1, 2, and 5 to include the number and unexpired terms of affected customer contracts, whether the affected service is to be discontinued or made obsolete, and a description of the CLEC's notification efforts with copies of notices sent or proposed to be sent to affected customers.

<sup>3</sup> Order for Notice and Comment, pp. 1-2.

<sup>4</sup> See proposed Rule 20 VAC 5-423-80. Duties of ILECs. Additionally, Commission approval and notice requirements for ILECs proposing to withdraw or discontinue the offering of specific tariffed services are currently handled on a case-by-case basis. A separate rulemaking proceeding would be required to establish discontinuance rules for ILECs.

<sup>5</sup> Identified as 20 VAC 5-21-35. Requirements for Information and Service Transfer.

<sup>6</sup> The Discontinuance Rules will not, however, negate the provisions of any order entered prior to these Discontinuance Rules becoming effective.

<sup>7</sup> For convenience, each Discontinuance Rule discussed will be referred to in this short form. The full citation for this Discontinuance Rule is 20 VAC 5-423-10.

In lieu of the Commission prescribing the actual notice and its form, which has been deleted in subsection B, the minimum information required for customer notice has been added in subsection C. Subsection D has been added to allow the Commission to require additional notice if it deems it necessary.

**Rule 40**

The requirement to file a formal petition for approval to withdraw a tariffed service offering has been deleted from subsection A. This has been replaced by a requirement for filing proposed tariff revisions for withdrawing a service with the Division of Communications.

In lieu of the Commission prescribing the actual customer notice for a request to withdraw a tariffed service, subsection C has been added to set out the minimum information required for the CLEC to include in its advance notice to affected customers.

Subsection E has been added to require Commission approval of the withdrawal of a tariffed service offering if notice is found to be inadequate or the public interest requires Commission approval.

Subsection F has been added to exclude services provided exclusively through customer contract arrangements from any authority granted in this section to withdraw a tariffed service.

**Rule 50**

The information required to be provided with proposed tariff revisions to obsolete a tariffed service offering has been expanded in subsection A, and the minimum information required to be given in customer notice has been included in subsection C.

In addition, there is no longer a distinction between obsoleting a tariffed service and grandfathering it to existing customers with or without restrictions as previously set forth in subsections A and B. The proposed requirement in subsection B that required a CLEC to obtain approval from the Commission prior to obsoleting a tariffed service offering with restrictions on the customers' ability to retain the service has been eliminated.

**Rule 80**

The requirement of an ILEC to file a formal petition for approval to disconnect a CLEC in subsections A and B has been changed to filing notification with the Commission. However, the requirement for advance notice to the Commission and to the CLEC prior to the disconnection of a CLEC has been increased from thirty to sixty days in subsections B and C. Subsection E has been added to require any ILEC having sent notice to a CLEC of a proposed suspension or disconnection of service to also notify the Division of Communications within three (3) business days. The Commission notes that the addition of subsection E reflects the informal practice of some ILECs of alerting the Division of Communications beforehand of potential service interruptions, which should be continued.

**Rule 90**

Rule 90 has been added to provide for the Commission's authority to waive the application of any provision of the Discontinuance Rules.

Accordingly, IT IS ORDERED THAT:

- (1) The Discontinuance Rules, as set forth in 20 VAC 5-423-10 et. seq., attached to this Order as Attachment A, are hereby adopted.
- (2) A copy of this Order and the Discontinuance Rules adopted herein shall be forwarded to the Virginia Register of Regulations for publication.
- (3) All parties are granted leave to file comments and/or proposed rules on the additional issues identified herein on or before April 1, 2002. All parties may then file reply comments on or before April 22, 2002.
- (4) This case is hereby continued.

NOTE: A copy of Attachment A entitled "Rules Governing the Discontinuance of Local Exchange Telecommunications Services Provided by Competitive Local Exchange Carriers" is on file and may be examined at the State Corporation Commission, Clerk's Office, Document Control Center, Tyler Building, First Floor, 1300 East Main Street, Richmond, Virginia.

**CASE NO. PUC-2001-00139  
APRIL 30, 2002**

PETITION OF  
CATOCTIN EXCHANGE CUSTOMERS

For Extended Local Service from Verizon Virginia Inc.'s Catoctin Exchange to its Herndon, Fairfax-Vienna, Alexandria-Arlington, and Falls Church-McLean exchanges

**FINAL ORDER**

In November 2000, telephone subscribers in Verizon Virginia Inc.'s ("Verizon Virginia" or the "Company") Catoctin exchange petitioned the State Corporation Commission ("Commission") for local calling to the Herndon, Fairfax-Vienna, Alexandria-Arlington, and Falls Church-McLean exchanges. On April 25, 2001, the Company submitted the cost study used to estimate the approximate change in the monthly rate that will result from the extension of local calling.

On August 21, 2001, the Commission issued an Order directing Verizon Virginia to poll its Catocin exchange customers to determine whether a majority of those customers were willing to pay an increase in rates for local calling to the Herndon, Fairfax-Vienna, Alexandria-Arlington, and Falls Church-McLean exchanges. Verizon Virginia submitted the results of its poll on November 14, 2001, which showed that a majority of those responding to the poll supported the proposal.

A poll of customers in the Herndon, Fairfax-Vienna, Alexandria-Arlington, and Falls Church-McLean exchanges was not required under § 56-484.2 A of the Code of Virginia because the proposed rate increase for one-party residential service does not exceed five percent of the existing monthly one-party residential flat rate. In fact, the Company's cost study for reciprocal calling from the Herndon, Fairfax-Vienna, Alexandria-Arlington, and Falls Church-McLean exchanges, received on March 29, 2002, concluded that there would be no rate increase for the reciprocal calling areas.

NOW THE COMMISSION, having considered the petition filed by telephone subscribers in Verizon Virginia's Catocin exchange, the cost studies submitted by the Company, and § 56-484.2 of the Code of Virginia, finds that extended local service should be implemented between Verizon Virginia's Catocin exchange and the Herndon, Fairfax-Vienna, Alexandria-Arlington, and Falls Church-McLean exchanges.

Further, we find that Verizon Virginia is not required to give notice to the reciprocal calling areas of the proposed extension of local service pursuant to § 56-484.2 C of the Code of Virginia. Section 56-484.2 C requires notice to customers in exchanges in which polls are not required pursuant to § 56-484.2 A, but because there is no resulting rate increase for the extension of local service to the reciprocal calling areas, we find that § 56-484.2 A does not apply.

Accordingly, IT IS ORDERED THAT:

- (1) Two-way extended local service from Verizon Virginia's Catocin exchange to its Herndon, Fairfax-Vienna, Alexandria-Arlington, and Falls Church-McLean exchanges shall be implemented.
- (2) Verizon Virginia shall file the necessary tariff revisions with the Commission's Division of Communications to implement extended local service between Verizon Virginia's Catocin exchange and its Herndon, Fairfax-Vienna, Alexandria-Arlington and Falls Church-McLean exchanges.
- (3) There being nothing further to come before the Commission, this docket is closed, and the papers filed herein shall be placed in the file for ended causes.

**CASE NO. PUC010150  
APRIL 2, 2002**

PETITION OF  
SYLVATUS EXCHANGE CUSTOMERS

For Extended Local Service from United Telephone-Southeast, Inc.'s Sylvatus exchange to its Wytheville exchange

**FINAL ORDER**

In February 2001, telephone customers in United Telephone-Southeast, Inc.'s ("United" or the "Company") Sylvatus exchange petitioned the State Corporation Commission ("Commission") for local calling to Wytheville. On June 29, 2001, the Company submitted the cost study used to estimate the approximate change in the monthly rate that will result from the extension of local calling.

On August 20, 2001, the Commission issued an Order directing United to poll its Sylvatus exchange customers to determine whether a majority of those customers were willing to pay an increase in rates for local calling to Wytheville. United submitted the results of its poll on October 24, 2001, which showed that a majority of those responding to the poll supported the proposal. A poll of customers in the Wytheville exchange was not required under § 56-484.2 A of the Code of Virginia because the proposed rate increase for one-party residential service does not exceed five percent of the existing monthly one-party residential flat rate.

By Order dated December 11, 2001, the Commission directed United to provide notice of the proposed increases in monthly rates to customers in the Wytheville exchange. Customers were given until January 25, 2002, to file comments or requests for hearing on the proposal. No comments or requests for hearing were filed. On January 17, 2002, United filed proof of notice as required by the Commission's December 11, 2001, Order.

On February 7, 2002, the Commission Staff submitted its report wherein the Staff states that although the original petition was from Sylvatus to Wytheville, these two exchanges are not contiguous, as required by § 56-484.2 of the Code of Virginia. The Austinville exchange is between the Sylvatus and Wytheville exchanges and does not have extended local service to Sylvatus. According to the Staff, United conducted a cost study and proposed to add the Austinville exchange to the Sylvatus petition at no additional cost to the Sylvatus or Austinville customers. The Staff states that, when ordered to implement, United will notify customers in all three exchanges of the extended local service by bill messages and local newspaper advertisements. The Staff recommends implementation of two-way extended local service among United's Sylvatus, Wytheville, and Austinville exchanges.

Accordingly, IT IS ORDERED THAT:

- (1) The proposed extension of local service among United's Sylvatus, Wytheville, and Austinville exchanges shall be implemented.
- (2) United shall notify its customers in all three exchanges of the implementation of extended local service by bill messages and local newspaper advertisements.



(3) There being nothing further to come before the Commission, this docket is closed, and the papers filed herein shall be placed in the file for ended causes.

**CASE NO. PUC010151  
JANUARY 15, 2002**

APPLICATION OF  
eLINK TELECOMMUNICATIONS OF VIRGINIA, INC.

For certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services and for interim operating authority

**FINAL ORDER**

On September 10, 2001, eLink Telecommunications of Virginia, Inc. ("eLink" or "Company"), completed an application for certificates of public convenience and necessity with the State Corporation Commission ("Commission") to provide local exchange and interexchange telecommunications services throughout the Commonwealth of Virginia. The Company also requested authority to price its interexchange telecommunications services on a competitive basis pursuant to § 56-481.1 of the Code of Virginia and requested interim operating authority to provide local exchange and interexchange telecommunications services to existing customers of OnSite Access Local LLC ("OnSite").<sup>1</sup>

By Order dated October 2, 2001, the Commission directed the Company to provide notice to the public of its application, directed the Commission Staff to conduct an investigation and file a Staff Report, and granted eLink's request for interim authority to operate and provide telecommunications services to existing customers of OnSite. On November 6, 2001, eLink filed proof of publication and proof of service as required by the October 2, 2001, Order. No comments or requests for hearing were filed.

On December 5, 2001, the Staff filed its Report finding that eLink's application was in compliance with the Rules Governing the Offering of Competitive Local Exchange Telephone Service ("Local Rules") and the Rules Governing the Certification of Interexchange Carriers ("IXC Rules"). Based upon its review of eLink's application, the Staff determined it would be appropriate to grant the Company certificates to provide local exchange and interexchange telecommunications services subject to the following condition: should eLink collect customer deposits, it shall establish and maintain an escrow account for such funds held in a Virginia office of a duly chartered state or national bank, or credit union that is unaffiliated with eLink, and shall notify the Division of Economics and Finance of the escrow arrangement and any subsequent change. Any escrow arrangement established pursuant to this requirement shall be maintained until such time as the Staff or Commission determines it is no longer necessary.

NOW THE COMMISSION, having considered the application and the Staff Report, finds that the Company should be granted certificates to provide local exchange and interexchange telecommunications services. Having considered § 56.481.1, the Commission further finds that the Company may price its interexchange telecommunications services competitively.

Accordingly, IT IS ORDERED THAT:

(1) eLink Telecommunications of Virginia, Inc., is hereby granted a certificate of public convenience and necessity, No. TT-167A, to provide interexchange telecommunications services subject to the restrictions set forth in the Commission's Rules Governing the Certification of Interexchange Carriers, § 56-265.4:4 of the Code of Virginia, and the provisions of this Order.

(2) eLink Telecommunications of Virginia, Inc., is hereby granted a certificate of public convenience and necessity, No. T-575, to provide local exchange telecommunications services subject to the restrictions set forth in the Rules Governing the Offering of Competitive Local Exchange Telephone Service, § 56-265.4:4 of the Code of Virginia, and the provisions of this Order.

(3) Pursuant to § 56-481.1 of the Code of Virginia, the Company may price its interexchange telecommunications services competitively.

(4) The Company shall provide tariffs reflecting the eLink name to the Division of Communications within sixty (60) days of the date of this Order. The tariffs shall conform to all applicable Commission rules and regulations.

(5) Should eLink collect customer deposits, it shall establish and maintain an escrow account for such funds, held in a Virginia office of a duly chartered state or national bank, savings and loan association or savings bank, or credit union, that is unaffiliated with eLink, and shall notify the Division of Economics and Finance of the escrow arrangement and any subsequent change. Any escrow arrangement established pursuant to this requirement shall be maintained until such time as the Staff or Commission determines it is no longer necessary.

(6) There being nothing further to come before the Commission, this case shall be dismissed and the papers filed herein placed in the file for ended causes.

<sup>1</sup> By Commission Order dated April 27, 2000, in Case No. PUC000014, OnSite was authorized to provide local exchange and interexchange telecommunications services throughout the Commonwealth of Virginia. On July 3 and July 19, 2001, OnSite filed an application to transfer its assets to eLink. That application was docketed as Case No. PUA010034. An Order approving the transfer of assets was issued October 26, 2001. Since the transfer would not transfer Certificate No. TT-90A authorizing OnSite to provide interexchange telecommunications services and Certificate No. T-485 authorizing OnSite to provide local exchange telecommunications services, eLink filed this application.

**CASE NO. PUC010165  
MARCH 5, 2002**

PETITION OF  
BROADSLATE NETWORKS OF VIRGINIA, INC.

For Declaratory Judgment Interpreting Interconnection Agreement with Central Telephone Company of Virginia, Inc. and United Telephone-Southeast, Inc. ("Sprint") and Directing Sprint to Provision Unbundled Network Elements in Accordance with the Telecommunications Act of 1996

**DISMISSAL ORDER**

On August 3, 2001, Broadslate Networks of Virginia, Inc. ("Broadslate"), filed its Petition with the State Corporation Commission ("Commission") in the above-captioned case. Following procedural orders<sup>1</sup> and settlement negotiations between Broadslate and Central Telephone Company of Virginia, Inc. and United Telephone-Southeast, Inc. (jointly, "Sprint"), Sprint filed a notice on February 15, 2002, of its outstanding offer of settlement due to expire March 1, 2002.

The Commission now takes judicial notice of its Order Authorizing Discontinuance of All Telecommunications Services and Cancellation of Certificates, issued in Case No. PUC020016 on February 21, 2002, which allows Broadslate to discontinue all services effective March 15, 2002. The Commission concludes that the above-docketed Petition against Sprint is moot and that this case should be dismissed without prejudice.

Accordingly, IT IS ORDERED THAT this case is hereby dismissed without prejudice.

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<sup>1</sup> A Procedural Order was issued August 16, 2001, and an Order Granting Extension was issued on September 19, 2001. An Order Granting Abeyance was issued November 16, 2001.

**CASE NOS. PUC010166 and PUC010176  
FEBRUARY 11, 2002**

PETITION OF  
BROADSLATE NETWORKS OF VIRGINIA, INC.

For Declaratory Judgment Interpreting Interconnection Agreement with Verizon Virginia Inc. and Directing Verizon Virginia Inc. to Provision Unbundled Network Elements in Accordance With the Telecommunications Act of 1996

PETITION OF  
360 COMMUNICATIONS COMPANY OF CHARLOTTESVILLE D/B/A ALLTEL

For Injunction Against Verizon Virginia Inc. for Violations of Interconnection Agreement and for Emergency and Expedited Relief to Order Verizon Virginia Inc. to Provision Unbundled Network Elements in Accordance with the Telecommunications Act of 1996

**ORDER DISMISSING CASE NO. PUC010176**

On January 25, 2002, 360 Communications Company of Charlottesville d/b/a ALLTEL ("ALLTEL") filed its Motion To Withdraw Petition with the State Corporation Commission ("Commission"). On January 29, 2002, the presiding Hearing Examiner, Howard P. Anderson, Jr., issued his Report recommending that ALLTEL's Petition be dismissed without prejudice, that Case No. PUC010176 be stricken from the Commission's docket of active cases, and that the procedural schedule and hearing date remain as scheduled for Case No. PUC010166.

The Commission finds that the recommendations of the Hearing Examiner's Report should be accepted.

Accordingly, IT IS ORDERED THAT:

(1) The Petition of ALLTEL is hereby dismissed without prejudice, and Case No. PUC010176 is hereby stricken from the Commission's docketed proceedings. There being no further consolidation of the cases, the caption above shall be amended to reflect only the docketed proceeding in Case No. PUC010166.

(2) Case No. PUC010166 is hereby continued, subject to further ruling by the presiding Hearing Examiner.

**CASE NO. PUC010166  
FEBRUARY 20, 2002**

PETITION OF  
BROADSLATE NETWORKS OF VIRGINIA, INC.

For Declaratory Judgment Interpreting Interconnection Agreement with Verizon Virginia Inc. and Directing Verizon Virginia Inc. to Provision Unbundled Network Elements in Accordance With the Telecommunications Act of 1996-

**ORDER DISMISSING CASE**

On February 7, 2002, Broadslate Networks of Virginia, Inc. ("Broadslate"), filed its Motion To Withdraw Petition with the State Corporation Commission ("Commission"). On February 13, 2002, the presiding Hearing Examiner, Howard P. Anderson, Jr., issued his Report recommending that Broadslate's Petition be dismissed without prejudice and that Case No. PUC010166 be stricken from the Commission's docket of active cases.

The Commission finds that the recommendations of the Hearing Examiner's Report should be accepted.

Accordingly, IT IS ORDERED THAT the Petition of Broadslate is hereby dismissed without prejudice, and Case No. PUC010166 is hereby stricken from the Commission's docketed proceedings.

**CASE NO. PUC010175  
FEBRUARY 11, 2002**

APPLICATION OF  
VERIZON VIRGINIA INC.

To implement extended local service from the Roanoke Exchange to the Buchanan Exchange

**FINAL ORDER**

On August 15, 2001, Verizon Virginia Inc. ("Verizon Virginia" or "the Company") filed an application with the State Corporation Commission ("Commission") pursuant to § 56-484.2 of the Code of Virginia ("Code"). Verizon Virginia proposed to notify its customers in the Roanoke Exchange of the increase in monthly rates that would be necessary to expand their local service to include Verizon Virginia's Buchanan Exchange. Telephone customers in the Buchanan Exchange had previously petitioned the Commission for local calling to the Roanoke Exchange. In a poll conducted in response to the petition, a majority of the Buchanan Exchange customers responding supported paying higher rates for local calling to the Roanoke Exchange. A poll of the customers in the Roanoke Exchange in response to this application was not required under § 56-484.2 A of the Code of Virginia because the proposed rate increase for one-party residential service does not exceed five percent of the existing monthly one-party residential flat rate.

By Order dated November 21, 2001, the Commission directed Verizon Virginia to provide notice of the proposed increase in monthly rates. Affected telephone customers were given until January 21, 2002, to file comments or request a hearing on the proposal. No comments or requests for hearing were filed. On January 11, 2002, Verizon Virginia filed proof of notice as required by the Commission's November 21, 2001, Order.

On January 25, 2002, the Commission Staff submitted its report recommending approval of the Company's application.

Accordingly, IT IS ORDERED THAT:

- (1) The proposed extension of local service between Verizon Virginia's Roanoke Exchange and Verizon Virginia's Buchanan Exchange shall be implemented.
- (2) Verizon Virginia shall file the tariff revisions necessary for the proposed extension of local service.
- (3) There being nothing further to come before the Commission, this docket is closed and the papers filed herein shall be placed in the file for ended causes.

**CASE NO. PUC010179  
FEBRUARY 8, 2002**

APPLICATION OF  
VARTEC TELECOM OF VIRGINIA, INC.

For a certificate of public convenience and necessity to provide local exchange telecommunications services

**FINAL ORDER**

On October 26, 2001, VarTec Telecom of Virginia, Inc. ("VarTec" or "Company"), completed an application with the State Corporation Commission ("Commission") to provide local exchange telecommunications services throughout the Commonwealth of Virginia. By Order dated November 7, 2001, the Commission directed the Company to provide notice to the public of its application, directed the Commission Staff to conduct an

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investigation and file a Staff Report, and invited persons desiring to comment or request a hearing on VarTec's application to file their comments or requests for hearing on or before December 14, 2001.

On December 4, 2001, the Company, by counsel, filed a Motion to Modify Order for Notice and Comment ("Motion"). That Motion requested the Commission to modify the November 7, 2001, Order for Notice and Comment to accept the Company's service on November 29, 2001, on each local exchange carrier certificated in Virginia and each interexchange carrier certificated in Virginia, rather than on November 28, 2001, as required by the November 7, 2001, Order for Notice and Comment.

On December 11, 2001, the Commission granted VarTec's December 4, 2001, Motion and directed that proof of service of the notice on certificated Virginia local exchange and interexchange carriers, together with the proof of publication of the notice prescribed in Ordering Paragraph six (6) of the November 7, 2001, Order for Notice and Comment, be filed with the Commission on December 21, 2001.

On December 21, 2001, VarTec filed its proof of publication and proof of service as required by the November 7, 2001, Order and December 11, 2001, Order Granting Motion. No comments or requests for hearing were filed.

On January 17, 2002, the Staff filed its Report finding VarTec's application was in compliance with the Rules Governing the Offering of Competitive Local Exchange Telephone Service ("Local Rules"). Based upon its review of VarTec's application, the Staff determined it would be appropriate to grant the Company a certificate to provide local exchange telecommunications services subject to the following condition: should VarTec collect customer deposits, it shall establish and maintain an escrow account for such funds, held in a Virginia office of a duly chartered state or national bank, savings and loan association or savings bank, or credit union that is unaffiliated with VarTec, and shall notify the Division of Economics and Finance of the escrow arrangement and any subsequent change. Any escrow arrangement established pursuant to this requirement shall be maintained until such time as the Staff or Commission determine it is no longer necessary.

VarTec did not file any comments in response to the January 17, 2002, Staff Report.

NOW THE COMMISSION, having considered the application and the Staff Report, finds that the Company should be granted a certificate of public convenience and necessity to provide local exchange telecommunications services.

Accordingly, IT IS ORDERED THAT:

(1) VarTec Telecom of Virginia, Inc., is hereby granted a certificate of public convenience and necessity, No. T-576, to provide local exchange telecommunications services subject to the restrictions set forth in the Local Rules, § 56-265.4:4 of the Code of Virginia, and the provisions of this Order.

(2) Should the Company collect customer deposits, it shall establish and maintain an escrow account for such funds, held in a Virginia office of a duly chartered state or national bank, savings and loan association or savings bank, or credit union that is unaffiliated with VarTec, and shall notify the Division of Economics and Finance of the escrow arrangement and any subsequent change. Any escrow arrangement established pursuant to this requirement shall be maintained until such time as the Staff or Commission determine it is no longer necessary.

(3) The Company shall provide tariffs to the Division of Communications that conform to all applicable Commission rules and regulations.

(4) There being nothing further to be done in this matter, this case shall be dismissed and the papers filed herein placed in the file for ended causes.

**CASE NO. PUC-2001-00182  
SEPTEMBER 17, 2002**

APPLICATION OF  
VERIZON SOUTH INC.  
and  
VIC-RMTS-DC, L.L.C. d/b/a VERIZON AVENUE

For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996

**DISMISSAL ORDER**

On August 30, 2001, Verizon South Inc. ("Verizon South") and VIC-RMTS-DC, L.L.C. d/b/a Verizon Avenue ("Verizon Avenue") filed an interconnection agreement ("Agreement"), entered under §§ 251 and 252 of the Telecommunications Act of 1996 ("the Act"), 47 U.S.C. §§ 251 and 252, for State Corporation Commission ("Commission") approval pursuant to § 252(e) of the Act, 47 U.S.C. § 252(e). This Agreement was approved by Order Approving Agreement dated October 10, 2001, in Case No. PUC-2001-00182.

On August 19, 2002, Verizon South filed a joint application for approval of an interconnection agreement between Verizon South and Verizon Avenue. This agreement was assigned Case No. PUC-2002-00173 and has been approved by separate Order. As verified by letter from counsel for the Applicant dated August 19, 2002, we find that the Agreement approved in Case No. PUC-2001-00182 has been replaced by the Agreement approved in Case No. PUC-2002-00173. Therefore, Case No. PUC-2001-00182 should be dismissed.

Accordingly, IT IS ORDERED THAT the agreement approved in Case No. PUC-2002-00173 shall supersede the agreement approved in Case No. PUC-2001-00182, and the captioned matter is hereby dismissed from the Commission's docket of active cases.

**CASE NO. PUC010184  
JANUARY 17, 2002**

APPLICATION OF  
ONESTAR COMMUNICATIONS, LLC

For certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services; and for interim authority to provide local telecommunications services to customers of CRG International of Virginia, Inc.

**ORDER FOR NOTICE AND COMMENT  
AND GRANTING INTERIM AUTHORITY**

On December 5, 2001, OneStar Communications, LLC ("OneStar" or "Applicant"), completed an application for certificates of public convenience and necessity ("certificates") with the State Corporation Commission ("Commission") to provide local exchange and interexchange telecommunications services throughout the Commonwealth of Virginia. The Applicant also requested authority to price its interexchange telecommunications services on a competitive basis pursuant to § 56-481.1 of the Code of Virginia and requested interim authority to provide local exchange telecommunications services to existing customers of CRG International of Virginia, Inc. ("CRG VA").<sup>1</sup>

NOW UPON CONSIDERATION of the application, the Commission is of the opinion and finds that OneStar's application should be docketed; that the Applicant should give notice to the public of its application; that interested parties should have an opportunity to comment and request a hearing on OneStar's application; and that the Commission Staff should conduct an investigation into the reasonableness of the application and present its findings in a Staff Report.

Accordingly, IT IS ORDERED THAT:

- (1) This case is docketed and assigned Case No. PUC010184.
- (2) OneStar Communications, LLC, is hereby granted interim operating authority to operate and provide local exchange telecommunications services to existing customers of CRG VA, under the tariffs of CRG VA, pending the issuance of further Commission Orders.
- (3) On or before February 13, 2002, the Applicant shall complete publication of the following notice to be published on one (1) occasion as classified advertising in newspapers having general circulation throughout the Applicant's proposed service territory:

NOTICE TO THE PUBLIC OF AN APPLICATION BY  
ONESTAR COMMUNICATIONS, LLC, FOR  
CERTIFICATES OF PUBLIC CONVENIENCE AND  
NECESSITY TO PROVIDE LOCAL EXCHANGE AND  
INTEREXCHANGE TELECOMMUNICATIONS SERVICES  
THROUGHOUT THE COMMONWEALTH OF VIRGINIA AND  
FOR INTERIM OPERATING AUTHORITY  
CASE NO. PUC010184

On December 5, 2001, OneStar Communications, LLC ("OneStar" or "Applicant"), filed an application with the State Corporation Commission ("Commission") for certificates of public convenience and necessity ("certificates") to provide local exchange and interexchange telecommunications services throughout the Commonwealth of Virginia. In its application, the Applicant also requested authority to price its interexchange telecommunications services on a competitive basis pursuant to § 56-481.1 of the Code of Virginia and requested interim operating authority to provide telecommunications services to customers of CRG International of Virginia, Inc. d/b/a/ Network One.

On September 26, 2001, OneStar Long Distance, Inc. ("OneStar Long Distance"), and CRG International, Inc. d/b/a/ Network One ("CRG VA") filed a joint application to transfer select assets to OneStar. If approved, that application would not transfer CRG VA's Certificate No. T-401 to provide local exchange telecommunications services to OneStar. Accordingly, OneStar has filed an application with the Commission for certificates to provide local exchange and interexchange telecommunications services.

Copies of the application are available for public inspection between the hours of 8:15 a.m. and 5:00 p.m., Monday through Friday, in the Commission's Document Control Center located on the first floor of the Tyler Building, 1300 East Main Street, Richmond, Virginia, or can be ordered from OneStar's representative, Ami Larson, Director of Regulatory Affairs, OneStar Communications, LLC, 7100 Eagle Crest Boulevard, Evansville, Indiana 47715-8152.

Any person desiring to comment on OneStar's application for certificates to provide local exchange and interexchange telecommunications services may do so by directing such comments in writing on or before March 5, 2002, to the Clerk of the Commission at the address set out below.

<sup>1</sup> By Commission Order dated February 17, 1998, in Case No. PUC970023, CRG VA was granted Certificate No. T-401 to provide local exchange telecommunications services throughout the Commonwealth of Virginia. In Virginia, CRG VA also operates under the business name of Network One. On September 26, 2001, OneStar Long Distance Inc. and CRG International Inc. filed a joint application for transfer of select assets, including the customer base and operational control, to OneStar. Currently that application remains incomplete (DCN 010930212). Since the proposed transfer would not transfer Certificate No. T-401 from CRG VA to OneStar, OneStar has filed this application.

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Any person may request a hearing on OneStar's application by filing an original and fifteen (15) copies of its request for hearing on or before March 5, 2002, with the Clerk of the Commission at the address set out below. Requests for hearing must state with specificity why a hearing should be conducted.

All written communications to the Commission concerning OneStar's application should be directed to Joel H. Peck, Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218, and must refer to Case No. PUC010184.

ONESTAR COMMUNICATIONS, LLC

(4) On or before February 13, 2002, Applicant shall provide a copy of the notice contained in ordering paragraph three (3) to each local exchange telephone carrier certificated in Virginia and each interexchange carrier certificated in Virginia by personal delivery or first-class mail, postage prepaid, to the customary place of business. Lists of all current local exchange and interexchange carriers in Virginia are attached to this Order as Appendices A and B, respectively.

(5) Any person desiring to comment in writing on OneStar's application for certificates to provide local exchange and interexchange telecommunications services may do so by directing such comments on or before March 5, 2002, to the Clerk of the Commission at the address set forth below. Comments must refer to Case No. PUC010184.

(6) On or before March 5, 2002, any person wishing to request a hearing on OneStar's application for certificates to provide local exchange and interexchange telecommunications services shall file an original and fifteen (15) copies of its request for hearing in writing with Joel H. Peck, Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218. Written requests for hearing shall refer to Case No. PUC010184 and shall state the following: (i) a precise statement of the interest of the filing party; (ii) a statement of the specific action sought to the extent then known; (iii) a statement of the legal basis for such action; and (iv) a precise statement why a hearing should be conducted in the matter. Copies shall also be served on the applicant.

(7) On or before March 12, 2002, the Applicant shall file with the Commission proof of notice and proof of service as ordered herein.

(8) The Commission Staff shall analyze the reasonableness of OneStar's application and present its findings in a Staff Report to be filed on or before March 27, 2002.

(9) On or before April 3, 2002, the Applicant shall file with the Clerk of the Commission an original and fifteen (15) copies of any response to the Staff Report or parties' objections and requests for hearing. A copy of the response shall be delivered to Staff and the other parties by overnight delivery.

(10) The Applicant shall respond to written interrogatories or data requests within seven (7) days after the receipt of the same. Parties shall provide to the Applicant, other additional parties, and Staff any workpapers or documents used in preparation of their requests for hearing, promptly upon request. Except as so modified, discovery shall be in accordance with Part IV of the Rules.

**CASE NO. PUC-2001-00184  
APRIL 25, 2002**

APPLICATION OF  
ONESTAR COMMUNICATIONS, LLC

For certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services; and for interim authority to provide local telecommunications services to customers of CRG International of Virginia, Inc.

FINAL ORDER

On December 5, 2001, OneStar Communications, LLC ("OneStar" or the "Company"), completed an application for certificates of public convenience and necessity with the State Corporation Commission ("Commission") to provide local exchange and interexchange telecommunications services throughout the Commonwealth of Virginia. The Company also requested authority to price its interexchange telecommunications services on a competitive basis pursuant to § 56-481.1 of the Code of Virginia and requested interim operating authority to enable it to continue to provide local exchange telecommunications services under the existing tariffs of CRG International of Virginia, Inc. ("CRG VA").<sup>1</sup>

By Order dated January 17, 2002, the Commission directed the Company to provide notice to the public of its application and directed the Commission Staff to conduct an investigation and file a Staff Report. To meet the requirements of the January 17, 2002, Order regarding proof of notice and proof of publication, the Applicant filed on April 15, 2002, a Motion for Leave to File and Accept Untimely Proof of Notice and Publication.

On March 27, 2002, the Staff filed its Report finding that OneStar's application was in compliance with the Commission's Rules Governing the Offering of Competitive Local Exchange Telephone Service ("Local Rules") and the Rules Governing the Certification of Interexchange Carriers ("IXC

<sup>1</sup> By Commission Order dated February 17, 1998, in Case No. PUC970023, CRG VA was granted Certificate No. T-401 to provide local exchange telecommunications services throughout the Commonwealth of Virginia. In Virginia, CRG VA also operates under the business name of Network One. On September 26, 2001, OneStar Long Distance Inc. and CRG International Inc. filed a joint application for transfer of select assets, including the customer base and operational control, to OneStar. That case is docketed as PUA-2001-00046 and is currently pending. Since the proposed transfer would not transfer Certificate No. T-401 from CRG VA to OneStar, OneStar filed the instant application requesting certification and interim operating authority. The Commission granted OneStar's request for interim operating authority in its January 17, 2002, Order for Notice and Comment.

Rules").<sup>2</sup> Based upon its review of OneStar's application, the Staff determined it would be appropriate to grant the Company certificates to provide local exchange and interexchange telecommunications services subject to the following condition: should OneStar collect customer deposits, it shall establish and maintain an escrow account for such funds, held in a Virginia office of a duly chartered state or national bank, savings and loan association or savings bank, or credit union, that is unaffiliated with the Company and shall notify the Division of Economics and Finance of the escrow arrangement and any subsequent change. Any escrow arrangement established pursuant to this requirement shall be maintained until such time as the Staff or the Commission determines it is no longer necessary.

NOW THE COMMISSION, having considered the application and the Staff Report, finds that OneStar Communications, LLC, should be granted a certificate to provide local exchange telecommunications services and a certificate to provide interexchange telecommunications services. Having considered § 56-481.1, the Commission further finds that the Company may price its interexchange telecommunications services competitively.

Accordingly, IT IS ORDERED THAT:

(1) OneStar Communications, LLC, is hereby granted a certificate of public convenience and necessity, No. TT-174A, to provide interexchange telecommunications services subject to the restrictions set forth in the Commission's Rules Governing the Certification of Interexchange Carriers, § 56-265.4:4 of the Code of Virginia, and the provisions of this Order.

(2) OneStar Communications, LLC, is hereby granted a certificate of public convenience and necessity, No. T-581, to provide local exchange telecommunications services subject to the restrictions set forth in the Rules Governing the Offering of Competitive Local Exchange Telephone Service, § 56-265.4:4 of the Code of Virginia, and the provisions of this Order.

(3) Pursuant to § 56-481.1 of the Code of Virginia, the Company may price its interexchange telecommunications services competitively.

(4) The Company shall provide tariffs to the Division of Communications that conform with all applicable Commission rules and regulations.

(5) Should OneStar Communications, LLC, collect customer deposits, it shall establish and maintain an escrow account for such funds, held in a Virginia office of a duly chartered state or national bank, savings and loan association or savings bank, or credit union, that is unaffiliated with the Company and shall notify the Division of Economics and Finance of the escrow arrangement and any subsequent change. Any escrow arrangement established pursuant to this requirement shall be maintained until such time as the Staff or the Commission determines it is no longer necessary.

(6) The Commission grants OneStar's Motion for Leave to File and Accept Untimely Proof of Notice and Publication.

(7) There being nothing further to come before the Commission, this case shall be dismissed and the papers filed herein placed in the file for ended causes.

<sup>2</sup> 20 VAC 5-400-180 Local Rules; 20 VAC 5-411-10 *et seq.* IXC Rules.

**CASE NO. PUC-2001-00202  
AUGUST 2, 2002**

PETITION OF  
VERIZON VIRGINIA INC.

For Extended Local Service from Verizon Virginia Inc.'s Haysi Exchange to its Dante, Honaker, and Lebanon exchanges and to Verizon South Inc.'s Richlands and Big Prater exchanges

**FINAL ORDER**

In October 2000, telephone customers in Verizon Virginia Inc.'s ("Verizon Virginia") Haysi Exchange petitioned the State Corporation Commission ("Commission") for local calling to the Dante, Honaker, and Lebanon exchanges of Verizon Virginia and the Richlands and Big Prater exchanges of Verizon South Inc. ("Verizon South").<sup>1</sup> On August 16, 2001, the Commission received a cost study from Verizon Virginia for the Haysi Exchange that was used to estimate the approximate change in the monthly rate for service that will result from the requested extension of local service.

Pursuant to the Commission's Order Directing Poll, issued December 5, 2001, Verizon Virginia polled its customers in the Haysi Exchange regarding their willingness to pay higher rates for local calling to the Dante, Honaker, and Lebanon exchanges of Verizon Virginia and to the Richlands Exchange of Verizon South ("ELS proposal"). The results satisfied the polling requirements of § 56-484.2 of the Code of Virginia.

The Commission issued an Order Prescribing Notice of the ELS proposal for the Dante, Honaker, Lebanon, and Richlands exchanges on April 19, 2002, and on May 17, 2002, Verizon Virginia filed proof of notice as required. No comments or requests for hearing were filed. A poll of these customers was not required because the proposed rate increase for one-party residential customers resulting from the ELS proposal did not exceed five percent of the existing one-party monthly residential flat rate.

On June 14, 2002, the Staff Report of Larry J. Kubrock was filed, which recommended approval of the ELS proposal.

<sup>1</sup> Extended reciprocal calling between the Haysi Exchange and the contiguous exchange of Big Prater was approved in Phase Five of the expanded local calling between contiguous exchanges in Case No. PUC-2000-00204. Therefore, reciprocal calling between these two exchanges will not be addressed in this case.

Accordingly, IT IS ORDERED THAT:

- (1) The proposed extension of local service between Verizon Virginia's Haysi Exchange and its Dante, Honaker, Lebanon exchanges, and Verizon South's Richlands Exchange shall be implemented.
- (2) Verizon Virginia shall file the tariff revisions necessary for the proposed extension of local service.
- (3) There being nothing further to come before the Commission, this case is closed.

**CASE NO. PUC-2001-00203  
APRIL 12, 2002**

APPLICATION OF  
BUDGET PHONE OF VIRGINIA, INC.

For a certificate of public convenience and necessity to provide local exchange telecommunications services

**ORDER**

On November 30, 2001, Budget Phone of Virginia, Inc. ("Budget" or the "Company"), completed an application for a certificate of public convenience and necessity with the State Corporation Commission ("Commission") to provide local exchange telecommunications services throughout the Commonwealth of Virginia. The Company proposes to offer a prepaid month-by-month local exchange telephone service and non-prepaid local exchange telephone service to residential subscribers.

In order to provide the prepaid service, Budget requests waivers of Rule C 5 and certain provisions of Rule C 1 of the Rules Governing the Offering of Competitive Local Exchange Telephone Service, 20 VAC 5-400-180 ("Local Rules"), requiring a new entrant, either directly or through arrangements with others, to provide access to directory assistance, access to operator services, equal access to interLATA long distance carriers, and access to intraLATA service to all local exchange customers. The Company further requests a waiver of Rule D 3 c of the Local Rules, limiting the proposed rate for service provided by the new entrant not to exceed the highest of the comparable tariffed services provided by the incumbent local exchange telephone company or companies in the same local serving areas. Budget also requested a full waiver of Rules B 5 a and E 1 d regarding the requirement for audited financial statements.

By Order dated December 12, 2001, the Commission directed the Company to provide notice to the public of its application and directed the Commission Staff to conduct an investigation and file a Staff Report. On January 14, 2002, and January 29, 2002, Budget filed proof of publication and proof of service as required by the December 12, 2001, Order. No comments or requests for hearing were filed.

On March 15, 2002, the Staff filed its Report<sup>1</sup> finding that the Company's application was, overall, acceptable and in compliance with the Local Rules. Based upon its review of the Company's application, the Staff did not object to Budget's request for waivers from specific requirements of the Local Rules for its monthly prepaid local exchange telecommunications service offering or its request for a certificate to provide local exchange telecommunications services subject to certain conditions. These conditions follow:

- (1) Should Budget offer any non-prepaid services and collect customer deposits, it shall establish and maintain an escrow account for such funds, held in a Virginia office of a duly chartered state or national bank, savings and loan association or savings bank, or credit union that is unaffiliated with Budget and shall notify the Division of Economics and Finance of the escrow arrangement and any subsequent change. Any escrow arrangement established pursuant to this requirement shall be maintained until such time as Staff or the Commission determines it is no longer necessary.
- (2) In lieu of audited financial statements, Staff requested, and Budget supplied, a \$50,000 Permit Bond. Budget shall notify the Division of Economics and Finance 30 days prior to the cancellation or lapse of its Bond and provide a replacement Bond. This requirement shall be maintained until such time as the Staff or the Commission determines it is no longer necessary.
- (3) Regarding Budget's prepaid month-by-month local exchange service offering, the Company shall not be allowed to collect customer deposits under any circumstances.
- (4) Regarding Budget's prepaid month-by-month local exchange service offering, the Company shall provide full disclosure to consumers about the services and features Budget will and will not furnish to subscribers of its alternative prepaid month-by-month local exchange service. Sales brochures and other marketing and advertising materials shall prominently disclose that customers will have no access to directory assistance, operator services, long distance, collect and third-party calls, or any other pay-for-usage services.
- (5) Any waivers granted to Budget in this case for its prepaid month-by-month local exchange service described in the Company's filing shall be limited solely to that service offering.
- (6) Any waivers granted to Budget for its prepaid month-by-month local service shall be subject to revocation, alteration, or the imposition of additional conditions, such as pricing restrictions, in the event the Commission subsequently determines the service is operating improperly or is not in the public interest.

<sup>1</sup> Pursuant to the Order For Extension of Time, issued February 15, 2002, Staff was granted until March 15, 2002, to file its Staff Report.



(7) Any subsequent increase in the rate for Budget's prepaid month-by-month local service shall be subject to thirty (30) days' notice to the Commission and notice to the customers provided through billing inserts or publication for two consecutive weeks as display advertising in newspapers having general circulation in the areas served by the Company.

(8) Regarding Budget's prepaid month-by-month local exchange service offering, the Company shall have the ability to bill its prepaid customers for per-use or per-minute features and services in limited situations where the Company does not have the ability to block the customers' access to those features and services. The Company shall be required to provide full disclosure to consumers that per-minute or per-use charges may apply for certain services or features in these limited circumstances.

(9) Regarding Budget's prepaid month-by-month local exchange service offering, the Company shall be required to clearly and specifically include any features and services, including rates, in the Company's tariff for the limited situations where the Company does not have the ability to block customers' access to features and services that have associated per-use or per-minute charges and the Company intends to bill the customer.

(10) Regarding Budget's prepaid month-by-month local exchange service offering, the Company shall not be granted a waiver from the price ceiling requirement (§ D 3 c of the Local Rules) in the limited circumstances where the Company is unable to block a customer's access to certain features and services that have associated per-use or per-minute charges.

On March 22, 2002, Budget filed its response stating it had no objections to the Staff Report and requesting that the Commission grant a certificate of public convenience and necessity based upon the conditions recommended by Staff.

NOW THE COMMISSION, having considered the application and the Staff Report, finds that the Company should be granted a certificate to provide local exchange telecommunications services with the conditions recommended by Staff.

Accordingly, IT IS ORDERED THAT:

(1) Budget Phone of Virginia, Inc., is hereby granted a certificate of public convenience and necessity, No. T-579, to provide local exchange telecommunications services subject to the restrictions set forth in the Rules Governing the Offering of Competitive Local Exchange Telephone Service, § 56-265.4:4 of the Code of Virginia, and the provisions of this Order.

(2) Local Rules § C 1 d, § C 1 e, § C 1 f, § C 5, and § D 3 c are waived solely for Budget's prepaid month-by-month local exchange telecommunications service described in the application. The Local Rules shall otherwise apply to all local exchange telecommunications services provided by Budget.

(3) Budget is hereby granted waiver of §§ B 5 a and E 1 d of the Local Rules requiring audited financial statements. In the alternative, Budget shall provide and maintain a Permit Bond ("Bond") in the amount of \$50,000 with the Division of Economics and Finance.

(4) The waivers granted to Budget for its prepaid month-by-month local exchange telecommunications service in ordering paragraph (2) of this Order shall only apply to that service offering.

(5) Regarding paragraph (3) of this Order, Budget shall notify the Division of Economics and Finance thirty (30) days prior to the cancellation or lapse of its Bond and provide a replacement Bond. This requirement shall be maintained until such time as the Staff or the Commission determines it is no longer necessary.

(6) Should Budget offer any non-prepaid services and collect customer deposits, it shall establish and maintain an escrow account for such funds, held in a Virginia office of a duly chartered state or national bank, savings and loan association or savings bank, or credit union that is unaffiliated with Budget and shall notify the Division of Economics and Finance of the escrow arrangement and any subsequent change. Any escrow arrangement established pursuant to this requirement shall be maintained until such time as the Staff or the Commission determines it is no longer necessary.

(7) Regarding Budget's prepaid month-by-month local exchange service offering, the Company shall not be allowed to collect customer deposits under any circumstances.

(8) Regarding Budget's prepaid month-by-month local exchange service offer, the Company shall provide full disclosure to customers about the services and features Budget will and will not furnish to subscribers of its alternative prepaid month-by-month local exchange service. Sales brochures and other marketing and advertising materials must prominently disclose that customers will have no access to directory assistance, operator services, long distance, collect and third-party calls, or any other pay-for-usage services.

(9) The waivers granted to Budget for its prepaid month-by-month local exchange service shall be subject to revocation, alteration, or the imposition of additional conditions, such as pricing restrictions, in the event the Commission subsequently determines the service is operating improperly or is not in the public interest.

(10) Any subsequent increase in the rate for Budget's prepaid month-by-month local exchange service shall be subject to thirty (30) days' notice to the Commission and notice to customers provided through billing inserts or publication for two (2) consecutive weeks as display advertising in newspapers having general circulation in the areas served by the Company.

(11) Regarding Budget's prepaid month-by-month local exchange service offering, the Company shall have the ability to bill its prepaid customers for per-use or per-minute features and services in limited situations where the Company does not have the ability to block the customers' access to those features and services. The Company shall be required to provide full disclosure to consumers that per-minute or per-use charges may apply for certain services or features in these limited circumstances.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

(12) Regarding Budget's prepaid month-by-month local exchange service offering, the Company shall be required to clearly and specifically include any features and services, including rates, in the Company's tariff for the limited situations where the Company does not have the ability to block customers' access to features and services that have associated per-use or per-minute charges and the Company intends to bill the customer.

(13) Regarding Budget's prepaid month-by-month local exchange service offering, the Company shall not be granted a waiver from the price ceiling requirement (§ D 3 c of the Local Rules) in the limited circumstances where the Company is unable to block a customer's access to certain features and services that have associated per-use or per-minute charges.

(14) Budget shall provide tariffs to the Division of Communications that conform to all applicable Commission rules and regulations from which the Company has not been granted waivers.

(15) There being nothing further to come before the Commission, this case shall remain open to evaluate Budget's prepaid month-by-month local exchange telecommunications service.

**CASE NO. PUC010204  
FEBRUARY 4, 2002**

APPLICATION OF  
BUSINESS TELECOM OF VIRGINIA, INC.

For a certificate of public convenience and necessity to provide interexchange telecommunications services

**FINAL ORDER**

On October 5, 2001, Business Telecom of Virginia, Inc. ("BTI-VA" or "Company"), filed an application for a certificate of public convenience and necessity with the State Corporation Commission ("Commission") to provide interexchange telecommunications services throughout the Commonwealth of Virginia. The Company also requested authority to price its interexchange telecommunications services on a competitive basis pursuant to § 56-481.1 of the Code of Virginia.

By Order dated November 21, 2001, the Commission directed the Company to provide notice to the public of its application and directed the Commission Staff to conduct an investigation and file a Staff Report. On December 26, 2001, the Company filed proof of publication and proof of service as required by the November 21, 2001, Order.

On January 16, 2002, the Staff filed its Report finding that BTI-VA's application was in compliance with the Rules Governing the Certification of Interexchange Carriers ("IXC Rules"). Based upon its review of BTI-VA's application, the Staff determined it would be appropriate to grant the Company a certificate to provide interexchange telecommunications services.

NOW THE COMMISSION, having considered the application and the Staff Report, finds that the Company should be granted a certificate to provide interexchange telecommunications services. Having considered § 56-481.1, the Commission further finds that the Company may price its interexchange telecommunications services competitively.

Accordingly, IT IS ORDERED THAT:

(1) BTI-VA is hereby granted a certificate of public convenience and necessity, No. TT-168A, to provide interexchange telecommunications services subject to the restrictions set forth in the Commission's Rules Governing the Certification of Interexchange Carriers, § 56-265.4:4 of the Code of Virginia, and the provisions of this Order.

(2) Pursuant to § 56-481.1 of the Code of Virginia, the Company may price its interexchange telecommunications services competitively.

(3) The Company shall provide tariffs to the Division of Communications that conform to all applicable Commission rules and regulations.

(4) There being nothing further to come before the Commission, this case shall be dismissed and the papers filed herein placed in the file for ended causes.

**CASE NO. PUC010206  
JANUARY 4, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION

Ex Parte: Establishment of Carrier Performance Standards for Verizon Virginia Inc.

**ORDER ESTABLISHING CARRIER PERFORMANCE  
STANDARDS WITH IMPLEMENTATION SCHEDULE  
AND ONGOING PROCEDURE TO CHANGE METRICS**

On October 30, 2001, the State Corporation Commission ("Commission") established this case to consider carrier performance standards for Verizon Virginia Inc. ("Verizon Virginia"), which were developed by the Collaborative Committee established in Case No. PUC000026.<sup>1</sup> The Virginia Carrier-to-Carrier Guidelines Performance Standards and Reports ("VA Guidelines") for Verizon Virginia include a set of service quality measurements and standards for the provision of services, network elements, and interconnection arrangements with competitive local exchange carriers ("CLECs"). Comments were filed on November 20, 2001, on the proposed VA Guidelines for Verizon Virginia, matrix of remaining issues, proposal for ongoing metric changes, and Verizon Virginia's proposed implementation schedule.<sup>2</sup> There were no requests for hearing. Reply comments were filed on December 7, 2001.<sup>3</sup>

The filed comments and replies primarily concern five contested metrics,<sup>4</sup> Appendix H to the VA Guidelines,<sup>5</sup> Verizon Virginia's proposed adoption of Exhibit 1,<sup>6</sup> additional trunking and directory assistance metrics proposed by Cox, an additional metric proposed by Cavalier, and Verizon Virginia's proposed implementation schedule. The Commission finds that the remaining undisputed portions of the VA Guidelines are reasonable and should be adopted, consistent with the findings below.

**CONTESTED ISSUES**

**OR-1 Order Confirmation Timeliness/OR-2 Reject Timeliness (Issue 1 on Matrix)**

The order confirmation response time<sup>7</sup> measured by OR-1 and the reject response time<sup>8</sup> measured by OR-2 both exclude scheduled downtime hours of Verizon Virginia's Service Order Processor ("SOP").<sup>9</sup> Currently, the aggregate downtime hours reflect overlapping downtime on the expressTRAK and its associated systems and the SOACS system. Verizon Virginia proposes that this aggregate downtime be recognized in the OR-1 and OR-2 metrics until SOACS is completely phased out or, alternatively, until September 1, 2002. Comments by AT&T and WorldCom urge the Commission not to adopt the open-ended date of the SOACS phaseout and to recognize the expressTRAK downtime hours only, effective January 1, 2002. AT&T does acknowledge that its proposed effective date could be extended for good cause shown by Verizon Virginia.

We agree with the CLECs that Verizon Virginia's proposed open-ended continuation of the SOACS downtime hours is unreasonable. The Commission finds that July 1, 2002, is a reasonable date to reflect only the downtime hours of expressTRAK and associated systems as excluded in these metrics. Accordingly, footnote 7 to the OR-1 metric and footnote 11 to the OR-2 metric should include the date of July 1, 2002, as the cut-off for inclusion of the aggregate downtime hours for expressTRAK, SOACS, and their associated systems. Thereafter, the downtime hours excluded for calculation of the results under these two metrics should be for expressTRAK and its associated systems only.

<sup>1</sup> See the Order For Notice and Comment or Requests for Hearing, issued October 30, 2001 ("Order of October 30, 2001"), for discussion of the collaborative process.

<sup>2</sup> The first three items are attachments to Staff Motion To Establish Carrier Performance Standards For Verizon Virginia Inc., And For Order Prescribing Notice and Providing For Comment Or Request Hearing, filed October 10, 2001. Verizon Virginia filed the fourth item, Proposed Implementation Schedule For the VA Guidelines, on October 24, 2001. Comments were filed by Verizon Virginia, Cox Virginia Telecom, Inc. ("Cox"), WorldCom, Inc. ("WorldCom"), Allegiance Telecom of Virginia, Inc. ("Allegiance"), AT&T Communications of Virginia, Inc. ("AT&T"), and the Division of Consumer Counsel, Office of the Attorney General ("Consumer Counsel").

<sup>3</sup> Pursuant to the Commission's Order Extending Time For Reply Comments issued November 28, 2001, reply comments were filed by Verizon Virginia, Cox, WorldCom, AT&T, and Cavalier Telephone, LLC ("Cavalier").

<sup>4</sup> The five contested metrics included in the VA Guidelines Performance Standards and Report are: OR-1/OR-2 Order Confirmation Timeliness and Reject Timeliness; OR-4 (submetrics 11-15) Timeliness of Completion Notification; OR-6-04 Order Accuracy; PR9-02 Hot Cut Loops; and PR-3-08 completed within a Specified Number of Days (1-5 Lines).

<sup>5</sup> Appendix H is a listing of order types eligible for electronic flow-through.

<sup>6</sup> Exhibit 1 addresses "force majeure" events, statistical invalidity of measurements, confidentiality, and reciprocal obligations of the CLECs.

<sup>7</sup> The order confirmation response time is the elapsed time (in hours and minutes) between receipt of a valid order request and distribution of a Service Order confirmation.

<sup>8</sup> The reject response time is the elapsed time (in hours and minutes) between receipt of an order request and distribution of a Service Order rejection.

<sup>9</sup> Verizon Virginia currently uses two SOPs, SOACS, and expressTRAK.

**OR-4-11 through 15 (Issue 2 on Matrix)**

Verizon Virginia has proposed two sets of performance intervals<sup>10</sup> for submetrics OR-4-11 through 15. The two sets of intervals would apply while both SOACS and expressTRAK are in use. Verizon Virginia proposes to use both intervals until SOACS is retired from service. AT&T and WorldCom propose the adoption of a January 1, 2001, date to use only the expressTRAK intervals.

The Commission finds that July 1, 2002, is a reasonable date to eliminate the SOACS intervals in these submetrics. The note to OR-4 should be revised to reflect the adoption of this date.

**OR-6-04 Order Accuracy (Issue 3 on Matrix)**

Verizon Virginia has proposed the adoption of this metric to measure the accuracy of published directory listings provided to the CLEC. However, several CLECs, as well as the Consumer Counsel, raise concerns that the proposed metric only addresses the accuracy of the listing information on Verizon Virginia's service order. According to AT&T, Cox, Allegiance, and Cavalier the metric does not represent directory listing order completion of the CLEC's listings because it does not measure omissions from the published directory or compare CLEC listings to the directory itself.

Under Metric OR-6-04, Verizon Virginia will select a random sample of twenty (20) CLEC orders each business day and compare the listing information on the order submitted by the CLEC with the listing information on the completed Verizon Virginia service order. AT&T and Cox criticize this sampling procedure as failing to insure a statistically valid sampling of stand-alone directory listing orders.<sup>11</sup>

Verizon Virginia dismisses the problem of missing CLEC orders as unsubstantiated and easily remedied by CLEC follow-up. Verizon Virginia also claims that its sampling of daily CLEC orders will adequately monitor stand-alone orders, although it offers to perform and report a separate measurement for the accuracy of stand-alone order listings.<sup>12</sup>

The Commission believes that Verizon Virginia's proposal to perform and report a separate measurement for stand-alone listings may address the concerns of AT&T and Cox. The Commission directs Verizon Virginia to file with the Commission on or before February 28, 2002, its proposed date for implementation of this measurement for stand-alone listings. The Commission will not order the "rotating" alternate monthly reporting for stand-alone listings and all other types of listings at this time.<sup>13</sup> However, if Verizon Virginia is unable to implement the separate measurement for stand-alone listings in a reasonable timeframe, the Commission may reconsider this alternative.

Several parties also raise concerns about whether the proposed standard of 95% accuracy for directory listings is sufficient. Cox argues that if it committed the same level of listing errors for its customers as allowed in the proposed Metric OR-6-04, then ten percent of its customers would suffer directory errors from the combined efforts of Verizon Virginia and Cox. Verizon Virginia responds that it should not be made to carry the CLEC by being held to a higher standard. Nevertheless, as AT&T points out in its Reply Comments, the proposed standard of 95% accuracy, if applied to all of Verizon Virginia's customers, would produce enormous directory errors for the approximately four (4) million customer lines served.

Cox and WorldCom propose that the standard be raised from 95% to 98%.<sup>14</sup> Cavalier urges a 100% error-free standard to preclude any incentive to win back CLEC customers dissatisfied with the CLEC because of directory listing errors committed by Verizon Virginia. The Commission finds that 98% is a reasonable accuracy standard for Metric OR-6-04.

Cox requests that Verizon Virginia be required to compare the most recent CLEC-submitted orders on a random and regular basis against the listing that ultimately appears in the telephone directory. We agree with Cox and the other CLECs that it is more important for the customer's listing to appear correctly in the telephone directory, and whether or not the listing on a Verizon Virginia service order is correct should be a secondary concern. However, the Commission recognizes Verizon Virginia's concern about utilizing a manual process for such comparisons with the published directory. The Commission believes that the Collaborative Committee should investigate further whether the parties can develop or agree to a procedure that more directly reflects a comparison to the CLEC's customers' listings in the published directory. The Commission considers the reliability of the published directory to be a critical matter to all consumers in Virginia, and we encourage the parties to work diligently in ensuring this objective.

Cox additionally requests that Verizon Virginia measure its implementation of fields 15 (style presentation in directory), 86 (number of directories delivered on new connect or moves), 88 (directory identification), and 94 (Yellow Page heading code).

Verizon Virginia replies that field 94 is already included in the proposed Metric OR-6-04 and that the remaining fields are not related to the substantive accuracy of the directory listing. We accept Verizon Virginia's position that fields 15, 86, 87, and 88 are not appropriate for measuring directory listing accuracy and, therefore, find that these fields should not be added at this time.

<sup>10</sup> The interval is measured in business days between the due date of an order and the date when provisioning and billing completion notices for the order are issued.

<sup>11</sup> The definition of stand-alone order listing given in Verizon Virginia's Reply Comments at footnote 13 is as follows: "orders that are issued by a CLEC for directory listings only and that do not include a request with regard to other services. Such orders might include orders for new CLEC customers who are not served by the use of Verizon [Virginia] facilities that must be ordered by the CLEC and are not being ported from Verizon [Virginia] to the CLEC, or orders for customers who are being ported from Verizon [Virginia] to a CLEC but for whom the CLEC has issued the directory listing order separately from the porting order."

<sup>12</sup> Verizon Virginia's offer to perform this separate measurement is premised upon the Commission adopting the form of comparison measurement it proposes in OR-6-04. (Reply Comments, pp. 13-14).

<sup>13</sup> This was another option proposed by Verizon Virginia to address stand-alone listings.

<sup>14</sup> Cox actually proposes a standard of 99% for Verizon Virginia, which would equate to an overall 98% accuracy level.

Finally, Cox requests that a new directory assistance metric (OD-3) be added. Cox claims that this metric for Database Update Accuracy was omitted from the most recent version of the VA Guidelines.<sup>15</sup> Cox did not pursue adoption of this metric in the Collaborative Committee. The Commission will not consider OD-3 for adoption at this time; however, Cox may submit this request at a later date through the procedures adopted herein for going forward changes to the metrics.

**PR-9-02 Hot Cut Loops (Issue 4 on Matrix)**

Verizon Virginia has agreed to include a metric that measures the percentage of UNE Hot Cut lines that are cut-over prior to the scheduled completion time.<sup>16</sup> The dispute with respect to this metric is the standard to be adopted. Verizon Virginia has proposed a 98% standard for PR-9-02 (i.e., no more than 2% of UNE Hot Cut lines will be cut early). Cavalier proposes the Commission adopt a 99.5% standard. The Commission finds that a standard of 99.0% is reasonable for this metric and should be adopted.

**PR-3-08 % Completed in 5 days (1-5 lines-no dispatch) (Issue 5 on Matrix)**

Metric PR-3-08 was agreed to by the Collaborative Committee; however, its implementation date remains at issue. Cavalier urges that this metric be adopted in the initial VA Guidelines. Verizon Virginia requests that this metric be introduced with other "consensus" items from New York through the ongoing process for adoption of metric changes discussed below.

Having afforded all parties an opportunity to comment on this metric, the Commission finds that Metric PR-3-08 should be adopted as part of the VA Guidelines in this Order.

**Appendix H Flow-Through Order Scenarios (Issue 6 on Matrix)**

Appendix H in the VA Guidelines identifies the types of service orders that are designed to flow-through.<sup>17</sup> As proposed by Verizon Virginia, the current list of service order types in Appendix H would be illustrative and subject to change but with a statement that an up-to-date list can be found on Verizon Virginia's website. The CLECs request that the listing in Appendix H be established as a baseline and that Verizon Virginia be required to obtain Commission approval before making deletions.

The Commission will not establish a baseline list of service order types in Appendix H. However, we will take the necessary actions to monitor and investigate any potential CLEC concerns regarding unreasonable deletions of order types from Appendix H in the future. Furthermore, the Commission finds that the following language should be added in Appendix H:

The CLECs shall be provided at least sixty (60) days' advance written notice of any deletions to the list of orders that flow-through as part of Verizon Virginia's OSS Change Management Process. This notification does not preclude a CLEC from pursuing regulatory action at the Virginia State Corporation Commission if it opposes a change.

The Commission regards the processing of orders without manual intervention as advantageous to both Verizon Virginia and the CLECs. Therefore, we encourage the expansion of the list in Appendix H and not a reduction in ordering flow-through scenarios.

**Exhibit 1 Additional Provisions (Issue 7 on Matrix)**

Verizon Virginia proposes to include Exhibit 1 in the VA Guidelines. The most controversial provision of Exhibit 1 is Section 3 ("Skewed Data") which excuses Verizon Virginia from the responsibility to meet a performance standard whenever its failure to meet such performance standard is due to a "force majeure" event,<sup>18</sup> a statistically invalid measurement, event-driven clustering, location-driven clustering, time-driven clustering, or CLEC actions, as described in Appendix K. Verizon Virginia also proposes that confidentiality treatment of documents and information be accorded in a wide array of circumstances (Section 4). Further, Verizon Virginia seeks to distribute its Performance Measurements Reports on the 27th day of the month following the reporting month for Aggregate Affiliate Reports and the 29th day of the month following the reporting month for CLEC specific Reports (or, if the 27th or 29th day of the month is a Saturday, Sunday, or holiday observed by Verizon Virginia, the next Verizon Virginia business day) (Section 5). Finally, Verizon Virginia proposes in its Exhibit 1 that CLECs be required to provide timely, accurate forecasts for interconnection trunks and collocation (Section 6).

One reason AT&T and WorldCom object to Exhibit 1 is because it is outside the scope of the agreed-upon collaborative process to utilize the NY Guidelines as the basis for the VA Guidelines. Exhibit 1 has not become a part of the NY Guidelines.

AT&T and WorldCom both argue that Exhibit 1 includes issues that should more appropriately be considered in a Performance Assurance Plan (PAP) for Verizon Virginia. Verizon Virginia replies that it should not have to wait for consideration of Exhibit 1 in its PAP proceeding docketed in Case No. PUC010226 since there is no assurance that its PAP will be approved.

<sup>15</sup> This metric is apparently included in the OSS test in Case No. PUC000035. OD-3 is not a metric in the New York Carrier-To-Carrier Guidelines ("NY Guidelines").

<sup>16</sup> This is the issue of "premature disconnects" that was addressed on Case No. PUC000262.

<sup>17</sup> Metric OR-5 measures the percent of valid orders received through the electronic ordering interface without manual intervention ("flow-through"). Metric OR-5 refers to Appendix H for the list of service order types that flow-through.

<sup>18</sup> "Force majeure" event is defined by Verizon Virginia to include: events or causes beyond reasonable control of Verizon Virginia; unusually severe weather conditions; earthquake; fire; explosion; flood; epidemic; war; revolution; civil disturbances; acts of public enemies; any law, order, regulation, ordinance, or requirement of any governmental or legal body; strikes, labor slowdowns, picketing, or boycotts; unavailability of equipment, parts, or repairs thereof; or any acts of God.

The Commission will grant Verizon Virginia its requested filing dates of the 27th and 29th of the month. The remainder of Exhibit 1 is not adopted at this time in the initial VA Guidelines approved herein.<sup>19</sup>

#### **Cox Proposal for Additional Trunking Metric**

Cox proposes that Metric NP-1 Percent Final Trunk Group Blockage be augmented with its newly proposed measurement for a minimum blockage rate. Citing Bellcore Notes on the Network, 1999, Cox proposes a minimum blockage rate of 1% (.5% blocking in the CLEC portion of the network and .5% blocking in Verizon Virginia's portion.) Verizon Virginia responds that an additional trunking metric is unnecessary and has not been adopted in either New York or five other jurisdictions in which Verizon operates.

The Commission does not adopt an additional trunking metric at this time. We suggest that Cox request consideration of this metric through the Collaborative Committee and the procedures adopted herein for going forward changes to the VA Guidelines.

#### **Cavalier Proposal on PR-5-04 Orders Cancelled For No Facilities**

In its Reply Comments, Cavalier raises concerns about the number of Verizon Virginia-provided Firm Order Confirmations ("FOC") with targeted installation dates that are ultimately cancelled due to "no facilities." Cavalier claims that the proposed PR-5 Metric in the VA Guidelines does not measure the number of orders cancelled due to "no facilities." Cavalier further points out that the New York Public Service Commission has recently adopted a new submetric, PR-5-04, that partially addresses this problem. However, according to Cavalier, even this new metric would not capture the real magnitude of such orders cancelled due to "no facilities."

The Commission will not address the PR-5-04 metric in this Order. We suggest that Cavalier raise its concerns again once this metric is filed by Verizon Virginia as a result of the procedures adopted for going forward changes to the VA Guidelines.<sup>20</sup>

#### **VA GUIDELINES METRIC CHANGES PROCEDURE**

The Commission adopts the procedure proposed by the Collaborative Committee for changes to the VA Guidelines. On a going forward basis, proposed changes to the VA Guidelines shall be considered for adoption by the Commission under the following procedures:

##### **A. Consensus Decision<sup>21</sup> and Non-consensus Decision<sup>22</sup>**

1. Verizon Virginia shall file with the Commission the New York consensus and/or non-consensus metric change(s) and proposed implementation interval(s), including an explanation of time required to implement, and description of the changes made to adapt to Virginia systems. Such filings shall be within 30 calendar days of submission date of the compliance filing in New York.<sup>23</sup>
2. With each such filing, Verizon Virginia may submit to the Commission any opposition to adoption of any metric change(s). Verizon Virginia shall set forth its reasons for opposition in any such filing.
3. Verizon Virginia shall make an electronic copy of its filing on the proposed consensus and/or non-consensus change(s) available to the Performance Standards/Remedy Plans Subcommittee of the Virginia Collaborative Committee ("Standards Subcommittee") and the Commission Staff at the time of filing. The Division of Communications shall make an electronic version available on its website page within 48 hours of filing (excluding weekend and holidays).
4. The Commission Staff, Office of Attorney General, and interested parties shall have an opportunity to comment and/or request a hearing on the proposed metric change(s) submitted by Verizon Virginia. Such comments are not limited to but should address whether the metric change(s) appropriately adapts the New York metric to Virginia and on the proposed implementation interval(s). Verizon Virginia and others that did not object to a metric change(s) or proposed implementation interval(s) shall be provided an opportunity to respond if anyone objects to the adoption of the change(s) or implementation interval(s).
5. If neither the Commission Staff, the Office of Attorney General, nor any interested party, including Verizon Virginia, has objected to the adoption of a proposed consensus or non-consensus metric change(s) after the Commission has provided an opportunity for comment, the change should be considered approved forty-five (45) days after submission of filing, unless otherwise ordered by the Commission.

<sup>19</sup> The Commission does not reject Verizon Virginia's desire to address many of the points incorporated in Exhibit 1. However, the Commission believes the adoption of this Exhibit in the VA Guidelines is not the appropriate means to consider these issues. Verizon Virginia may raise some or all of these concerns in Case No. PUC010226, as well as in other procedures (i.e., interconnection agreements, request for confidentiality treatment).

<sup>20</sup> This metric should be introduced as either a consensus or nonconsensus change under those procedures.

<sup>21</sup> A consensus decision is a change to the NY Guidelines that has been agreed to (or not opposed) by the parties in the NY Carrier Working Group and has been approved by the New York Public Service Commission.

<sup>22</sup> A non-consensus decision is a change to the NY Guidelines that has been approved by the New York Public Service Commission but not agreed to by all parties in the NY Carrier Working Group.

<sup>23</sup> The compliance filing in New York is the filing by Verizon New York with the New York Public Service Commission of revisions to the NY Guidelines that contain metric changes that have been approved by the New York Public Service Commission.

**B. Other Changes**

1. The Virginia Collaborative Committee and Standards Subcommittee shall remain as a forum for parties to discuss performance standards and metric change(s) issues.
2. No one shall be prevented from proposing metric change(s) to the VA Guidelines in accordance with the Commission's Rules of Practice and Procedure. However, the Commission encourages parties to continue participating in the Virginia Collaborative process and to consider the Standards Subcommittee as the most appropriate vehicle for the initial consideration of any proposed Virginia-specific metric change(s).
3. The Virginia Collaborative Committee and/or Standards Subcommittee may submit Virginia-specific proposed metric change(s) to the VA Guidelines to the Commission for its consideration. These proposals may be either on a consensus or non-consensus basis, provided that any party shall be free to oppose before the Commission a proposal to which it has not agreed.

**IMPLEMENTATION SCHEDULE**

Verizon Virginia proposes to begin implementing its reporting to the Commission of its performance under the VA Guidelines in two phases. Data for the metrics that are the same as in the current OSS testing, in Case No. PUC000035, would be collected for the second month after the month of issuance of this Order. For other non-OSS test metrics, Verizon Virginia requests an additional month for reporting most metrics and two or more additional months for reporting the remainder of the metrics.

The Commission recognizes that Verizon Virginia is currently providing metrics reports and the underlying data in the OSS test. We further understand that the only actual change necessary for reporting under the VA Guidelines for the identical OSS test metrics is the form of the report template. We will require Verizon Virginia to use the new report template for all the metrics; however, we consider that the identical OSS test metrics in the VA Guidelines are in effect "implemented" as of the date the VA Guidelines are adopted in this proceeding.<sup>24</sup> Therefore, the Commission is of the opinion that Verizon Virginia should focus first on ensuring that the non-OSS test metrics adopted in the VA Guidelines be implemented as quickly as possible.

We find that Verizon Virginia should be required to file its first report on the VA Guidelines in March 2002 utilizing February 2002 data.<sup>25</sup> We are hopeful that Verizon Virginia can complete the template change for the identical OSS test metrics by the March 2002 report but will not require conversion to the new template for the OSS test metrics at this time. However, Verizon Virginia should work with the Commission Staff and Project Leader in Case No. PUC000035 to ensure an orderly and timely transition to the new report template for the OSS test metrics. Furthermore, Verizon Virginia should report on all non-OSS test metrics included in the VA Guidelines in the March 2002 report, unless implementation is subsequently extended for good cause shown.<sup>26</sup>

Verizon Virginia is required to file amended VA Guidelines in accordance with this Order no later than January 18, 2002.

Accordingly, IT IS ORDERED THAT:

- (1) The VA Guidelines, ongoing procedure to change metrics, and implementation schedule are hereby adopted consistent with the findings above.
- (2) Verizon Virginia is hereby ordered to file the amended VA Guidelines, as found above, on or before January 18, 2002.
- (3) This case is now continued.

<sup>24</sup> The form of the report will not be considered a scheduled implementation event.

<sup>25</sup> We expect Verizon Virginia to continue providing underlying data supporting the reported results to the Commission Staff.

<sup>26</sup> Verizon Virginia may request an extension for any individual non-OSS test metric in the VA Guidelines if it determines that it is unable to meet the schedule. Such requests will be evaluated by the Commission on a case-by-case basis to determine if good cause is shown for any requested extension of time.

**CASE NO. PUC-2001-00206  
JUNE 5, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION

*Ex Parte*: Establishment of Carrier Performance Standards for Verizon Virginia Inc.

**ORDER APPROVING REVISIONS TO  
VA GUIDELINES FILED FEBRUARY 22, 2002**

On February 22, 2002, Verizon Virginia Inc. ("Verizon Virginia") filed with the State Corporation Commission ("Commission") its proposed revisions and comments to the Virginia Carrier-to-Carrier Guidelines Performance Standards and Reports ("VA Guidelines"), which reflect the New York

consensus and non-consensus metric changes adopted by the New York Public Service Commission ("NYPS") (hereafter, "February 22, 2002, Proposed VA Guidelines").<sup>1</sup>

On March 22, 2002, the Commission issued a Procedural Order on Proposed Revisions to VA Guidelines Filed February 22, 2002 ("Procedural Order"), requesting comments and/or requests for hearing. On April 11, 2002, WorldCom, Inc. ("WorldCom"), Metro Teleconnect Companies, Inc. ("Metro"), AT&T Communications of Virginia, LLC ("AT&T"), and Verizon Virginia filed Comments. On April 26, 2002, Reply Comments were filed by AT&T, WorldCom, and Verizon Virginia. No party requested a hearing.

The Procedural Order determined that the non-objectionable metric changes to the VA Guidelines would be considered approved 60 days after filing unless otherwise ordered by the Commission. It was noted in the Procedural Order that Verizon Virginia objected to the non-consensus metric revisions adopted by the NYPS,<sup>2</sup> identified as Metrics OR-10-01, OR-10-02, and OR-4-11. Therefore, the Commission determined that these specific metric changes could not be considered for approval under the 60 days procedure.

Consistent with the Commission's ongoing procedure to revise the VA Guidelines we find that the changes in the February 22, 2002, Proposed VA Guidelines, except for Metrics OR-10-01, OR-10-02, and OR-4-11, are hereby considered approved effective April 23, 2002.<sup>3</sup>

Verizon Virginia has proposed that the February 22, 2002, Proposed VA Guidelines be implemented on the third calendar month after the month in which the Commission approves the revisions. No party objected to this proposed implementation schedule. The Commission finds that Verizon Virginia's proposed implementation schedule should be approved.<sup>4</sup>

Metrics OR-10-01 and OR-10-02 are new performance metrics adopted in the NYPS Order, and both measure the timeliness of Verizon Virginia's resolution of Purchase Order Number ("PON") electronic notifier exceptions. Verizon Virginia opposes adopting these two metrics as being not needed in Virginia because of the relatively low incidence of PON notifier exceptions. Alternatively, Verizon Virginia proposes to lengthen the resolution intervals so that Metric OR-10-01 would have a standard of 95% in 9 business days, and Metric OR-10-02 would have a standard of 99% in 30 business days.

Both AT&T and WorldCom state that Metrics OR-10-01 and OR-10-02 should be approved as adopted by the NYPS.<sup>5</sup> AT&T and WorldCom comment that PON notifiers are important tools for competitive local exchange carriers ("CLEC") to use to keep their customers informed regarding the expected service date. If a PON notifier is not received by the CLEC and the related trouble ticket not resolved quickly, the delivery of the customer's service can be impacted.

The Commission notes that Metric OR-10-01 was adopted by the NYPS with a view toward revisiting the 95% standard if the number of PON notifier exceptions continues to decline in New York. However, we find that for the present time, Metrics OR-10-01 and OR-10-02 should be approved as adopted in the NYPS Order. If these metrics or their interval standards are subsequently changed in New York, this Commission will evaluate any such subsequent metric changes as part of our procedure for considering ongoing changes.<sup>6</sup>

Verizon Virginia also objects to adopting revised Metric OR-4-11, which measures whether Verizon Virginia has failed to send both a Provisioning Completion Notice ("PCN") and a Billing Completion Notice ("BCN") for a CLEC order. The standard adopted in the NYPS Order is that not more than 0.25% of electronic PONs received neither a PCN nor a BCN within 2 business days from the Service Order Processor ("SOP") posting of the provisioning of the last service order associated with a specific PON.

In its Comments, Verizon Virginia states that as a practical matter Metric OR-4-11 duplicates OR-4-16. Furthermore, Verizon Virginia contends that Metric OR-4-11 was adopted in New York based on the assumption that the BCN and PCN were provided as independent operations. However, under its Virginia system, expressTRAK, Verizon Virginia states it does not issue a BCN unless a PCN has been issued. Verizon Virginia therefore objects to Metric OR-4-11 because it does not issue a BCN unless a PCN is issued, and a metric measuring a failure to send both is in reality a measurement of its failure to send the PCN. Alternatively, Verizon Virginia requests that if Metric OR-4-11 is adopted, the standard should be no more than 1% with a 3-business day interval.

Both AT&T and WorldCom state that Metric OR-4-11 should be adopted and comment that receiving both the PCN and BCN are critically important to CLECs in providing service to customers. While a CLEC may be able to work around an order with the PCN or BCN missing, both would be a critical matter to a CLEC. AT&T and WorldCom also express concern that Verizon Virginia's expressTRAK system does not produce a PCN and BCN

<sup>1</sup> On January 4, 2002, the Commission issued an Order Establishing Carrier Performance Standards with Implementation Schedule and Ongoing Procedure to Change Metrics ("January 4, 2002, Order"). A copy of Verizon Virginia's February 22, 2002, Proposed VA Guidelines is available at: <http://www.state.va.us/scc/division/PUC/cc:momfiles/collab225.pdf>

<sup>2</sup> *Proceeding on Motion of the Commission to review Service Quality Standards for Telephone Companies, Order Modifying Existing and Establishing Additional Inter-Carrier Service Quality Guidelines, NYPS, Case 97-C-0139 (10/29/01)* ("NYPS Order").

<sup>3</sup> Metro's comments appeared to request changes to the VA Guidelines outside the scope of this filing; and, therefore, the Commission does not consider that there were formal objections to any other proposed metric changes.

<sup>4</sup> Under the approved implementation schedule the non-objectionable metric revisions should be implemented no later than the third calendar month following April 2002, or July 2002. The implementation schedule date for the objectionable metrics will be tied to the date of this Order.

<sup>5</sup> As adopted by the NYPS Order, Metric OR-10-01 calls for a standard of 95% for resolving PON notifier exceptions in 3 business days, and Metric OR-10-02 has a standard of 99% of PON notifier exceptions resolved in 10 business days.

<sup>6</sup> However, neither Verizon Virginia nor any other interested party is precluded from seeking changes or revisions to these metrics or any others in the VA Guidelines if circumstances warrant, whether or not the NYPS has approved those changes.



independently. This scenario may actually increase the risk to the CLEC that no notifier will be received. AT&T also points out that at present expressTRAK is not the sole SOP in Virginia.<sup>7</sup>

The Commission finds that both the PCN and BCN are critical notifiers to the CLECs. The Commission finds that Metric OR-4-11 should be approved as adopted in the NYPSC Order.

Accordingly, IT IS ORDERED THAT:

- (1) All non-objectionable metric revisions filed by Verizon Virginia in this case on February 22, 2002, are approved, effective April 23, 2002, consistent with the findings above.
- (2) Metrics OR-10-01 and OR-10-02 are hereby approved as adopted in the NYPSC Order consistent with the findings above.
- (3) Metric OR-11-04 is hereby approved as adopted in the NYPSC Order consistent with the findings above.
- (4) Verizon Virginia's proposed implementation schedule is hereby approved consistent with the findings above.
- (5) This case is now continued.

<sup>7</sup> Verizon Virginia also uses the SOAC system. The differences in these two systems were recognized in the Commission's January 4, 2002, Order. In that Order the Commission required two metrics to be treated as if SOAC is no longer in place after July 1, 2002, but did not require the actual retirement of SOAC.

**CASE NO. PUC-2001-00206  
AUGUST 7, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION

Ex Parte: Establishment of Carrier Performance Standards for Verizon Virginia Inc.

**ORDER APPROVING REVISIONS TO  
VA GUIDELINES FILED JUNE 13, 2002**

On June 13, 2002, Verizon Virginia Inc. ("Verizon Virginia") filed with the State Corporation Commission ("Commission") its proposed revisions and comments to the Virginia Carrier-to-Carrier Guidelines Performance Standards and Reports ("VA Guidelines"), which reflect the New York consensus and non-consensus metric changes adopted by the New York Public Service Commission ("NYPSC") on April 29, 2002, (hereafter "June 13, 2002, Proposed VA Guidelines").<sup>1</sup>

On June 19, 2002, the Commission issued a Procedural Order on Proposed Revisions to VA Guidelines filed June 13, 2002 ("Procedural Order"), requesting comments and/or requests for hearing. On July 2, 2002, AT&T Communications of Virginia, Inc. ("AT&T") filed comments. On July 12, 2002, Reply Comments were filed by Verizon Virginia. No party requested a hearing.

AT&T states it has no "substantive disagreements" with the June 13, 2002, Proposed VA Guidelines; however, it does have concerns with certain aspects of the proposed revisions.<sup>2</sup> First, AT&T contends that the implementation schedule proposed by Verizon Virginia is too lengthy. AT&T points to the much shorter interval adopted by the NYPSC in its April 29, 2002, Order ("NYPSC Order").

AT&T also raises a concern with the combining of ordering data in the June 13, 2002, Proposed VA Guidelines for Pennsylvania and Delaware with Maryland, the District of Columbia, West Virginia, and Virginia in Metric PO-03 (Contact Center Availability). AT&T states that Verizon Virginia should supplement its filing to provide its rationale for this change.

AT&T's third issue involves "deviation" from the NYPSC Order and "ambiguity" in Verizon Virginia's update to the Geography Section of Metric PO-5. AT&T proposes that the language in this metric for identifying the states included in "Verizon East" be changed to that adopted verbatim in the NYPSC Order.

Issues four and five involve definitions in the Glossary. AT&T states that Verizon Virginia has not updated the Glossary "Special Services" definition to define access services as ordered by the NYPSC and should be required to make this change verbatim. In addition, AT&T suggests that the Commission review the definition of Verizon Advance Data Inc. ("VADI") in the Glossary.

<sup>1</sup> On January 4, 2002, the Commission issued an Order Establishing Carrier Performance Standards with Implementation Schedule and Ongoing Procedure to Change Metrics ("January 4, 2002, Order"). A copy of Verizon Virginia's June 13, 2002, Proposed VA Guidelines is available at: <http://www.state.va.us/sec/division/PUC/cc.momfiles/collab225.pdf>

<sup>2</sup> AT&T's comments address eight issues.

AT&T further requests that the NYPSC Order language addressing the treatment of VADI's reintegration and performance reporting in the monthly carrier-to-carrier reports should be adopted verbatim in the VA Guidelines to avoid any ambiguity in this requirement.<sup>3</sup>

In its Reply Comments, Verizon Virginia states that it must be provided a reasonable interval for implementation and its proposal should be approved by the Commission.<sup>4</sup> In response to AT&T's concern on Metric PO-3, Verizon Virginia contends that its call centers handling CLEC ordering for Virginia now handle calls for Pennsylvania and Delaware along with Maryland, the District of Columbia, and West Virginia.

In its Reply Comments, Verizon Virginia agrees to accept the language in the VA Guidelines for the Geography for Metric PO-05 as adopted by the NYPSC. Verizon Virginia further states that it is unable to identify AT&T's claims about the Glossary definition of Special Services as it is using the same definition in the June 13, 2002, Proposed VA Guidelines as that adopted by the NYPSC.

Verizon Virginia also states that the definition of VADI in the June 13, 2002, Proposed VA Guidelines is consistent with that added to the NY Guidelines. Furthermore, Verizon Virginia states that the Commission should not require the language in the NYPSC Order on VADI's performance reporting requirements be included in the VA Guidelines because it is neither necessary nor is it in the NY Guidelines.

The Commission believes that Verizon Virginia has adequately addressed the concerns raised by AT&T; therefore, we find that the June 13, 2002, Proposed VA Guidelines should be considered approved effective July 28, 2002.<sup>5</sup> We will, however, adopt the language modification to identify "Verizon East" in Metric PO-5 as agreed to by Verizon Virginia in its Reply Comments.

The Commission also finds that in this instance, Verizon Virginia's proposed implementation schedule is reasonable and should be approved. We note, however, that Verizon Virginia should implement these and any future metric changes as expeditiously as possible.

Accordingly, IT IS ORDERED THAT:

- (1) The June 13, 2002, Proposed VA Guidelines are approved, effective July 28, 2002, consistent with the findings above.
- (2) Verizon Virginia's proposed implementation schedule is hereby approved consistent with the findings above.
- (3) This case is now continued.

<sup>3</sup> Under issue seven, AT&T supports Verizon Virginia's inclusion of Appendix R. AT&T states that the eighth issue suggests the Collaborative Committee have a presentation on the new statistical methodologies approved by the NYPSC Order. Neither of these issues requires further action by the Commission.

<sup>4</sup> Verizon Virginia's proposal is for implementation on the third calendar month after the month in which the Commission approves the revisions.

<sup>5</sup> This date is consistent with treating all the metrics as non-objectionable changes as provided in the Commission's ongoing procedure to revise the VA Guidelines. We do not believe that AT&T's comments were intended to be an objection to adoption of any specific metric.

**CASE NO. PUC010208  
JANUARY 7, 2002**

APPLICATION OF  
VERIZON VIRGINIA INC.  
and  
VIC-RMTS-DC, L.L.C. d/b/a VERIZON AVENUE

For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996

**DISMISSAL ORDER**

On October 9, 2001, Verizon Virginia Inc. ("Verizon Virginia") and VIC-RMTS-DC, L.L.C. d/b/a Verizon Avenue ("VIC-RMTS-DC") filed for State Corporation Commission ("Commission") approval pursuant to §§ 251 and 252 of the Telecommunications Act of 1996 ("the Act"), 47 U.S.C. §§ 251 and 252, a supplemental interconnection agreement ("Supplemental Agreement").

On December 20, 2001, counsel for Verizon Virginia filed a request to withdraw the Supplemental Agreement for approval at this time. Counsel stated that its filing is incomplete and will be refiled shortly.

The Commission finds that this case should be dismissed and that the parties should refile their Supplemental Agreement in a separately docketed matter.

Accordingly, IT IS THEREFORE ORDERED THAT this case is hereby dismissed consistent with the findings above.

**CASE NO. PUC010211  
FEBRUARY 14, 2002**

APPLICATION OF  
VITCOM CORPORATION

For a certificate of public convenience and necessity to provide local exchange telecommunications services

**DISMISSAL ORDER**

On December 6, 2001, Vitcom Corporation ("Vitcom" or the "Company") filed a motion with the State Corporation Commission ("Commission") requesting that the above-captioned application be held in abeyance indefinitely. Vitcom also requested that the Commission reactivate its application at a time when it had reevaluated its business plan and notified the Commission of its desire to move forward.

By Order entered on December 12, 2001, the Commission granted, in part, Vitcom's motion for abeyance and directed that further proceedings in this case be held in abeyance through January 31, 2002.

We note that Vitcom has not requested any further action on its application. We are, therefore, of the opinion that the above-captioned application should be dismissed.

Accordingly, IT IS THEREFORE ORDERED THAT:

- (1) This matter is hereby dismissed.

**CASE NO. PUC010212  
MARCH 20, 2002**

APPLICATION OF  
INTRADO COMMUNICATIONS OF VIRGINIA INC.

For certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services

**FINAL ORDER**

On December 6, 2001, Intrado Communications of Virginia Inc. ("Intrado" or the "Company"), completed an application for certificates of public convenience and necessity with the State Corporation Commission ("Commission") to provide local exchange and interexchange telecommunications services throughout the Commonwealth of Virginia. The Company also requested authority to price its interexchange telecommunications services on a competitive basis pursuant to § 56-481.1 of the Code of Virginia.

By Order dated December 20, 2001, the Commission directed the Company to provide notice to the public of its application and directed the Commission Staff to conduct an investigation and file a Staff Report. On February 27, 2002, the Company filed proof of publication and proof of service as required by the December 20, 2001, Order.

On March 6, 2002, the Staff filed its Report finding that Intrado's application was in compliance with the Rules Governing the Offering of Competitive Local Exchange Telephone Service ("Local Rules") and the Rules Governing the Certification of Interexchange Carriers ("IXC Rules"). Based upon its review of Intrado's application, the Staff determined it would be appropriate to grant the Company certificates to provide local exchange and interexchange telecommunications services subject to the following condition: should Intrado collect customer deposits, it shall establish and maintain an escrow account for such funds, held in a Virginia office of a duly chartered state or national bank, savings and loan association or savings bank, or credit union that is unaffiliated with the Company and shall notify the Division of Economics and Finance of the escrow arrangement and any subsequent change. Any escrow arrangement established pursuant to this requirement shall be maintained until such time as the Staff or Commission determines it is no longer necessary.

NOW THE COMMISSION, having considered the application and the Staff Report, finds that the Company should be granted certificates to provide local exchange and interexchange telecommunications services. Having considered § 56-481.1, the Commission further finds that the Company may price its interexchange telecommunications services competitively.

Accordingly, IT IS ORDERED THAT:

- (1) Intrado Communications of Virginia Inc. is hereby granted a certificate of public convenience and necessity, No. TT-170A, to provide interexchange telecommunications services subject to the restrictions set forth in the Commission's Rules Governing the Certification of Interexchange Carriers, § 56-265.4:4 of the Code of Virginia, and the provisions of this Order.
- (2) Intrado Communications of Virginia Inc. is hereby granted a certificate of public convenience and necessity, No. T-578, to provide local exchange telecommunications services subject to the restrictions set forth in the Rules Governing the Offering of Competitive Local Exchange Telephone Service, § 56-265.4:4 of the Code of Virginia, and the provisions of this Order.
- (3) Pursuant to § 56-481.1 of the Code of Virginia, the Company may price its interexchange telecommunications services competitively.
- (4) The Company shall provide tariffs to the Division of Communications that conform to all applicable Commission rules and regulations.

(5) Should Intrado collect customer deposits, it shall establish and maintain an escrow account for such funds, held in a Virginia office of a duly chartered state or national bank, savings and loan association or savings bank, or credit union that is unaffiliated with the Company and shall notify the Division of Economics and Finance of the escrow arrangement and any subsequent change. Any escrow arrangement established pursuant to this requirement shall be maintained until such time as the Staff or Commission determines it is no longer necessary.

(6) There being nothing further to come before the Commission, this case shall be dismissed and the papers filed herein placed in the file for ended causes.

**CASE NO. PUC010213  
JANUARY 31, 2002**

APPLICATION OF  
CAVALIER TELEPHONE, LLC

To reclassify the Bethia wire center into density cell one

**FINAL ORDER**

On October 16, 2001, Cavalier Telephone, LLC ("Cavalier"), filed its Application and Motion to Reclassify the Bethia Wire Center ("Application"), which requests the State Corporation Commission ("Commission") to reclassify Verizon Virginia Inc.'s ("Verizon Virginia") Bethia wire center from density cell three to density cell one.<sup>1</sup> Pending the requested reclassification, Cavalier asks the Commission to require that certain promotional discounts applicable to the Bethia wire center be maintained.

Pursuant to the Preliminary Order issued November 7, 2001, Verizon Virginia filed its response and Motion to Dismiss and Answer on November 28, 2001, and Cavalier filed its Reply on December 10, 2001. On January 28, 2002, Cavalier filed its Motion to Compel Discovery Responses from Verizon Virginia. Based upon the findings hereinbelow, we determine Cavalier's Motion to Compel to be moot.

**PLEADINGS**

In its Application, Cavalier claims that because of the rapid growth in the Bethia area, both the line density and cost for the Bethia wire center has altered and that it should be reclassified from density cell three to density cell one. Cavalier further states that the Commission may investigate these rates charged by Verizon Virginia for facilities within the area served by the Bethia wire center under its authority pursuant to § 56-247 of the Code of Virginia.

Verizon Virginia responds that the Commission did not classify wire centers according to density in Case No. PUC970005. Verizon Virginia states the Commission rejected the proposal in that case to group wire centers by density and instead adopted the Staff methodology to group wire centers by cost. Verizon Virginia further claims that Cavalier's request would equate to special treatment for a single exchange and that either a full-blown cost proceeding to determine new costs or, at a minimum, an entire reconfiguration of cell groupings would be necessary. Verizon Virginia believes that neither of these two alternatives are warranted. In addition, Verizon Virginia points out that the Federal Communications Commission ("FCC") is currently resetting loop rates in its pending arbitration with AT&T Communications and WorldCom.

**FINDINGS**

The Commission found in the UNE Pricing Order

...that prices of interconnection and network elements should be based on their total, forward-looking, long-run incremental costs; that the application of these principles should reflect BA-VA's existing wire center locations and the most efficient technology that can reasonably be employed in the immediate future; and that an appropriate allocation of shared costs and common overhead costs, excluding retailing costs, should be included in these costs. The Commission finds that prices based on these costs meet the requirements of the Act.

UNE Pricing Order, May 22, 1998, p. 5.

The average UNE loop cost developed by the Commission was deaveraged into three groups of wire centers as proposed by Staff.<sup>2</sup> This deaveraging methodology developed by the Staff was based on cost and did not consider line density as a factor in determining the wire center groupings. The fact that many of the wire centers included in density cell one are in highly populated areas is only coincidental. The Commission found that "this [grouping of wire centers] arrangement is most closely related to loop costs; and, therefore, it is the best reflection in this record of the Act's requirement to

<sup>1</sup> The Commission ordered that Verizon Virginia's unbundled network element ("UNE") loop prices be deaveraged into the three groups known as density cells one, two, and three. Density cell three is the highest priced (\$29.40 for a basic loop) and density cell one is the lowest priced (\$10.74 for a basic loop). See Order issued May 22, 1998, and Final Order issued April 15, 1999, in Case No. PUC970005, *Ex Parte: To determine prices Bell Atlantic-Virginia, Inc., is authorized to charge Competitive Local Exchange Carriers in accordance with the Telecommunications Act of 1996 and applicable state law* ("UNE Pricing Order").

<sup>2</sup> See UNE Pricing Order, May 22, 1998, p. 10.

base network element prices on costs."<sup>3</sup> Therefore, we agree with Verizon Virginia's statement that for purposes of grouping wire centers into cells, density is irrelevant.<sup>4</sup>

Relying upon the incorrect premise that the Commission's deaveraged UNE loop pricing methodology was based upon line density, Cavalier asks this Commission to investigate the UNE loop rates charged for facilities served by the Bethia wire center because of population growth in the area and a supposed increase in line density (with wider allocation of cost) in the Bethia wire center.<sup>5</sup> Cavalier does not identify any specific reductions in the costs of the Bethia wire center.

The Commission concludes from the pleadings of the parties, the UNE Pricing Order, and other applicable law that Cavalier has failed to allege a legal or factual basis upon which this Commission should investigate the UNE loop rates for the Bethia wire center.<sup>6</sup> Therefore, the Commission finds that the Application should be denied.

The Commission reminds Cavalier that it may always pursue changes to the Bethia wire center UNE loop rate when it negotiates and/or requests arbitration of a new interconnection agreement with Verizon Virginia, pursuant to § 252 of the Act or under applicable state regulations.

Cavalier requests that this Commission order Verizon Virginia to maintain the promotional discounts for facilities in the area served by the Bethia wire center, as ordered by the FCC, pending this Commission's ruling upon the Application. As we are now denying the Application, there is no need to address this interim relief request.

Based upon the findings above, we need not address Verizon Virginia's Motion to Dismiss, which is now denied.

Accordingly, IT IS ORDERED THAT:

- (1) The Application of Cavalier is hereby denied, consistent with the findings above.
- (2) The Motion to Dismiss filed by Verizon Virginia is hereby denied.
- (3) There being nothing further to come before the Commission, this case is now closed.

<sup>3</sup> Id.

<sup>4</sup> Cavalier relies upon the Staff Report filed May 21, 1997, and the Supplemental Exhibit to the Staff Report filed June 5, 1997, in Case No. PUC970005 for the proposition that "the considerations for dividing wire centers into different density cells were line density as modified by cost information." (Application, p.4). This is incorrect. The Supplemental Exhibit to the Staff Report, filed June 5, 1997, reports on page 17 that "[t]he plot of recommended wire center prices shown in the appendix to this supplement demonstrates that 77 percent of the lines in BA-VA's territory fall within a fairly narrow range of wire center prices that have a top price of \$13.50. The line-weighted average of this price group is \$10.76. If the remaining, higher cost wire centers are divided into two price groups of approximately the same number of lines, the following three price groups result. These price groups are recommended by the Staff." As noted above, the Commission accepted this recommendation, which is based upon grouping wire centers based upon similar costs.

<sup>5</sup> Cavalier brings its Application for investigation of the Bethia wire center UNE loop rates under §§ 56-2; 56-35; 56-235; and 56-247 of the Code of Virginia.

<sup>6</sup> Cavalier further invites us to make a periodic reexamination of density cell groupings in its Reply. However, the Application only addresses the Bethia wire center. We find no basis for initiating a reexamination of all wire center groupings.

**CASE NO. PUC010213  
MARCH 7, 2002**

APPLICATION OF  
CAVALIER TELEPHONE, LLC

To reclassify the Bethia Wire Center into density cell one

**ORDER ON RECONSIDERATION**

On January 31, 2002, the State Corporation Commission ("Commission") issued its Final Order in this proceeding denying Cavalier Telephone, LLC's ("Cavalier"), Application to reclassify the Bethia Wire Center ("Application").<sup>1</sup> This Application requested that the Commission reclassify Verizon Virginia Inc.'s ("Verizon Virginia") Bethia wire center from density cell three to density cell one.

On February 19, 2002, Cavalier filed a Petition for Rehearing or Reconsideration of Application ("Petition") and Renewed Motion for Investigation and Reclassification ("Renewed Motion"). Cavalier suggests in its Petition that if the Commission relied solely upon the finding that Cavalier did not identify any specific cost reductions in the Bethia wire center, it should have reserved such judgment until Cavalier had an opportunity to conduct

<sup>1</sup> Application was filed on October 16, 2001.

discovery. Furthermore, Cavalier claims that in the Final Order the Commission stated no reason why it would only consider Cavalier's Application in this docket and not in Case No. PUC970005.<sup>2</sup>

Cavalier is requesting that the Commission reconsider its Application and order Verizon Virginia to respond to Cavalier's previous discovery requests within ten calendar days of the reinstatement of the Application. In the alternative, Cavalier requests that the Commission hear its Renewed Motion as a part of Case No. PUC970005 and issue a procedural order in that case.

In denying the Application, the Commission did not rely solely on the fact that Cavalier did not identify any specific reductions in the costs of the Bethia exchange in its January 31, 2002, Order. We discussed the cost issue in some detail primarily because it appeared to us that Cavalier misunderstood the deaveraging methodology that the Commission utilized in the UNE Pricing Order. However, we find that we should now expand on our findings in the January 31, 2002, Order in order to respond to Cavalier's Petition and Renewed Motion.

Our basis for not considering Cavalier's request to consider the reclassification of the Bethia wire center in Case No. PUC970005 is simply procedural. When the UNE Pricing Order was entered in Case No. PUC970005, that Order was the Final Order in the case.<sup>3</sup> To the extent Cavalier or any other party wanted to request reconsideration in that case, the time has long passed for such possible reconsideration.<sup>4</sup>

Verizon Virginia claims in its November 28, 2001, response to Cavalier's Application that it would be unfair to reclassify one wire center without, at a minimum, an entire reconfiguration of the density cell structure and a resulting recalculation of rates. This would potentially impact the classification of other wire centers and the UNE loop rates in all three density cells. The Commission agrees with Verizon Virginia's assessment that a total reconfiguration is necessary before reclassifying even one wire center in order to remain consistent with the Commission's deaveraging methodology used in its UNE Pricing Order. Verizon Virginia further argues that such a reconfiguration would be a "huge waste of resources" and would draw opposition from other competitive local exchange carriers ("CLECs").

The Commission fully recognizes that such a wire center reconfiguration effort could impact UNE loop prices paid by other CLECs (and ultimately their customers) in various wire centers, and we would be hesitant to undertake this in any circumstance without a greater showing of need. However, even if the Commission believed that such a reconfiguration was necessary, it does not believe it can require such without, in effect, changing its pricing decisions in the UNE Pricing Order. As stated earlier, Case No. PUC970005 is closed, and there can be no further consideration of the issues in that proceeding.<sup>5</sup>

Notwithstanding our procedural inability to change prices previously determined in Case No. PUC970005, the Commission could initiate a new generic case to consider Verizon Virginia's "new" costs for all unbundled network elements and interconnection.<sup>6</sup> However, the Commission does not see that as a reasonable option at this time. As Verizon Virginia points out in its November 28, 2001, response, the Commission established prices in an "exhaustive, fully litigated proceeding" only a short time ago, and the Federal Communications Commission ("FCC") is currently addressing rates in a pending arbitration.<sup>7</sup> Additionally, in the Final Order in this proceeding the Commission reminded Cavalier that it could pursue changes to the UNE loop rate associated with the Bethia wire center (or any other prices, terms, and conditions) when it negotiates and/or requests arbitration of a new interconnection agreement with Verizon Virginia pursuant to § 252 of the Telecommunications Act of 1996.<sup>8</sup>

NOW THE COMMISSION, for the reasons stated above, is of the opinion and finds that Cavalier's Petition and Renewed Motion should be denied.

Accordingly, IT IS THEREFORE ORDERED THAT:

(1) Cavalier's Petition for Rehearing or Reconsideration of Application and Renewed Motion for Investigation and Reclassification filed on February 19, 2002, is hereby denied.

(2) There being nothing further to come before the Commission in this docket, the Final Order of January 31, 2002, remains as entered, and this case is hereby closed.

<sup>2</sup> *Ex Parte*: To determine prices Bell Atlantic-Virginia, Inc. is authorized to charge Competitive Local Exchange Carriers in accordance with the Telecommunications Act of 1996 and applicable State law. The Final Order in Case No. PUC970005 was issued on April 15, 1999 ("UNE Pricing Order"). "UNE" refers to unbundled network elements.

<sup>3</sup> See UNE Pricing Order, pg. 27.

<sup>4</sup> See the Commission's Rules of Practice and Procedure as adopted on June 1, 2001. 5 VAC 5-20-220. Petition for rehearing or reconsideration.

<sup>5</sup> In addition, the UNE Pricing Order required Verizon Virginia (then Bell Atlantic-Virginia, Inc.) to prospectively use the prices determined in that proceeding in arbitrated agreements. See UNE Pricing Order, pg. 5.

<sup>6</sup> Cavalier did not request such a new pricing proceeding in its Application.

<sup>7</sup> See Verizon Virginia Inc.'s Response and Motion to Dismiss, November 28, 2001, pg. 2. The Commission notes that this FCC review of interconnection rates was initiated as a result of the requests filed here by AT&T Communications of Virginia, Inc., et al. and MCI Metro Access Transmission Services of Virginia, Inc. and MCI WorldCom Communications of Virginia, Inc. to arbitrate interconnection issues with Verizon Virginia in Case Nos. PUC000282 and PUC000225, respectively. In both of these cases, the companies chose to pursue their arbitrations at the FCC instead of with this Commission, which intended to act solely pursuant to state law.

<sup>8</sup> An interconnection agreement between Cavalier and Verizon Virginia was approved on June 21, 1999, in Case No. PUC990048. Cavalier opted into the agreement between MCI Metro Access Transmission Services of Virginia, Inc., and Bell Atlantic-Virginia, Inc., approved on July 16, 1997, in Case No. PUC960113. The Commission notes that it believes the initial term of the Cavalier/Verizon Virginia agreement has expired and that it remains in effect on a month-to-month basis.

**CASE NO. PUC-2001-00217  
JUNE 19, 2002**

PETITION OF  
MARK E. DECOT

Complaint against Williams Communications, Inc.

**ORDER DISMISSING COMPLAINT**

On October 22, 2001, Mark E. Decot ("Petitioner") filed a Petition of complaint ("Complaint") against Williams Communications, Inc. formerly known as Vvix, Inc. ("WCI" and "Defendant"), with the State Corporation Commission ("Commission") requesting that the Commission initiate proceedings in accordance with 5 VAC 5-20-90 of the Commission's Rules of Practice and Procedure ("Rules") and issue a rule to show cause for a formal investigation of WCI. Specifically, the Petitioner alleges that WCI has failed to remedy damages to Petitioner and other landowners as a result of its installation of interstate telephone cables across said property located in Orange County, Virginia.

On May 15, 2002, a Report of the Hearing Examiner was entered recommending that the Commission enter an order dismissing this matter from the docket.

NOW THE COMMISSION, having considered the Petitioner's Complaint and the recommendation of the Hearing Examiner, is of the opinion and finds that the Complaint filed by Mark E. Decot on October 29, 2001, against WCI should be dismissed with prejudice.

Accordingly, IT IS THEREFORE ORDERED THAT the Complaint filed by Mark E. Decot is hereby dismissed with prejudice, and the papers filed herein in this proceeding shall be placed in the file for ended causes.

**CASE NO. PUC010219  
APRIL 4, 2002**

APPLICATION OF  
QX TELECOM LLC

For a certificate of public convenience and necessity to provide interexchange telecommunications services

**FINAL ORDER**

On January 9, 2002, QX Telecom LLC ("QX Telecom" or "Applicant") completed an application for a certificate of public convenience and necessity ("certificate") with the State Corporation Commission ("Commission") to provide interexchange telecommunications services throughout the Commonwealth of Virginia. The Applicant also requested authority to price its interexchange telecommunications services on a competitive basis pursuant to Section 56-481.1 of the Code of Virginia.

By Order dated January 24, 2002, the Commission directed the Applicant to provide notice to the public of its application, which invited interested persons to file comments and request a hearing and directed the Commission Staff to conduct an investigation and file a Staff Report.

The Applicant filed its proof of publication and notice on March 5, 2002, and no comments or requests for hearing were received. On March 21, 2002, the Staff filed a report finding that QX Telecom's application was in compliance with the Commission's Rules Governing the Certification of Interexchange Carriers.<sup>1</sup>

Based upon its review of QX Telecom's application and the Applicant's responses to Staff data requests, the Staff determined it would be appropriate to grant an interexchange certificate to QX Telecom.

NOW THE COMMISSION, having considered QX Telecom's application and the Staff report, is of the opinion and finds that QX Telecom should be granted a certificate to provide interexchange telecommunications services. Having considered Section 56-481.1 of the Code of Virginia, the Commission further finds that QX Telecom may price its interexchange telecommunications services competitively.

Accordingly, IT IS THEREFORE ORDERED THAT:

(1) QX Telecom LLC is hereby granted a certificate of public convenience and necessity, No. TT-173A, to provide interexchange telecommunications services subject to the restrictions set forth in the Commission's Rules Governing the Certification of Interexchange Carriers, Section 56-265.4:4 of the Code of Virginia, and the provisions of this Order.

(2) QX Telecom shall provide tariffs to the Division of Communications that conform with all applicable Commission rules and regulations.

(3) Pursuant to Section 56-481.1 of the Code of Virginia, QX Telecom may price its interexchange telecommunications services competitively.

(4) There being nothing further to come before the Commission, this case shall be dismissed and the papers filed herein placed in the file for ended causes.

<sup>1</sup> 20 VAC 5-411-10 et seq.

**CASE NO. PUC-2001-00220  
OCTOBER 4, 2002**

PETITION OF  
VERIZON SOUTH INC.

For Extended Local Service from Verizon South Inc.'s Jewell Ridge Exchange to its Big Prater, Richlands, and Tazewell Exchanges and to Verizon Virginia Inc.'s Davenport, Honaker, and Lebanon Exchanges

**FINAL ORDER**

On February 22, 2001, telephone customers in Verizon South Inc.'s ("Verizon South") Jewell Ridge Exchange petitioned the State Corporation Commission ("Commission") for extended local service ("ELS") to Verizon South's Big Prater, Richlands, and Tazewell Exchanges and Verizon Virginia Inc.'s ("Verizon Virginia") Davenport, Honaker, and Lebanon Exchanges.<sup>1</sup> On October 24, 2001, the Commission Staff accepted a cost study from Verizon South that was used to estimate the approximate change in monthly rates that would result from the extension of local calling.

On February 1, 2002, pursuant to an Order dated November 30, 2001, Verizon South filed the results of the balloting of customers in the Jewell Ridge Exchange regarding their willingness to pay higher rates for the extended local calling referenced herein. Those results favored approval of the ELS.

Pursuant to the provisions of § 56-484.2 of the Code of Virginia, a poll of the customers in the Big Prater, Davenport, Honaker, and Lebanon Exchanges was not required because the proposed rate increase for one-party residential customers did not exceed five percent of the existing one-party monthly residential flat rate.

By Order dated June 25, 2002, the Commission directed Verizon South and Verizon Virginia to publish notice of the proposed extension of local service to their customers in the Big Prater, Davenport, Honaker, and Lebanon Exchanges and permit such customers to file comments and requests for hearing. Proofs of notice were filed on July 18, 2002, as required by the above-referenced Order. No comments or requests for hearing were filed.

On September 4, 2002, the Staff filed its report in the above-captioned matter. In that report, the Staff recommended that the Commission approve ELS between Verizon South's Jewell Ridge and Big Prater Exchanges as well as between its Jewell Ridge Exchange and Verizon Virginia's Davenport, Honaker, and Lebanon Exchanges.

NOW THE COMMISSION, having considered the matter and applicable law, is of the opinion and finds that the above-captioned petition should be approved as recommended by the Staff.

Accordingly, IT IS ORDERED THAT:

- (1) The proposed extension of local service from Verizon South's Jewell Ridge Exchange to its Big Prater Exchange and from the Jewell Ridge Exchange to Verizon Virginia's Davenport, Honaker, and Lebanon Exchanges shall be implemented.
- (2) Verizon South and Verizon Virginia shall file the tariff revisions necessary for the proposed extensions of local service.
- (3) Since there is nothing further to come before the Commission, this case is dismissed and removed from the Commission's docket of active cases.

<sup>1</sup> Although the Jewell Ridge Exchange Petitioners included Tazewell and Richlands in their petition, Jewell Ridge has existing ELS with the exchanges of Tazewell and Richlands. Those exchanges were not, therefore, included in the cost study, original ballot, or Order Prescribing Notice and will not, therefore, be addressed in this proceeding.

**CASE NO. PUC010222  
MARCH 12, 2002**

APPLICATION OF  
A-TECH TELECOM OF VIRGINIA, INC.

For a certificate of public convenience and necessity to provide local exchange telecommunications services throughout the Commonwealth of Virginia

**DISMISSAL ORDER**

On October 30, 2001, A-Tech Telecom of Virginia, Inc. ("A-Tech" or "Applicant"), filed an application with the State Corporation Commission ("Commission") for a certificate of public convenience and necessity ("certificate") requesting authority to provide local exchange telecommunications services throughout the Commonwealth of Virginia. On November 27, 2001, the Commission issued an Order for Notice and Comment requiring A-Tech to publish notice of A-Tech's application in newspapers having general circulation throughout the Commonwealth of Virginia on or before December 21, 2001.

On December 26, 2001, A-Tech filed a letter with the Commission requesting a sixty-day extension of time to publish the notice required by the Commission's November 27, 2001, Order. On January 4, 2002, the Commission issued an Order Granting A-Tech's Motion For Extension of Time.



On February 28, 2002, A-Tech filed a letter advising the Commission that due to circumstances that the Applicant had not planned, A-Tech was withdrawing its application for a Certificate of Public Convenience and Necessity to provide local exchange telecommunications services throughout the Commonwealth of Virginia.

The Commission finds that the Applicant has failed to comply with the published notice requirements of the Order For Notice and Comment.

Accordingly, IT IS THEREFORE ORDERED THAT:

(1) The application filed herein on October 30, 2001, by A-Tech Telecom of Virginia, Inc., is hereby dismissed without prejudice.

(2) There being nothing further to come before the Commission, this matter is dismissed from the docket, and the record developed herein shall be placed in the file for ended causes.

**CASE NO. PUC-2001-00226  
JULY 18, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION

Ex Parte: Establishment of a Performance Assurance Plan for Verizon Virginia Inc.

**ORDER**

On October 30, 2001, the State Corporation Commission ("Commission") initiated a proceeding docketed in Case No. PUC-2001-00206<sup>1</sup> to establish performance standards for Verizon Virginia Inc. ("Verizon Virginia") and further determined that it would consider all proposals for a remedy or performance assurance plan ("PAP") for Verizon Virginia in a separately docketed case, which was established by Preliminary Order herein on November 9, 2001.

On December 21, 2001, Verizon Virginia filed a revised proposed PAP for consideration, which was based upon the New York Performance Assurance Plan ("NY PAP") scaled to the Virginia market.<sup>2</sup> Further discussions ensued between the Staff and members of the Performance Standards/Remedies Plans Subcommittee of the Collaborative Committee ("Subcommittee").<sup>3</sup> On April 9, 2002, Verizon Virginia filed a new PAP (hereinafter "VA PAP") that represented the consensus product of the Subcommittee.<sup>4</sup> Following comments filed on April 26, 2002, and May 8, 2002, Verizon Virginia indicated on June 28, 2002, that the effective date for the VA PAP of October 1, 2002, would be acceptable.<sup>5</sup>

On July 10, 2002, comments were filed by Verizon Virginia, MCI WorldCom, Inc. ("MCI"), and AT&T Communications of Virginia, LLC ("AT&T"). In those comments, Verizon Virginia supported its proposed effective date of October 1, 2002; MCI requested immediate adoption of the VA PAP, with the VA PAP becoming effective immediately, and in any event no later than October 1, 2002; and AT&T requested that the VA PAP become effective immediately upon adoption.

The proposed VA PAP is the fulfillment of Verizon Virginia's duty as imposed by our Order approving the merger of Verizon Virginia Inc. (f/k/a Bell Atlantic Corporation and operating in Virginia as Bell Atlantic-Virginia, Inc.) and GTE Corporation (formerly operating in Virginia as GTE South Incorporated and now as Verizon South Inc.).<sup>6</sup>

In this regard, we note that it remains for Verizon South Inc. ("Verizon South") to establish performance standards and a remedy plan in compliance with the aforementioned Merger Order. In considering the competitive impact of that merger in Virginia, we noted that the

Commission received evidence in this case regarding whether to impose conditions upon the merger to ensure that GTE South opens its market area to competition and enables others to make efficient use of its operations support systems. We adopt the approach to this issue suggested by the Staff and will establish a collaborative committee, under the supervision of the Director of the Division of Communications, or his designee, to consider and recommend measures to the Commission on these and other issues, including appropriate remedies should the subject telephone companies fail to meet any performance standards ultimately adopted through the collaborative committee process. We will issue a separate order establishing a docket and procedural schedule on this matter expeditiously. We will order BA-VA and GTE South to designate representatives to participate in the collaborative committee.<sup>7</sup>

<sup>1</sup> Ex Parte: Establishment of Carrier Performance Standards for Verizon Virginia Inc., Case No. PUC-2001-00206, Order for Notice and Comment or Requests for Hearing, issued October 30, 2001.

<sup>2</sup> Pursuant to the Third Preliminary Order, consideration was limited to adopting the NY PAP scaled to the Virginia market.

<sup>3</sup> Fourth Preliminary Order issued April 17, 2002, p. 1.

<sup>4</sup> Id.

<sup>5</sup> Fifth Preliminary Order issued June 28, 2002.

<sup>6</sup> Order Approving Petition, issued November 29, 1999, Case No. PUC-1999-00100 ("Merger Order").

<sup>7</sup> Id. at 5.

As we later noted in the Final Order closing Case No. PUC-2000-00026, the Collaborative Committee has begun addressing both performance standards and a remedy plan for Verizon South.<sup>8</sup> We look forward to the Collaborative Committee reaching agreement on specific performance standards and a remedy plan for Verizon South as expeditiously as possible, and we are confident that Verizon South will fully cooperate on the collaborative effort.<sup>9</sup>

NOW THE COMMISSION, upon consideration of the applicable law, the VA PAP, and the filed comments, is of the opinion and finds that the VA PAP satisfies the requirement of Verizon Virginia to establish appropriate remedies for failure to meet performance standards and should be adopted as filed. The proposed effective date of October 1, 2002, for the VA PAP is reasonable and is adopted herein.

Accordingly, IT IS ORDERED THAT:

- (1) The VA PAP is hereby approved and adopted, effective October 1, 2002, consistent with the findings above.
- (2) This case shall be continued.

<sup>8</sup> Final Order, n.2, Case No. PUC-2000-00026, issued April 26, 2002.

<sup>9</sup> We also note that an adoption of a remedy plan does not preclude this Commission from considering other regulatory remedies available under Virginia statutes and regulations as may be deemed necessary.

**CASE NO. PUC-2001-00227  
MAY 2, 2002**

APPLICATION OF  
C3 NETWORKS & COMMUNICATIONS LIMITED PARTNERSHIP

For certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services

**FINAL ORDER**

On January 23, 2002, C3 Networks & Communications Limited Partnership ("C3 Networks" or the "Company"), completed an application for certificates of public convenience and necessity with the State Corporation Commission ("Commission") to provide local exchange and interexchange telecommunications services throughout the Commonwealth of Virginia. The Company also requested authority to price its interexchange telecommunications services on a competitive basis pursuant to § 56-481.1 of the Code of Virginia.

By Order dated February 11, 2002, the Commission directed the Company to provide notice to the public of its application and directed the Commission Staff to conduct an investigation and file a Staff Report. On April 9, 2002, the Company filed proof of publication and proof of service as required by the February 11, 2002, Order.

On April 12, 2002, the Staff filed its Report finding that C3 Networks' application was in compliance with the Rules Governing the Offering of Competitive Local Exchange Telephone Service ("Local Rules") and the Rules Governing the Certification of Interexchange Carriers ("IXC Rules"). Based upon its review of C3 Networks' application, the Staff determined it would be appropriate to grant the Company certificates to provide local exchange and interexchange telecommunications services subject to the following conditions: (1) should C3 Networks collect customer deposits, it shall establish and maintain an escrow account for such funds, held in a Virginia office of a duly chartered state or national bank, savings and loan association or savings bank, or credit union that is unaffiliated with the Company and shall notify the Division of Economics and Finance of the escrow arrangement and any subsequent change. Any escrow arrangement established pursuant to this requirement shall be maintained until such time as the Staff or Commission determines it is no longer necessary; and (2) at such time as voice services are initiated by the Company, C3 Networks shall comply with all requirements of § C (Conditions for certification) of the Local Rules.

NOW THE COMMISSION, having considered the application and the Staff Report, finds that the Company should be granted certificates to provide local exchange and interexchange telecommunications services. Having considered § 56-481.1, the Commission further finds that the Company may price its interexchange telecommunications services competitively.

Accordingly, IT IS ORDERED THAT:

- (1) C3 Networks & Communications Limited Partnership is hereby granted a certificate of public convenience and necessity, No. TT-175A, to provide interexchange telecommunications services subject to the restrictions set forth in the Commission's Rules Governing the Certification of Interexchange Carriers, § 56-265.4:4 of the Code of Virginia, and the provisions of this Order.
- (2) C3 Networks & Communications Limited Partnership is hereby granted a certificate of public convenience and necessity, No. T-582, to provide local exchange telecommunications services subject to the restrictions set forth in the Rules Governing the Offering of Competitive Local Exchange Telephone Service, § 56-265.4:4 of the Code of Virginia, and the provisions of this Order.
- (3) Pursuant to § 56-481.1 of the Code of Virginia, the Company may price its interexchange telecommunications services competitively.
- (4) The Company shall provide tariffs to the Division of Communications that conform to all applicable Commission rules and regulations.
- (5) Should C3 Networks collect customer deposits, it shall establish and maintain an escrow account for such funds, held in a Virginia office of a duly chartered state or national bank, savings and loan association or savings bank, or credit union that is unaffiliated with the Company and shall notify the

Division of Economics and Finance of the escrow arrangement and any subsequent change. Any escrow arrangement established pursuant to this requirement shall be maintained until such time as the Staff or Commission determines it is no longer necessary.

(6) At such time as voice services are initiated by the Company, C3 shall comply with all requirements of § C (Conditions for certification) of the Local Rules.

(7) There being nothing further to come before the Commission, this case shall be dismissed and the papers filed herein placed in the file for ended causes.

**CASE NO. PUC-2001-00232  
APRIL 17, 2002**

APPLICATION OF  
PAETEC COMMUNICATIONS OF VIRGINIA, INC.

For a certificate of public convenience and necessity to provide interexchange telecommunications services

**FINAL ORDER**

On November 27, 2001, PaeTec Communications of Virginia, Inc. ("PaeTec" or "Company") filed an application with the State Corporation Commission ("Commission") for a certificate of public convenience and necessity ("certificate") to provide interexchange telecommunications services throughout the Commonwealth of Virginia.<sup>1</sup> The Company also requested authority to price its interexchange telecommunications services on a competitive basis pursuant to § 56-481.1 of the Code of Virginia.

By Order dated January 15, 2002, the Commission directed the Company to provide notice to the public of its application, directed the Commission Staff to conduct an investigation and file a Staff Report, and provided interested parties an opportunity to request a public hearing to receive evidence relevant to PaeTec's application.

PaeTec filed proof of publication and proof of service on March 11, 2002, as required by the January 15, 2002, Order.

On March 18, 2002, the Staff filed its Report finding that PaeTec's application was in compliance with the Rules Governing the Certification of Interexchange Carriers ("IXC Rules").<sup>2</sup> Based upon its review of PaeTec's application, the Staff determined it would be appropriate to grant the Company a certificate to provide interexchange telecommunications services.

As noted in the Staff Report, the Commission received no written comments or notices of participation by any parties in this proceeding.

NOW THE COMMISSION, having considered the application and the Staff Report, finds that the Company should be granted a certificate to provide interexchange telecommunications services. Having considered § 56-481.1, the Commission further finds that the Company may price its interexchange telecommunications services competitively.

Accordingly, IT IS ORDERED THAT:

(1) PaeTec Communications of Virginia, Inc., is hereby granted a certificate of public convenience and necessity, No. TT-171A, to provide interexchange telecommunications services subject to the restrictions set forth in the Commission's Rules Governing the Certification of Interexchange Carriers, § 56-265.4:4 of the Code of Virginia, and the provisions of this Order.

(2) The Company shall provide tariffs to the Division of Communications that conform to all applicable Commission rules and regulations.

(3) Pursuant to § 56-481.1 of the Code of Virginia, the Company may price its interexchange telecommunications services competitively.

(4) There being nothing further to come before the Commission, this case shall be dismissed and the papers filed herein placed in the file for ended causes.

<sup>1</sup> PaeTec currently holds a certificate to provide local exchange service, Certificate No. T-441, issued April 19, 1999, in Case No. PUC-1998-00162.

<sup>2</sup> 20 VAC 5-411-10 et seq.

**CASE NO. PUC-2001-00237  
OCTOBER 3, 2002**

APPLICATION OF  
VERIZON SOUTH INC.  
and  
NOW COMMUNICATIONS OF VIRGINIA, INC.

For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996

**DISMISSAL ORDER**

On November 9, 2001, Verizon South Inc. ("Verizon South") and NOW Communications of Virginia, Inc. ("NOW"), filed an interconnection agreement ("Agreement"), entered under §§ 251 and 252 of the Telecommunications Act of 1996 (the "Act"), 47 U.S.C. §§ 251 and 252, for State Corporation Commission ("Commission") approval pursuant to § 252(e) of the Act, 47 U.S.C. § 252(e). This Agreement was approved by Order Approving Agreement dated December 21, 2001, in Case No. PUC-2001-00237.

On August 21, 2002, Verizon South filed a joint application for approval of an interconnection agreement between Verizon South and NOW. This agreement was assigned Case No. PUC-2002-00174 and has been approved by separate Order. As verified by letter from counsel for the Applicant dated August 21, 2002, we find that the Agreement approved in Case No. PUC-2001-00237 has been replaced by the Agreement approved in Case No. PUC-2002-00174. Therefore, Case No. PUC-2001-00237 should be dismissed.

Accordingly, IT IS ORDERED THAT the agreement approved in Case No. PUC-2002-00174 shall supersede the agreement approved in Case No. PUC-2001-00237, and the captioned matter is hereby dismissed from the Commission's docket of active cases.

**CASE NO. PUC010243  
MARCH 20, 2002**

APPLICATION OF  
NTERA OF VIRGINIA, INC.

For certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services

**FINAL ORDER**

On November 28, 2001, NTERA OF VIRGINIA, INC. ("NTERA" or "Company"), completed an application for certificates of public convenience and necessity with the State Corporation Commission ("Commission") to provide local exchange and interexchange telecommunications services throughout the Commonwealth of Virginia. The Company also requested authority to price its interexchange telecommunications services on a competitive basis pursuant to § 56-481.1 of the Code of Virginia.

By Order dated December 19, 2001, the Commission directed the Company to provide notice to the public of its application and directed the Commission Staff to conduct an investigation and file a Staff Report. On February 12, 2002, the Company filed proof of publication and proof of service as required by the December 19, 2001, Order.

On February 20, 2002, the Staff filed a Motion for Extension of Time to File Staff Report requesting the date for filing its report be extended to March 7, 2002, and the date for filing the Company's response to the report be extended to March 14, 2002. The Commission issued an Order Granting Motion for Extension of Time to File Staff Report on February 21, 2002.

On March 7, 2002, the Staff filed its Report finding that NTERA's application was in compliance with the Rules Governing the Offering of Competitive Local Exchange Telephone Service ("Local Rules") and the Rules Governing the Certification of Interexchange Carriers ("IXC Rules"). Based upon its review of NTERA's application, the Staff determined it would be appropriate to grant the Company certificates to provide local exchange and interexchange telecommunications services subject to the following conditions: (1) should NTERA collect customer deposits, it shall establish and maintain an escrow account for such funds, held in a Virginia office of a duly chartered state or national bank, savings and loan association or savings bank, or credit union that is unaffiliated with the Company and shall notify the Division of Economics and Finance of the escrow arrangement and any subsequent change. Any escrow arrangement established pursuant to this requirement shall be maintained until such time as the Staff or Commission determines it is no longer necessary; and (2) the Company shall provide audited financial statements for its affiliate, Radiant Telecom, Inc., to the Division of Economics and Finance no later than one (1) year from the effective date of NTERA's initial tariff.

NOW THE COMMISSION, having considered the application and the Staff Report, finds that the Company should be granted certificates to provide local exchange and interexchange telecommunications services. Having considered § 56-481.1, the Commission further finds that the Company may price its interexchange telecommunications services competitively.

Accordingly, IT IS ORDERED THAT:

(1) NTERA OF VIRGINIA, INC., is hereby granted a certificate of public convenience and necessity, No. TT-172A, to provide interexchange telecommunications services subject to the restrictions set forth in the Commission's Rules Governing the Certification of Interexchange Carriers, § 56-265.4:4 of the Code of Virginia, and the provisions of this Order.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

(2) NTERA OF VIRGINIA, INC., is hereby granted a certificate of public convenience and necessity, No. T-580, to provide local exchange telecommunications services subject to the restrictions set forth in the Rules Governing the Offering of Competitive Local Exchange Telephone Service, § 56-265.4:4 of the Code of Virginia, and the provisions of this Order.

3) Pursuant to § 56-481.1 of the Code of Virginia, the Company may price its interexchange telecommunications services competitively.

(4) The Company shall provide tariffs to the Division of Communications that conform to all applicable Commission rules and regulations.

(5) Should NTERA OF VIRGINIA, INC., collect customer deposits, it shall establish and maintain an escrow account for such funds, held in a Virginia office of a duly chartered state or national bank, savings and loan association or savings bank, or credit union that is unaffiliated with the Company and shall notify the Division of Economics and Finance of the escrow arrangement and any subsequent change. Any escrow arrangement established pursuant to this requirement shall be maintained until such time as the Staff or Commission determines it is no longer necessary.

(6) The Company shall provide audited financial statements for its affiliate, Radiant Telecom, Inc., to the Division of Economics and Finance no later than one (1) year from the effective date of NTERA OF VIRGINIA, INC.'s initial tariff in Virginia.

(7) There being nothing further to come before the Commission, this case shall be dismissed and the papers filed herein placed in the file for ended causes.

**CASE NO. PUC010248  
JANUARY 10, 2002**

APPLICATION OF  
FAIRPOINT COMMUNICATIONS CORP.- VIRGINIA

To discontinue retail local and long distance services in Virginia

**ORDER PERMITTING DISCONTINUANCE OF SERVICES**

On December 17, 2001, FairPoint Communications Corp. – Virginia ("FairPoint" or the "Company"), completed an application with the State Corporation Commission ("Commission") requesting Commission approval to discontinue its provision of retail telecommunications services to customers in Virginia. In its application, FairPoint states that it has determined that such action is a necessary business decision for the Company.<sup>1</sup>

According to the application, FairPoint currently provides basic, voice-grade business line services to approximately 588 customers in Virginia. The Company represents that it has developed a detailed customer notification and transfer plan that will ensure a seamless transition with no service interruption to customers' selected carriers.<sup>2</sup> Additionally, FairPoint has arranged with Ntelos, an integrated service provider serving customers in Virginia, to market its services to FairPoint's customer base in Virginia.

NOW THE COMMISSION, being sufficiently advised, will grant the requested discontinuance of services.

Accordingly, IT IS ORDERED THAT:

(1) This matter is docketed and assigned Case No. PUC010248.

(2) FairPoint is hereby granted authority to discontinue its provision of telecommunications services to business customers in Virginia effective April 1, 2002.

(3) The local exchange and interexchange tariffs of FairPoint, on file with the Division of Communications, shall be canceled effective April 30, 2002.

(4) On or before January 25, 2002, FairPoint shall provide an initial customer notice on its discontinuance plans to each customer affected by the proposed discontinuance. The notice shall include a copy of this Order.

(5) FairPoint shall provide a copy of its application upon written request by interested parties to counsel for the Company, Michael M. Kent, Senior Regulatory Counsel, FairPoint Communications Corp. – Virginia, 6324 Fairview Road, 4<sup>th</sup> Floor, Charlotte, North Carolina 28210. The Application is also available for public inspection Monday through Friday, 8:15 a.m. to 5:00 p.m., at the Commission's Document Control Center, Tyler Building, First Floor, 1300 East Main Street, Richmond, Virginia.

(6) On or before March 1, 2002, FairPoint shall provide a second notice describing the Company's plan for discontinuance of service to all affected customers.

<sup>1</sup> FairPoint did not request that its certificates of public convenience and necessity ("CPCN") be canceled. FairPoint holds CPCN No. T-502 to provide local exchange telecommunications services and CPCN No. TT-107A to provide interexchange telecommunications services, issued August 29, 2000, in Case No. PUC000037.

<sup>2</sup> FairPoint intends to provide affected customers with at least 60 days' advance written notice of its discontinuance plans and will subsequently provide affected customers with at least 30 days' advance written notice of same. Thus, all affected customers should receive at least two written notices from FairPoint.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

- (7) On or before February 8, 2002, FairPoint shall file proof of notice as ordered in Ordering Paragraph (4) above.
- (8) On or before March 15, 2002, FairPoint shall file proof of notice as ordered in Ordering Paragraph (6) above.
- (9) On or before March 4, 2002, FairPoint shall report to the Commission's Division of Communications the number of its remaining customers in Virginia.
- (10) Any deposits held by FairPoint for Virginia customers shall be returned to customers, either as a credit on the final bill or by check, including any interest, by June 1, 2002.
- (11) FairPoint shall respond to written interrogatories or data requests within five (5) days after receipt of same. Except as modified, discovery shall be in accordance with Part VI of the Commission's Rules of Practice and Procedure, 5 VAC 5-20-10 et seq.
- (12) FairPoint shall provide the Commission with copies of any petitions and/or information filed with the Federal Communications Commission regarding its discontinuance of telecommunications services.
- (13) This case shall remain open for further orders of the Commission.

**CASE NO. PUC-2001-00248**  
**JULY 18, 2002**

APPLICATION OF  
 FAIRPOINT COMMUNICATIONS CORP. – VIRGINIA

To discontinue retail local and long distance services in Virginia

**FINAL ORDER**

On December 17, 2001, FairPoint Communications Corp. – Virginia ("FairPoint" or the "Company"), filed an application with the State Corporation Commission ("Commission") requesting Commission approval to discontinue its provision of retail telecommunications services to customers in Virginia.<sup>1</sup> In its application, FairPoint stated that it had determined that such action was a necessary business decision for the Company.<sup>2</sup>

By Order dated January 10, 2002, the Commission docketed this matter; granted the Company authority to discontinue its provision of telecommunications services to customers in Virginia effective April 1, 2002; canceled the Company's local exchange and interexchange tariffs, on file, effective April 30, 2002; and directed the Company: 1) to provide an initial and second customer notice on its discontinuance plans, including a copy of the Commission's Order with the initial notice; 2) report to the Commission's Division of Communications the number of its remaining customers in Virginia as of March 4, 2002; 3) return any deposits held by the Company to its customers, either as a credit on their final bill or by check, including interest, by June 1, 2002; and 4) provide the Commission with copies of any petitions and/or information filed with the Federal Communications Commission regarding the Company's discontinuance of telecommunications services.

The Commission finds that the Company has complied with all the requirements of the January 10, 2002, Order and that the case should be closed.

Accordingly, IT IS THEREFORE ORDERED THAT this matter is dismissed, and the papers filed herein shall be placed in the file for ended causes.

<sup>1</sup> FairPoint stated that it provided voice-grade service to approximately 588 business customers in Virginia.

<sup>2</sup> FairPoint did not request that its certificates of public convenience and necessity ("CPCN") be canceled. FairPoint holds CPCN No. T-502 to provide local exchange telecommunications services and CPCN No. TT-107A to provide interexchange telecommunications services, issued August 29, 2000, in Case No. PUC-2000-00037.

**CASE NO. PUC-2001-00254**  
**JULY 16, 2002**

PETITION OF  
 CHARLES CITY EXCHANGE CUSTOMERS

For Extended Local Service from Verizon Virginia Inc.'s Charles City Exchange to its Richmond Exchange

**FINAL ORDER**

In May 2001, telephone customers in Verizon Virginia Inc.'s ("Verizon Virginia") Charles City Exchange petitioned the State Corporation Commission ("Commission") for local calling to its Richmond Exchange. On November 7, 2001, the Commission's Staff ("Staff") received the Charles City Exchange cost study from Verizon Virginia that was used to estimate the approximate change in monthly rates that would result from the extension of local calling.

On January 7, 2002, the Commission issued an Order directing Verizon Virginia to poll its Charles City Exchange customers to determine whether a majority was willing to pay an increase in rates for local calling to Richmond. Verizon Virginia submitted the results of its poll to the Staff on February 1, 2002. The majority of those responding to the poll supported the proposal.

On March 1, 2002, Verizon Virginia submitted the cost study used to determine the monthly rates for extended local calling from the Richmond Exchange to the Charles City Exchange. Because the resulting rate increase for one-party residential customers did not exceed five percent of the existing monthly one-party residential flat rate for the Richmond Exchange, a poll of those customers was not required pursuant to § 56-484.2 of the Code of Virginia.

On April 19, 2002, an Order Prescribing Newspaper Notice to customers in the Richmond Exchange was issued allowing them to file comments or requests for hearing. No comments or requests for hearing were received.

Accordingly, IT IS ORDERED THAT:

- (1) The proposed extension of local service between Verizon Virginia's Charles City Exchange and its Richmond Exchange shall be implemented.
- (2) Verizon Virginia shall file the tariff revisions necessary for the proposed extension of local service.
- (3) There being nothing further to come before the Commission, this docket is closed, and the papers filed herein shall be placed in the file for ended causes.

**CASE NO. PUC010255  
MARCH 27, 2002**

APPLICATION OF  
AT&T COMMUNICATIONS OF VIRGINIA, LLC

For certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services

**FINAL ORDER**

On December 11, 2001, AT&T Communications of Virginia, LLC ("AT&T-VA" or the "Company"), filed an application for certificates of public convenience and necessity with the State Corporation Commission ("Commission") to provide local exchange and interexchange telecommunications services throughout the Commonwealth of Virginia. The Company also requested authority to price its interexchange telecommunications services on a competitive basis pursuant to § 56-481.1 of the Code of Virginia.

By Order dated December 19, 2001, the Commission directed the Company to provide notice to the public of its application and directed the Commission Staff to conduct an investigation and file a Staff Report. On January 30, 2002, the Company filed proof of publication and proof of service as required by the December 19, 2001, Order.

On February 19, 2002, the Staff filed its Report finding that AT&T-VA's application was in compliance with the Rules Governing the Offering of Competitive Local Exchange Telephone Service ("Local Rules") and the Rules Governing the Certification of Interexchange Carriers ("IXC Rules"). Based upon its review of AT&T-VA's application, the Staff determined it would be appropriate to grant the Company certificates to provide local exchange and interexchange telecommunications services subject to the following condition: should AT&T-VA collect customer deposits for its CLEC operations, it shall establish and maintain an escrow account for such funds, held in a Virginia office of a duly chartered state or national bank, savings and loan association or savings bank, or credit union that is unaffiliated with the Company and shall notify the Division of Economics and Finance of the escrow arrangement and any subsequent change. Any escrow arrangement established pursuant to this requirement shall be maintained until such time as the Staff or Commission determines it is no longer necessary; or, should AT&T-VA collect customer deposits for its CLEC operations, it shall post a \$50,000 surety or performance bond with the Commission. AT&T-VA shall notify the Division of Economics and Finance thirty (30) days prior to the cancellation or lapse of its surety or performance bond and provide documentation regarding the replacement of the bond. This requirement shall be maintained until such time as Staff or the Commission determines it is no longer necessary.

On March 1, 2002, the Commission entered an Order granting AT&T-VA's request for an extension of time to file a response to Staff's Report. Pursuant to that Order, the Company filed its Response on March 5, 2002. In its letter response, the Company asked that it be permitted to satisfy any proposed requirements relating to customer deposits with the above-referenced letter of guarantee filed by its president. The Company also requested that the Commission not require an escrow account or a bonding requirement for AT&T-VA or, in the alternative, direct AT&T-VA to post a surety bond only at such time as its annual Virginia intrastate revenues fall below \$75 million.

NOW THE COMMISSION, having considered the application, the Staff Report, and response comments of AT&T-VA, finds that the Company should be granted certificates to provide local exchange and interexchange telecommunications services. Having considered § 56-481.1, the Commission further finds that the Company may price its interexchange telecommunications services competitively. We will accept AT&T-VA's March 5, 2002, letter as assurance that customer deposits will be safeguarded, and we require AT&T-VA to notify the Division of Economics and Finance within 60 days in the event its annual intrastate revenues fall below \$75 million during any consecutive 12-month period. In such an event, AT&T-VA shall post a surety bond for its customer deposits.

Accordingly, IT IS ORDERED THAT:

- (1) AT&T-VA is hereby granted a certificate of public convenience and necessity, No. TT-169A, to provide interexchange telecommunications services subject to the restrictions set forth in the Commission's Rules Governing the Certification of Interexchange Carriers, § 56-265.4:4 of the Code of Virginia, and the provisions of this Order.
- (2) AT&T-VA is hereby granted a certificate of public convenience and necessity, No. T-577, to provide local exchange telecommunications services subject to the restrictions set forth in the Rules Governing the Offering of Competitive Local Exchange Telephone Service, § 56-265.4:4 of the Code of Virginia, and the provisions of this Order.
- (3) Pursuant to § 56-481.1 of the Code of Virginia, the Company may price its interexchange telecommunications services competitively.
- (4) The Company shall provide tariffs to the Division of Communications that conform to all applicable Commission rules and regulations.
- (5) AT&T-VA's March 5, 2002, letter of guarantee shall be accepted as assurance that customer deposits will be safeguarded.
- (6) Should AT&T-VA's annual intrastate revenues fall below \$75 million during any consecutive 12-month period, it shall notify the Division of Economics and Finance within sixty (60) days of such event and post a surety bond for customer deposits. The amount of the surety bond shall be determined by the Staff or the Commission. Any bond posted pursuant to this requirement shall be maintained until such time as the Staff or Commission determines it is no longer necessary.
- (7) There being nothing further to come before the Commission, this case shall be dismissed and the papers filed herein placed in the file for ended causes.

**CASE NO. PUC-2001-00256  
APRIL 29, 2002**

APPLICATION OF  
UNITED SYSTEMS ACCESS TELECOM OF VIRGINIA, INC.

For certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services

**FINAL ORDER**

On January 7, 2002, United Systems Access Telecom of Virginia, Inc. ("USA Telecom" or the "Company"), completed an application for certificates of public convenience and necessity with the State Corporation Commission ("Commission") to provide local exchange and interexchange telecommunications services throughout the Commonwealth of Virginia. The Company also requested authority to price its interexchange telecommunications services on a competitive basis pursuant to § 56-481.1 of the Code of Virginia.

By Order dated February 20, 2002, the Commission directed the Company to provide notice to the public of its application and directed the Commission Staff to conduct an investigation and file a Staff Report.

On April 11, 2002, the Company filed a motion requesting the Commission to accept the untimely publication of notice<sup>1</sup> and proof of publication attached thereto. On April 17, 2002, USA Telecom filed an amendment to that motion with the proof of notice attached.

There were no comments, notices of participation, or requests for hearing filed in this proceeding.

On April 17, 2002, the Staff filed its Report finding that USA Telecom's application was in compliance with the Rules Governing the Offering of Competitive Local Exchange Telephone Service ("Local Rules") and the Rules Governing the Certification of Interexchange Carriers ("IXC Rules"). Based upon its review of USA Telecom's application, the Staff determined it would be appropriate to grant the Company certificates to provide local exchange and interexchange telecommunications services subject to the following conditions: (1) should USA Telecom collect customer deposits, it shall establish and maintain an escrow account for such funds, held in a Virginia office of a duly chartered state or national bank, savings and loan association or savings bank, or credit union that is unaffiliated with the Company and shall notify the Division of Economics and Finance of the escrow arrangement and any subsequent change. Any escrow arrangement established pursuant to this requirement shall be maintained until such time as the Staff or Commission determines it is no longer necessary; and (2) the Company shall provide audited financial statements of its parent, United Systems Access, Inc., to the Division of Economics and Finance no later than one (1) year from the effective date of USA Telecom's initial tariff.

NOW THE COMMISSION, having considered the Company's motion and the amendment thereto, is of the opinion that USA Telecom's requests should be granted. We will, therefore, accept the Company's untimely publication of notice and proofs of publication and service.

After considering the application and the Staff Report, we find that the Company should be granted certificates to provide local exchange and interexchange telecommunications services. Having considered § 56-481.1, the Commission further finds that the Company may price its interexchange telecommunications services competitively.

<sup>1</sup> Pursuant to the Commission's Order dated February 20, 2002, the publication of notice completed on March 20, 2002, was due to be completed by March 15, 2002. Comments and/or requests for hearing were due to be filed on or before March 29, 2002.



## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

Accordingly, IT IS ORDERED THAT:

- (1) The above-referenced motion and amendment thereto is hereby granted.
- (2) The Company's untimely notice of publication and proofs of publication and service are hereby accepted.
- (3) USA Telecom is hereby granted a certificate of public convenience and necessity, No. TT-176A, to provide interexchange telecommunications services subject to the restrictions set forth in the Commission's Rules Governing the Certification of Interexchange Carriers, § 56-265.4:4 of the Code of Virginia, and the provisions of this Order.
- (4) USA Telecom is hereby granted a certificate of public convenience and necessity, No. T-584, to provide local exchange telecommunications services subject to the restrictions set forth in the Rules Governing the Offering of Competitive Local Exchange Telephone Service, § 56-265.4:4 of the Code of Virginia, and the provisions of this Order.
- (5) Pursuant to § 56-481.1 of the Code of Virginia, the Company may price its interexchange telecommunications services competitively.
- (6) The Company shall provide tariffs to the Division of Communications that conform to all applicable Commission rules and regulations.
- (7) Should USA Telecom collect customer deposits, it shall establish and maintain an escrow account for such funds, held in a Virginia office of a duly chartered state or national bank, savings and loan association or savings bank, or credit union that is unaffiliated with the Company and shall notify the Division of Economics and Finance of the escrow arrangement and any subsequent change. Any escrow arrangement established pursuant to this requirement shall be maintained until such time as the Staff or Commission determines it is no longer necessary.
- (8) The Company shall provide audited financial statements for its parent, United Systems Access, Inc., to the Division of Economics and Finance no later than one (1) year from the effective date of USA Telecom's initial tariff in Virginia.
- (9) There being nothing further to come before the Commission, this case shall be dismissed and the papers filed herein placed in the file for ended causes.

**CASE NO. PUC-2001-00257  
JULY 16, 2002**

APPLICATION OF  
VERIZON VIRGINIA INC.

To consolidate its Lee Exchange into its Cumberland Gap Exchange

**FINAL ORDER**

On December 17, 2001, Verizon Virginia Inc. ("Verizon Virginia" or the "Company") filed an application with the State Corporation Commission ("Commission") seeking authority to consolidate its Lee Exchange into its Cumberland Gap Exchange. Telephone customers in the Lee Exchange had previously petitioned the Commission for local calling to Middlesboro, Kentucky, and to the Tennessee exchanges of Cumberland Gap, Fork Ridge, Sharpe's Chapel, and New Tazewell. The Commission Staff advised the Lee Rate Exchange petitioners that neither the Kentucky nor the Tennessee regulatory agencies had a process for handling proposals for extended local calling areas and that two-way extended local service was not a viable plan. The Commission Staff developed with the Company an alternative local calling plan for Lee Rate Exchange customers. The alternative local calling plan resulted in the proposed consolidation of exchanges.

By Order dated April 2, 2002, the Commission directed Verizon Virginia to provide direct mail notice to each customer in the Lee and Cumberland Gap exchanges whose service would be consolidated into its Cumberland Gap Exchange. Affected telephone customers were given until May 22, 2002, to file comments or requests for hearing on the proposal. Three comments in support of the proposed consolidation were received. No other comments or requests for hearing were received. On April 26, 2002, Verizon Virginia filed proof of notice as required by the Commission's April 2, 2002, Order.

On May 29, 2002, the Commission Staff submitted its report recommending approval of the Company's application.

Accordingly, IT IS ORDERED THAT:

- (1) The proposed consolidation of Verizon Virginia's Lee Exchange into its Cumberland Gap Exchange shall be implemented.
- (2) Verizon Virginia shall file tariff revisions necessary for the proposed consolidation of local service.
- (3) There being nothing further to come before the Commission, this docket is closed, and the papers filed herein shall be placed in the file for ended causes.

**CASE NO. PUC010259  
JANUARY 10, 2002**

APPLICATION OF  
LIGHTSOURCE TELECOM II, LLC

For cancellation of certificates of public convenience and necessity

**ORDER**

On March 1, 2001, the State Corporation Commission ("Commission") issued certificates of public convenience and necessity ("certificates") to Dynamic Telcom Engineering II, LLC. On May 7, 2001, the certificates were revised to reflect the new company name, LightSource Telecom II, LLC ("LightSource" or the "Company"). Certificate No. T-542a permitting the provision of local exchange telecommunications services and Certificate No. TT-135B permitting the provision of interexchange telecommunications services were issued in the name of LightSource. By letter application filed December 18, 2001, LightSource requested cancellation of its certificates to provide local exchange and interexchange telecommunications services within the Commonwealth of Virginia.

According to the application, the Company has determined that it will not be entering the market in the Commonwealth of Virginia. The application further states that the Company does not currently provide telecommunications services to any subscribers in Virginia.

NOW THE COMMISSION, being sufficiently advised, will grant the requested cancellations.

Accordingly, IT IS ORDERED THAT:

- (1) This matter is docketed and assigned Case No. PUC010259.
- (2) Certificate Nos. T-542a and TT-135B issued to LightSource Telecom II, LLC, are hereby cancelled.
- (3) This matter is dismissed.

**CASE NO. PUC010264  
JANUARY 29, 2002**

PETITION OF  
CABLE AND WIRELESS OF VIRGINIA, INC.

For Approval of the Discontinuance of its Global Card Postpaid Travel Card Service

**FINAL ORDER**

On December 21, 2001, Cable & Wireless of Virginia, Inc. ("C&W" or "the Company"), filed a petition with the State Corporation Commission ("Commission") for approval of C&W's request to discontinue the provision of its Global Card Postpaid Travel Card service ("GCS"). According to the Company, GCS is an optional, stand-alone, post-paid travel service enabling users to complete outbound intrastate long-distance calls from any touch-tone or rotary telephone in the state via access codes and personal identification numbers.<sup>1</sup> C&W has also asked that the petition be given expedited treatment in order to effect discontinuance of this service on or before February 17, 2002.

In support of its petition, the Company stated that it has reevaluated its business plan and has concluded that it is in the Company's best interests, at this time, to streamline its service offerings. C&W further indicates that it will continue to offer traditional intrastate long distance service; going forward, the Company plans to focus its attention and financial strength on the provision of enhanced IP and data services to business customers.

C&W also states that on December 17, 2001, the Company notified GCS customers that it had sold its Global Card operations to ILD Telecommunications, Inc. ("ILD").<sup>2</sup> The notification further advised that: (i) upon regulatory approval, GCS service provided by C&W would be discontinued effective February 17, 2002; (ii) GCS customers have the option of obtaining travel card services from ILD or another travel card service provider prior to February 17, 2002; (iii) C&W will continue to bill for use of GCS through March 31, 2002; and (iv) ILD will mirror the rates, terms, and conditions of C&W. Thereafter, ILD will directly bill for the travel card service.

The Company also states in its petition that its December 17, 2001, notice provided GCS customers with C&W and ILD toll-free customer assistance numbers for purposes of addressing any questions or concerns that may arise during the withdrawal transition period. The petition also states that a second notice will be provided to GCS customers approximately two weeks before the planned discontinuance as a final reminder to customers.

C&W thus submits that the public convenience and necessity will not be adversely affected by the discontinuance of GCS service. In addition to the ILD migration plan outlined in its filing, the Company also notes that numerous other long-distance providers offer services that are comparable to GCS service under competitive rates, terms, and conditions.

<sup>1</sup> The Company's petition indicates that the number of GCS customers in Virginia totals 1,411.

<sup>2</sup> ILD is the parent of Intellicall Operator Services, Inc. d/b/a ILD ("IOS"). IOS is a reseller of interexchange services and holds a certificate to transact business in Virginia.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

NOW THE COMMISSION, having considered the petition and finding sufficient C&W's December 17, 2001, notification to the Company's GCS customers of its intentions to discontinue such service, is of the opinion that the Company's petition for approval to discontinue its Global Card Postpaid Travel Card service should be approved.

Accordingly, IT IS THEREFORE ORDERED THAT:

- (1) The Company's petition for approval to discontinue its Global Card Postpaid Travel Card service pursuant to the terms and conditions of its petition is hereby approved.
- (2) C&W shall provide revised tariffs to the Division of Communications for review and acceptance prior to February 1, 2002.
- (3) There being nothing further to come before the Commission, the matter is dismissed.

**CASE NO. PUC010265  
MARCH 15, 2002**

APPLICATION OF  
CARONET, INC.  
and  
CENTRAL TELEPHONE COMPANY OF VIRGINIA  
and  
UNITED TELEPHONE - SOUTHEAST, INC. (SPRINT)

For approval of a Master Collocation agreement under Section 252(e) of the Telecommunications Act of 1996

**DISMISSAL ORDER**

On December 26, 2001, Caronet, Inc. ("Caronet" or "Company"), filed an interconnection agreement ("Agreement") between the Company and Central Telephone Company of Virginia and United Telephone - Southeast, Inc. d/b/a Sprint ("Sprint") entered under Sections 251 and 252 of the Telecommunications Act of 1996 ("the Act"), 47 U.S.C. Sections 251 and 252, for State Corporation Commission ("Commission") approval pursuant to Section 252(e) of the Act, 47 U.S.C. Section 252(e).

On March 4, 2002, Caronet filed a letter advising the Commission that due to Sprint's subsequent filing of Document Control Number 020220163 with the Commission, Caronet was withdrawing its application for approval of its interconnection agreement.

The Commission also finds that Applicants failed to comply with the notice requirements of 20 VAC 5-419-20 (1).

NOW THE COMMISSION, having considered the matter, is of the opinion and finds that this matter is dismissed without prejudice to Applicant.

Accordingly, IT IS THEREFORE ORDERED THAT:

- (1) The application filed herein by Caronet, Inc. is hereby dismissed without prejudice.
- (2) There being nothing further to come before the Commission, this matter is dismissed from the docket, and the record developed herein shall be placed in the file for ended causes.

**CASE NO. PUC020001  
MARCH 20, 2002**

PETITION OF  
GLOBAL NAPS SOUTH, INC.

For Arbitration Pursuant to § 252(b) of the Telecommunications Act of 1996 to Establish an Interconnection Agreement with Verizon Virginia Inc.

**ORDER OF DISMISSAL**

By Preliminary Order of February 20, 2002, the State Corporation Commission ("Commission") docketed this petition of Global NAPS South, Inc. ("GNAPS"), for arbitration of unresolved issues in its interconnection negotiations with Verizon Virginia Inc. ("Verizon Virginia") pursuant to § 252(b) of the Telecommunications Act of 1996.<sup>1</sup> In the Preliminary Order, the Commission made certain findings on its jurisdiction to arbitrate pursuant to our "Rules governing the offering of competitive local exchange service," 20 VAC 5-400-180 F 6. We ordered GNAPS and Verizon Virginia to advise the Commission by March 7, 2002, whether they wished to pursue arbitration under 20 VAC 5-400-180 F 6.

<sup>1</sup> Telecommunications Act of 1996, Pub.L.No. 104-104, 110 Stat. 56, *codified* as 47 U.S.C. § 151 *et seq.*

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

By letters timely filed with the Commission both Verizon Virginia and GNAPS have advised that they declined to pursue arbitration under our rules and will proceed before the Federal Communications Commission ("FCC"). GNAPS has requested dismissal of the Petition. Therefore, the Commission finds that the Petition of GNAPS should be dismissed so that the parties may proceed before the FCC. It shall be the responsibility of the parties to serve copies of all pleadings filed herein on the FCC.

Accordingly, IT IS ORDERED THAT:

- (1) This case is hereby dismissed without prejudice, consistent with the findings above. This Commission will not arbitrate the interconnection issues under federal law for the reasons set forth in its Preliminary Order of February 20, 2002, which is incorporated by reference herein.
- (2) There being nothing further to come before the Commission, this case is dismissed.

**CASE NO. PUC020002  
JANUARY 22, 2002**

CAVALIER TELEPHONE, LLC,  
Petitioner  
v.  
VERIZON VIRGINIA INC.  
Defendant

**ORDER ALLOWING VERIZON VIRGINIA INC.  
FLEXGROW SERVICE TARIFF TO GO  
INTO EFFECT ON INTERIM BASIS**

On December 20, 2001, Verizon Virginia Inc. ("Verizon Virginia") filed with the Division of Communications of the State Corporation Commission ("Commission") a tariff introducing FlexGrow Service, to become effective on January 21, 2002. The FlexGrow Service tariff is attached hereto as Attachment A.

On January 7, 2002, Cavalier Telephone, LLC ("Cavalier") filed its Petition requesting the Commission to suspend and investigate the FlexGrow Service tariff and to enjoin Verizon Virginia from illegal and discriminatory conduct alleged in Exhibit "A" of its Petition.

The Commission is of the opinion that Cavalier's Petition should be docketed and that Verizon Virginia's FlexGrow Service tariff should be allowed to go into effect on an interim basis, pending the filing of responsive pleadings by the parties. Verizon Virginia is required to file an answer to Cavalier's Petition within twenty-one days of service, which we calculate to be on January 28, 2002. Cavalier is granted leave to file a reply on or before February 11, 2002. Thereafter, the Commission will rule on the remainder of Cavalier's Petition.

Accordingly, IT IS ORDERED THAT:

- (1) This case is docketed and assigned Case No. PUC020002.
- (2) On or before January 28, 2002, Verizon Virginia shall file an answer to Cavalier's Petition.
- (3) Cavalier is hereby granted leave to file a reply on or before February 11, 2002.
- (4) Verizon Virginia's FlexGrow tariff, attached hereto as Attachment A, is hereby allowed to go into effect on an interim basis.
- (5) This case is now continued.

NOTE: A copy of Attachment A is on file and may be examined at the State Corporation Commission, Clerk's Office, Document Control Center, Tyler Building, First Floor, 1300 East Main Street, Richmond, Virginia.

**CASE NO. PUC-2002-00002  
APRIL 19, 2002**

CAVALIER TELEPHONE, LLC,  
Petitioner  
v.  
VERIZON VIRGINIA INC.  
Defendant

**DISMISSAL ORDER**

On January 7, 2002, Cavalier Telephone, LLC ("Cavalier"), filed its Petition requesting that the State Corporation Commission ("Commission") suspend and investigate Verizon Virginia Inc.'s ("Verizon Virginia") FlexGrow Service tariff and enjoin Verizon Virginia from conduct described in Exhibit "A" of its Petition and alleged to be illegal and discriminatory.

The Commission issued an Order on January 22, 2002, which allowed the FlexGrow Service tariff filed by Verizon Virginia on December 20, 2001, to go into effect on an interim basis and called for responsive pleadings to be filed by the parties.<sup>1</sup> Pursuant to the Commission's Order of January 22, 2002, Verizon Virginia filed a Motion to Dismiss on January 28, 2002. On February 1, 2002, Cavalier filed a Reply and Motion to Expand Scope of Proceeding to Encompass Investigation Previously Commenced Under Docket Nos. PUC-2001-00166 and PUC-2001-00176 ("Motion To Expand").

On February 25, 2002, Verizon Virginia filed a Response to Cavalier's Motion to Expand ("Verizon Virginia's Response") and on March 7, 2002, Cavalier filed a Reply In Support of Motion to Expand Scope of Proceeding ("Cavalier's Reply").

On March 29, 2002, Verizon Virginia filed a Motion For Protective Order to shield it from having to respond to Cavalier's First Set of discovery requests. For the reasons stated below, both Cavalier's Motion to Expand and Verizon Virginia's Motion For Protective Order are made moot by this Dismissal Order and need not be addressed separately.<sup>2</sup>

NOW THE COMMISSION, having considered the pleadings of record and applicable law, finds that Verizon Virginia's Motion to Dismiss should be granted. However, in granting this Motion to Dismiss, the Commission does not agree, as Verizon Virginia contends, that we have no authority to investigate its new service offerings pursuant to § 56-238 of the Code of Virginia. Verizon Virginia claims that the introduction of new services is governed only by Section D of its Plan for Alternative Regulation ("Plan").<sup>3</sup> The Plan governing the regulation of Verizon Virginia was adopted pursuant to § 56-235.5 of the Code of Virginia. Section 56-235.5 B specifically states merely that any alternative regulatory plan adopted pursuant to this Section "may replace the ratemaking methodology set forth in § 56-235.2." Moreover, § 56-235.5 nowhere suggests that the Commission cannot apply the requirements of § 56-238 to any proposed tariff offerings (whether for new or existing services) of Verizon Virginia. The Commission simply finds that Cavalier has not demonstrated sufficient need for the Commission to either suspend or initiate an investigation of Verizon Virginia's FlexGrow Service tariff pursuant to § 56-238.

Furthermore, as evidenced in its Motion to Expand, it appears that Cavalier is primarily concerned with the alleged discriminatory practice of Verizon Virginia's provisioning of DS1 circuits ordered as an unbundled network element ("UNE") and is less truly concerned with any specific provisions of the FlexGrow Service tariff. In its Motion to Expand, Cavalier requests that the Commission resume its investigation of Verizon Virginia's DS1 and DS3 provisioning practices begun in Case Nos. PUC-2001-00166 and PUC-2001-00176. While these cases have been closed and may not be procedurally re-instituted in the guise of this proceeding, Cavalier may file a complaint or other appropriate action in a separate proceeding against Verizon Virginia addressing its alleged discriminatory provisioning practices in providing DS1 and DS3 UNEs for the Commission's consideration if it wants us to undertake a new investigation.

Accordingly, IT IS ORDERED THAT:

- (1) This case is hereby dismissed without prejudice.
- (2) Verizon Virginia's FlexGrow tariff shall remain in effect.

<sup>1</sup> Order Allowing Verizon Virginia Inc. FlexGrow Service Tariff to Go Into Effect On Interim Basis ("Order of January 22, 2002").

<sup>2</sup> If Cavalier files a complaint as discussed later in this Order, any subsequent discovery issues can be raised in that case.

<sup>3</sup> Most recently approved/modified in Case No. PUC-2001-00032. Verizon Virginia contends that because it has proposed to classify FlexGrow as discretionary, the only challenge can be to the proper classification of service (p. 3 of Verizon Virginia's Motion to Dismiss).

**CASE NO. PUC-2002-00003  
JUNE 21, 2002**

JOINT APPLICATION OF  
CAVALIER TELEPHONE, LLC  
and  
NET2000 COMMUNICATIONS OF VIRGINIA, LLC

For approval for Net2000 Communications of Virginia, LLC, to discontinue local exchange and interexchange telecommunications services, and for authority for Cavalier Telephone, LLC, to provide telecommunications services under the tariffs filed by Net2000 Communications of Virginia, LLC, on an interim basis

**ORDER GRANTING JOINT APPLICATION**

On January 9, 2002, Cavalier Telephone, LLC ("Cavalier"), and Net2000 Communications of Virginia, LLC ("Net2000-VA"), (collectively, "Joint Applicants") filed with the State Corporation Commission ("Commission") their Joint Application for authority of Net2000-VA to discontinue provision of local exchange and interexchange telecommunications services in the Commonwealth of Virginia and for interim authority for Cavalier to provide local exchange and interexchange telecommunications services to the customers of Net2000-VA under the tariffs of Net2000-VA until Cavalier's tariff revisions are approved by the Commission ("Joint Application").<sup>1</sup>

<sup>1</sup> Certificate No. T-405 was granted originally to Ntel Communications, L.L.C., on March 9, 1998, in Case No. PUC-1997-00179. On May 5, 1999, Ntel Communications changed its name to Net2000-VA, and Certificate No. T-405a was re-issued to Net2000-VA in Case No. PUC-1999-00007. Certificate No. T-405a authorizes the provision of local exchange telecommunications services. Net2000-VA was issued Certificate No. TT-92A on May 5, 2000, in Case No. PUC-2000-00010. Certificate No. TT-92A authorizes the provision of interexchange telecommunications services.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

In addition, on January 11, 2002, Net2000 Communications Services, Inc. ("Net2000") separately filed an emergency petition for authority to discontinue the provision of telecommunications services in the Commonwealth of Virginia ("Net2000 Petition"). The Net2000 Petition requests authority to discontinue telecommunications services as of January 22, 2002. Both the Joint Application and the Net2000 Petition will be considered in this docket.

On January 17, 2002, Verizon Virginia Inc. ("Verizon Virginia") filed its Motion for Leave to Intervene and Request for Investigation, and Verizon Virginia filed on January 22, 2002, a Motion for Leave to Update the Request for Investigation. Finally, on January 31, 2002, Net2000 filed its Answer and Motion to Deny.

Pursuant to 20 VAC 5-400-180 D 7, Net2000-VA cannot "abandon or discontinue local exchange service except with the approval of the Commission, and upon such terms and conditions as the Commission may prescribe."<sup>2</sup> The Commission's primary concern with authorizing withdrawal of local exchange and interexchange telecommunications services is that adequate notice be given. The Joint Application included a description of their customer notification efforts.<sup>3</sup>

The Commission is of the opinion that the Joint Application and Net2000 Petition should now be granted.<sup>4</sup> Accordingly, Net2000-VA is granted approval, pursuant to 20 VAC 5-400-180 D 7, to discontinue its provision of local exchange and interexchange telecommunications services. The Commission further finds that Cavalier should be authorized to provide local exchange and interexchange telecommunications services to Net2000-VA customers under the existing Net2000-VA tariffs on an interim basis until Cavalier's tariff revisions become effective.

Accordingly, IT IS ORDERED THAT:

- (1) The Joint Application and Net2000 Petition are hereby granted, consistent with the findings above.
- (2) Net2000-VA is hereby authorized to withdraw from the provision of local exchange and interexchange telecommunications services effective as of January 22, 2002.
- (3) Cavalier is hereby authorized to provide local exchange and interexchange telecommunications services to the former Net2000-VA customers under the existing Net2000-VA tariffs on an interim basis.
- (4) Cavalier shall file its revised tariffs for local exchange and interexchange telecommunications services to the customers of Net2000-VA with the Division of Communications at least thirty (30) days prior to the proposed effective date.
- (5) Upon the effective date of Cavalier's revised tariffs for local exchange and interexchange telecommunications services to the customers of Net2000-VA, the tariffs of Net2000-VA shall be cancelled.
- (6) There being nothing further to come before the Commission, this case is closed.

<sup>2</sup> In an Order in Case No. PUC-2001-00128, dated March 5, 2002, the Commission adopted Rules Governing the Discontinuance of Local Exchange Telecommunications Services Provided by Competitive Local Exchange Carriers 20 VAC 5-423-10 *et seq.*

<sup>3</sup> A copy of the customer notice, mailed November 29, 2001, is attached to the Joint Application.

<sup>4</sup> The Commission notes that the delay in granting this request was to ensure that the Net2000-VA customers were not disconnected as a result of issues being considered in Case No. PUC-2002-00023 or any actions being considered by the Bankruptcy Court.

**CASE NO. PUC-2002-00005  
JULY 11, 2002**

APPLICATION OF  
COX VIRGINIA TELCOM, INC.

For waivers of the Three-Call Allowance Requirement, price ceilings for directory assistance, directory listings and certain operator services, and request for expedited review

**FINAL ORDER**

On January 15, 2002, Cox Virginia Telcom, Inc. ("Cox"), filed its Application with the State Corporation Commission ("Commission") requesting a waiver of the Three-Call Allowance requirement<sup>1</sup> and waivers of the price ceilings<sup>2</sup> applicable to Directory Assistance, Third-Number Billed,

<sup>1</sup> The Three-Call Allowance requires that local exchange carriers provide customers with three free calls to local directory assistance per month. *See* Final Order, *Application of the Virginia Telephone Association* ("VTA"), Case No. PUC-1989-00025 (June 7, 1990), 1990 S.C.C. Ann. Rept. 241 ("Three-Call Allowance Order").

<sup>2</sup> The Commission's Rules Governing the Offering of Competitive Local Exchange Telephone Service ("Local Rules") 20 VAC 5-400-180 at D 3 c provides in part:

Price ceilings shall be the highest tariffed rates as of January 1, 1996, for comparable services of any incumbent local exchange telephone company or companies serving within the certificated local service area of the new entrant.

Operator-Handled Calling Card, Collect Person-to-Person, Busy Line Verification and Interrupt Services, and Directory Listings, including Non-published, Non-listed, Additional Listings, and Specialized Listings ("Selected Operator Services").

Cox gave customer notice of its Application pursuant to the Commission's Order Prescribing Notice and Inviting Comments and Requests for Hearing issued February 27, 2002, and the Order Granting Motion for Extension of Deadlines issued March 11, 2002.<sup>3</sup>

Twenty-four letters of comment were received into the record from customers of Cox, and all were in opposition to the Application. Of particular concern to these customers was the proposed elimination of the Three-Call Allowance. Many also expressed concern over granting Cox an unrestrained ability to raise rates, which waiver of the price ceilings would allow. These customers stated generally that granting Cox its request for waiver of price ceilings would leave them without safeguards against uncontrolled increases in these rates.<sup>4</sup>

On May 7, 2002, Verizon Virginia Inc. and Verizon South Inc. (collectively "Verizon") and Central Telephone Company of Virginia, Inc., United Telephone-Southeast, Inc., and Sprint Communications Company of Virginia, Inc. (collectively "Sprint"), filed their respective comments.

Both Verizon and Sprint support granting Cox a waiver of the Three-Call Allowance and price ceiling for Directory Assistance. Indeed, both Verizon and Sprint urge the Commission to waive the Three-Call Allowance generally and to find Directory Assistance to be a competitive service for all local exchange carriers. However, the issue of competitive classification of these services cannot and will not be considered in this case, nor will we expand Cox's application for waiver of the Three-Call Allowance to apply to other carriers.

The Commission considers each requested waiver of the Local Rules on a case-by-case basis, giving due regard to the requesting carrier's circumstances and the public interest considerations involved in each application.

The Three-Call Allowance Order of June 7, 1990, in Case No. PUC-1989-00025 recognizes the need for local telephone customers to have access to telephone numbers.

An essential part of furnishing telephone service is the furnishing of numbers necessary to reach others. Most numbers are available in white page directories compiled, printed, and distributed without charge. Many numbers, including new listings, non-published numbers, and non-listed numbers, do not appear in those directories. For customers trying to reach such numbers, DA [Directory Assistance] should be considered a supplement to the printed directory. A person requesting such a number should not be considered a 'cost causer'. The cause of such cost is due in large part to the exclusion of some numbers from the printed directory. The requesting party is not imposing a cost upon the system to any greater extent than the called party whose number was not printed. The cost is not assignable to one or the other, and such unassignable costs should be borne by all customers, as white page costs are borne today. The fact remains that customers cannot use telephone service unless they have the number of the party they want to reach. These numbers should, within reason, be easily accessible to all customers.

*Id.*, 1990 S.C.C. Ann. Rept. 241.

Cox, Verizon, and Sprint request us to consider the alternative sources for these telephone numbers that have become available since 1990. While there are alternative sources for Directory Assistance for some customers, the Commission continues to regard the provision of the Three-Call Allowance as an essential part of local exchange telecommunications services and a supplement to the directory. Therefore, we find that the public interest would be harmed if customers of Cox are denied the Three-Call Allowance.<sup>5</sup>

In support of its request for price ceiling waivers in its Application, Cox notes that the Commission granted SBC Telecom, Inc. ("SBC"), limited waivers of price ceilings for Directory Assistance and certain Operator Services by Final Order issued January 16, 2001, in Case No. PUC-2000-00254.<sup>6</sup> However, since that date a number of competitive local exchange carriers ("CLECs") have left the market. "Cox is cognizant that the current CLEC marketplace does not have as many participants as it did even a year ago."<sup>7</sup> However, Cox claims that the market will not thrive if the CLECs "are shackled by rules that were set during a time when there was only one provider of local exchange service".<sup>8</sup>

Cox further argues that it needs pricing flexibility so that it can design service package offerings to meet the needs of its customers and prospective customers in Virginia. It points to the need for pricing flexibility on its Directory Assistance service that can be used to permit both local and national calls at the same price. With respect to Directory Listings, Cox states that it purchases these services from the incumbent local exchange carrier and

Price ceilings may be waived pursuant to 20 VAC 5-400-180 D 3 d, which provides that "the commission may permit pricing structures or rates of a new entrant's local exchange service(s) that do not conform with the established price ceilings, unless there is a showing that the public interest will be harmed."

<sup>3</sup> Cox filed proof of notice on April 24, 2002, and again on April 29, 2002. The notice by bill insert was given for the billing cycles beginning March 16 and ending April 15, 2002.

<sup>4</sup> Several of these customers indicated a view that having competitive alternatives would not be a sufficient restraint on price increases. One customer cited the costs of changing local exchange carriers ("\$40 or more for residences and exceedingly more for businesses") as inhibiting customer choice.

<sup>5</sup> There has been no showing by Cox that alternative sources of directory assistance information is as convenient or accessible as the carrier's provision of that service.

<sup>6</sup> SBC is not a party to this proceeding, and the Final Order issued January 16, 2001, in Case No. PUC-2000-00254 will not be disturbed.

<sup>7</sup> Application, p. 2.

<sup>8</sup> Application, p. 2.

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incurs further administrative costs, which Cox seeks to recover through waiver of the price ceiling. In addition, Cox claims that the other Operator Services are used infrequently and that it wants to set those prices at a level that more accurately reflects cost.

The Commission recognizes the customers' concern that waiving the price ceilings on the Selected Operator Services could lead to unrestrained price increases for those services and, therefore, may cause harm to the public interest. After consideration of all of the above, we find that Cox's request would harm the public interest.

NOW THE COMMISSION, having considered the Application, is of the opinion that it should be denied.

Accordingly, IT IS ORDERED THAT:

- (1) The Application filed by Cox is hereby denied.
- (2) There being nothing further to come before the Commission, this case shall be dismissed and the papers herein placed in the file for ended causes.

**CASE NO. PUC-2002-00005  
AUGUST 1, 2002**

APPLICATION OF  
COX VIRGINIA TELCOM, INC.

For waivers of the Three-Call Allowance Requirement, price ceilings for directory assistance, directory listings and certain operator services, and request for expedited review

**ORDER DENYING PETITION FOR RECONSIDERATION**

On July 11, 2002, the State Corporation Commission ("Commission") issued a Final Order denying the above-captioned application of Cox Virginia Telcom, Inc. ("Cox"). On July 30, 2002, Cox filed a Petition for Reconsideration.

NOW THE COMMISSION, having considered the Petition for Reconsideration, is of the opinion that it should be denied.

Accordingly, IT IS ORDERED THAT:

- (1) Cox's Petition for Reconsideration is hereby denied.
- (2) There being nothing further to come before the Commission, this case shall be dismissed and the papers herein placed in the file for ended causes.

**CASE NO. PUC020007  
FEBRUARY 15, 2002**

APPLICATION OF  
MEDIAONE TELECOMMUNICATIONS OF VIRGINIA, INC.

To cancel existing certificates and issue certificates reflecting new name

**FINAL ORDER**

By letter application completed February 13, 2002, MediaOne Telecommunications of Virginia, Inc. ("MediaOne Telecom of VA" or "Company"), informed the State Corporation Commission ("Commission") that it had changed its corporate name to AT&T Broadband Phone of Virginia, Inc. The application requested that the Company's certificates of public convenience and necessity be modified to reflect the new corporate name.

MediaOne Telecom of VA holds certificates of public convenience and necessity, TT-30B and T-371a, issued July 31, 1997, which authorize MediaOne Telecom of VA to provide interexchange telecommunications services and local exchange telecommunications services in the Commonwealth of Virginia, respectively. The Commission is of the opinion that revised certificates of public convenience and necessity should be granted.

According, IT IS ORDERED THAT:

- (1) This matter should be docketed and assigned Case No. PUC020007.
- (2) Certificates of public convenience and necessity, T-371a for local exchange telecommunications services, and TT-30B for interexchange telecommunications services, are canceled and shall be reissued as amended Certificate Nos. TT-30C and T-371b in the name of AT&T Broadband Phone of Virginia, Inc.



(3) AT&T Broadband Phone of Virginia, Inc., shall file tariffs with the Commission's Division of Communications reflecting its correct corporate name no later than sixty (60) days after the date of this Order.

(4) There being nothing further to come before the Commission, this matter is dismissed.

**CASE NO. PUC-2002-00008  
MAY 2, 2002**

APPLICATION OF  
ACCESS POINT OF VIRGINIA, INC.

For a certificate of public convenience and necessity to provide local exchange telecommunications services

**FINAL ORDER**

On January 24, 2002, Access Point of Virginia, Inc. ("Access Point" or the "Company"), filed an application for a certificate of public convenience and necessity with the State Corporation Commission ("Commission") to provide local exchange telecommunications services throughout the Commonwealth of Virginia.

By Order dated February 11, 2002, the Commission directed the Company to provide notice to the public of its application and directed the Commission Staff to conduct an investigation and file a Staff Report. On March 8, 2002, the Company filed proof of publication and proof of service as required by the February 11, 2002, Order.

On April 16, 2002, the Staff filed its Report finding that Access Point's application was in compliance with the Rules Governing the Offering of Competitive Local Exchange Telephone Service ("Local Rules"). Based upon its review of Access Point's application, the Staff determined it would be appropriate to grant the Company a certificate to provide local exchange telecommunications services subject to the following conditions: (1) should Access Point collect customer deposits, it shall establish and maintain an escrow account for such funds, held in a Virginia office of a duly chartered state or national bank, savings and loan association or savings bank, or credit union that is unaffiliated with the Company and shall notify the Division of Economics and Finance of the escrow arrangement and any subsequent change. Any escrow arrangement established pursuant to this requirement shall be maintained until such time as the Staff or Commission determines it is no longer necessary; and (2) the Company shall provide audited financial statements of its parent, Access Point, Inc., to the Division of Economics and Finance no later than one (1) year from the effective date of Access Point's initial tariff.

NOW THE COMMISSION, having considered the application and the Staff Report, finds that the Company should be granted a certificate to provide local exchange telecommunications services.

Accordingly, IT IS ORDERED THAT:

(1) Access Point of Virginia, Inc., is hereby granted a certificate of public convenience and necessity, No. T-583, to provide local exchange telecommunications services subject to the restrictions set forth in the Rules Governing the Offering of Competitive Local Exchange Telephone Service, § 56-265.4:4 of the Code of Virginia, and the provisions of this Order.

(2) The Company shall provide tariffs to the Division of Communications that conform to all applicable Commission rules and regulations.

(3) Should Access Point collect customer deposits, it shall establish and maintain an escrow account for such funds, held in a Virginia office of a duly chartered state or national bank, savings and loan association or savings bank, or credit union that is unaffiliated with the Company and shall notify the Division of Economics and Finance of the escrow arrangement and any subsequent change. Any escrow arrangement established pursuant to this requirement shall be maintained until such time as the Staff or Commission determines it is no longer necessary.

(4) The Company shall provide audited financial statements for its parent, Access Point, Inc., to the Division of Economics and Finance no later than one (1) year from the effective date of Access Point's initial tariff in Virginia.

(5) There being nothing further to come before the Commission, this case shall be dismissed and the papers filed herein placed in the file for ended causes.

**CASE NO. PUC020009  
APRIL 2, 2002**

APPLICATION OF  
CITY OF BRISTOL, d/b/a BRISTOL VIRGINIA UTILITIES BOARD

For a Certificate of Public Convenience and Necessity to Provide Resold and Facilities-Based Local Exchange Telecommunications Services and Resold Interexchange Services Within the Commonwealth of Virginia

**ORDER**

The City of Bristol, Virginia ("Bristol" or "Applicant"), applied in this docket for a certificate of public convenience and necessity to provide certain telecommunications services within the Commonwealth of Virginia (hereafter "Application"). By motion dated February 20, 2002, the Staff of the Virginia State Corporation Commission (hereafter "Staff" and "Commission," respectively), moved pursuant to Rule 110 of the Commission's Rules of

Practice and Procedure (5 VAC 5-20-110) to dismiss Bristol's Application on the grounds that the Commission lacks jurisdiction over Bristol with respect to such certification.

By way of background, on January 25, 2002, the Applicant filed with the Clerk of this Commission, an Application for a certificate of public convenience and necessity to provide facilities-based and resold local exchange telecommunications services and resold interexchange telecommunications services within the Commonwealth. The Application was filed under the provisions of the Utilities Facilities Act ("Facilities Act"), Chapter 10.1 (§ 56-265.1, *et seq.*) of Title 56 of the Code of Virginia.<sup>1</sup> It is under the Facilities Act that this Commission issues the certificates Bristol seeks herein.

The Staff's motion is predicated on the specific exclusion of municipal corporations from the Commission's jurisdiction under the Facilities Act (specifically, § 56-265.1(a)). Consequently, the Staff emphasizes, without such jurisdiction it would be inappropriate for this Commission to proceed further with this Application.<sup>2</sup> The Staff also noted in its motion that legislation then pending before the 2002 Session of the Virginia General Assembly may authorize the Commission to review such certificate applications by municipal corporations, thereby making applications like the one before us appropriate, if not required, in the future.<sup>3</sup>

During the pendency of the Staff's motion (and while the Staff's February 7, 2002, memorandum was outstanding), however, Bristol, by its counsel, filed with the Clerk of the Commission a letter dated March 22, 2002, seeking leave to withdraw its Application. Bristol's counsel also notes in this letter that "[B]ristol is aware that legislation is awaiting the Governor's review, and will, if required by the legislation, file an application to provide the above-mentioned services in the future."

NOW THE COMMISSION, for good cause shown by the Applicant, is of the opinion and finds that Bristol's request to withdraw its Application should be granted. Consequently, there being no cause to address the Staff's motion on the merits, we will dismiss Bristol's Application, without prejudice.

Accordingly, IT IS ORDERED THAT:

- (1) Upon its request therefore, Bristol's Application is dismissed, without prejudice.
- (2) The papers herein are passed to the file for ended causes.

<sup>1</sup> Procedurally, we also note that by memorandum dated February 7, 2002, the Staff advised Bristol that its Application was incomplete.

<sup>2</sup> Staff Motion at pp. 2,3.

<sup>3</sup> *Id.*, at pg. 3.

**CASE NO. PUC020010  
FEBRUARY 25, 2002**

APPLICATION OF  
WINSTAR OF VIRGINIA, LLC

For certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services and for interim operating authority

**ORDER FOR NOTICE AND COMMENT AND GRANT  
OF INTERIM OPERATING AUTHORITY**

On January 29, 2002, Winstar of Virginia, LLC ("Winstar" or "Applicant"), filed an application for certificates of public convenience and necessity ("certificates") with the State Corporation Commission ("Commission") to provide local exchange and interexchange telecommunications services throughout the Commonwealth of Virginia. The Applicant also requested authority to price its interexchange telecommunications services on a competitive basis pursuant to § 56-481.1 of the Code of Virginia and interim operating authority to continue to provide service to the current customers of Winstar Wireless of Virginia, LLC.<sup>1</sup>

NOW UPON CONSIDERATION of the application, the Commission is of the opinion and finds that Winstar's application should be docketed; that Winstar should be granted interim operating authority; that the Applicant should give notice to the public of its application; that interested parties should have an opportunity to comment and request a hearing on Winstar's application; and that the Commission Staff should conduct an investigation into the reasonableness of the application and present its findings in a Staff Report.

Accordingly, IT IS ORDERED THAT:

- (1) This case is docketed and assigned Case No. PUC020010.

<sup>1</sup> By Commission Order dated June 3, 1999, in Case No. PUC990013, Winstar Wireless of Virginia, LLC, was granted Certificate No. T-374a to provide local exchange telecommunications services and Certificate No. TT-32B to provide interexchange telecommunications services throughout the Commonwealth of Virginia. On January 29, 2002, Winstar Wireless of Virginia, LLC, and Winstar filed a joint application for transfer of the core domestic telecommunications assets to Winstar (Case No. PUA020030). Since the proposed transfer would not transfer Certificate Nos. T-374a and TT-32B from Winstar Wireless of Virginia, LLC, to Winstar, Winstar has filed this application.

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(2) Winstar of Virginia, LLC, is hereby granted interim operating authority to operate and provide local exchange and interexchange telecommunications services to existing customers of Winstar Wireless of Virginia, LLC, under the tariffs of Winstar Wireless of Virginia, pending the issuance of further Commission orders.

(3) On or before March 29, 2002, the Applicant shall complete publication of the following notice to be published on one (1) occasion as classified advertising in newspapers having general circulation throughout the Applicant's proposed service territory:

NOTICE TO THE PUBLIC OF AN APPLICATION BY WINSTAR OF VIRGINIA, LLC, FOR  
CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY TO PROVIDE LOCAL  
EXCHANGE AND INTEREXCHANGE TELECOMMUNICATIONS SERVICES THROUGHOUT THE  
COMMONWEALTH OF VIRGINIA AND FOR INTERIM OPERATING AUTHORITY  
CASE NO. PUC020010

On January 29, 2002, Winstar of Virginia, LLC ("Winstar" or "Applicant"), filed an application with the State Corporation Commission ("Commission") for certificates of public convenience and necessity ("certificates") to provide local exchange and interexchange telecommunications services throughout the Commonwealth of Virginia. In its application, the Applicant also requested authority to price its interexchange telecommunications services on a competitive basis pursuant to § 56-481.1 of the Code of Virginia and interim operating authority to operate under the tariffs of Winstar Wireless of Virginia, LLC.

On January 29, 2002, Winstar Wireless of Virginia, LLC ("Winstar Wireless"), and Winstar filed a joint application to transfer assets to Winstar. If approved, that application would not transfer Winstar Wireless' Certificate No. T-374a to provide local exchange telecommunications services or Certificate No. TT-32B to provide interexchange telecommunications services to Winstar. Accordingly, Winstar has filed an application with the Commission for certificates to provide local exchange and interexchange telecommunications services.

Copies of the application are available for public inspection between the hours of 8:15 a.m. and 5:00 p.m., Monday through Friday, in the Commission's Document Control Center located on the first floor of the Tyler Building, 1300 East Main Street, Richmond, Virginia, or can be ordered from Winstar's counsel, Jean L. Kiddoo, Esquire, Swidler Berlin Shereff Friedman, LLP, 3000 K Street, N.W., Suite 300, Washington, D.C. 20007-5116.

Any person desiring to comment on Winstar's application for certificates to provide local exchange and interexchange telecommunications services may do so by directing such comments in writing on or before April 12, 2002, to the Clerk of the Commission at the address set out below.

Any person may request a hearing on Winstar's application by filing an original and fifteen (15) copies of its request for hearing on or before April 12, 2002, with the Clerk of the Commission at the address set out below. Requests for hearing must state with specificity why a hearing should be conducted.

All written communications to the Commission concerning Winstar's application should be directed to Joel H. Peck, Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218, and must refer to Case No. PUC020010.

WINSTAR OF VIRGINIA, LLC

(4) On or before March 29, 2002, Applicant shall provide a copy of the notice contained in ordering paragraph three (3) to each local exchange telephone carrier certificated in Virginia and each interexchange carrier certificated in Virginia by personal delivery or first-class mail, postage prepaid, to the customary place of business. Lists of all current local exchange and interexchange carriers in Virginia are attached to this Order as Appendices A and B, respectively.

(5) Any person desiring to comment in writing on Winstar's application for a certificate to provide local exchange and interexchange telecommunications services may do so by directing such comments on or before April 12, 2002, to the Clerk of the Commission at the address set forth below. Comments must refer to Case No. PUC020010.

(6) On or before April 12, 2002, any person wishing to request a hearing on Winstar's application for certificates to provide local exchange and interexchange telecommunications services shall file an original and fifteen (15) copies of its request for hearing in writing with Joel H. Peck, Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218. Written requests for hearing shall refer to Case No. PUC020010 and shall state the following: (i) a precise statement of the interest of the filing party; (ii) a statement of the specific action sought to the extent then known; (iii) a statement of the legal basis for such action; and (iv) a precise statement why a hearing should be conducted in the matter. Copies shall also be served on the Applicant.

(7) On or before April 22, 2002, the Applicant shall file with the Commission proof of notice and proof of service as ordered herein.

(8) The Commission Staff shall analyze the reasonableness of Winstar's application and present its findings in a Staff Report to be filed on or before April 30, 2002.

(9) On or before May 7, 2002, the Applicant shall file with the Clerk of the Commission an original and fifteen (15) copies of any response to the Staff Report or parties' objections and requests for hearing. A copy of the response shall be delivered to Staff and the other parties by overnight delivery.

(10) The Applicant shall respond to written interrogatories or data requests within seven (7) days after the receipt of the same. Parties shall provide to the Applicant, other additional parties, and Staff any workpapers or documents used in preparation of their requests for hearing, promptly upon request. Except as so modified, discovery shall be in accordance with Part IV of the Rules.

(11) This matter is continued generally.

**CASE NO. PUC-2002-00010  
JUNE 28, 2002**

APPLICATION OF  
WINSTAR OF VIRGINIA, LLC

For certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services

**FINAL ORDER**

On January 29, 2002, Winstar of Virginia, LLC ("Winstar" or the "Company"), filed an application for certificates of public convenience and necessity with the State Corporation Commission ("Commission") to provide local exchange and interexchange telecommunications services throughout the Commonwealth of Virginia. The Company also requested authority to price its interexchange telecommunications services on a competitive basis pursuant to § 56-481.1 of the Code of Virginia and sought interim operating authority to continue to provide service to then current customers of Winstar Wireless of Virginia, LLC ("Old Winstar").<sup>1</sup>

By Order dated February 25, 2002, the Commission directed the Company to provide notice to the public of its application and directed the Commission Staff to conduct an investigation and file a Staff Report. The Commission also granted the requested interim operating authority in the February 25, 2002, Order. On April 17, 2002, the Company filed proof of publication and proof of service as required by the February 25, 2002, Order.

On April 12, 2002, Verizon Virginia Inc. ("Verizon Virginia") filed comments in this case. Verizon Virginia's comments requested that the Commission condition approval of Winstar's application upon Winstar taking assignment of the facilities and services provided by Verizon Virginia to Old Winstar. On April 25, 2002, the Commission issued an Order Amending Procedural Schedule that directed Winstar to file a response to the comments filed by Verizon Virginia on or before May 13, 2002. Winstar filed its reply comments on May 13, 2002. The Staff is aware that Verizon Communications Inc., on behalf of its operating telephone company subsidiaries including Verizon Virginia, and Winstar Holdings LLC, on behalf of Winstar, are pursuing mediation on the issues raised in Verizon Virginia's comments filed in this case. Since the issues raised by Verizon Virginia are being addressed at the District Court, we will not address those issues in this case.

On June 3, 2002, the Staff filed its Report finding that Winstar's application was in compliance with the Rules Governing the Offering of Competitive Local Exchange Telephone Service ("Local Rules") and the Rules Governing the Certification of Interexchange Carriers ("IXC Rules"). Based upon its review of Winstar's application, the Staff determined it would be appropriate to grant the Company certificates to provide local exchange and interexchange telecommunications services subject to the following condition: should Winstar collect customer deposits, it shall establish and maintain an escrow account for such funds, held in a Virginia office of a duly chartered state or national bank, savings and loan association or savings bank, or credit union that is unaffiliated with the Company and shall notify the Division of Economics and Finance of the escrow arrangement and any subsequent change. Any escrow arrangement established pursuant to this requirement shall be maintained until such time as the Staff or Commission determines it is no longer necessary. Additionally, the Commission wishes to impress upon Winstar its duty as a certificated entity to respond to Staff inquiries and to timely provide data required by Commission Rules.

NOW THE COMMISSION, having considered the application and the Staff Report, finds that the Company should be granted certificates to provide local exchange and interexchange telecommunications services. Having considered § 56-481.1, the Commission further finds that the Company may price its interexchange telecommunications services competitively.

Accordingly, IT IS ORDERED THAT:

(1) Winstar is hereby granted a certificate of public convenience and necessity, No. TT-179A, to provide interexchange telecommunications services subject to the restrictions set forth in the Commission's Rules Governing the Certification of Interexchange Carriers, § 56-265.4:4 of the Code of Virginia, and the provisions of this Order.

(2) Winstar is hereby granted a certificate of public convenience and necessity, No. T-588, to provide local exchange telecommunications services subject to the restrictions set forth in the Rules Governing the Offering of Competitive Local Exchange Telephone Service, § 56-265.4:4 of the Code of Virginia, and the provisions of this Order.

(3) Pursuant to § 56-481.1 of the Code of Virginia, the Company may price its interexchange telecommunications services competitively.

(4) The Company, in its own name, shall provide tariffs to the Division of Communications that conform to all applicable Commission rules and regulations within sixty (60) days.

<sup>1</sup> By Commission Order dated June 3, 1999, in Case No. PUC-1999-00013, Winstar Wireless of Virginia, LLC, was granted Certificate No. T-374a to provide local exchange telecommunications services and Certificate No. TT-32B to provide interexchange telecommunications services throughout the Commonwealth of Virginia. On January 29, 2002, Winstar Wireless of Virginia, LLC, and Winstar filed a joint application for transfer of the core domestic telecommunications assets to Winstar (Case No. PUA-2002-00030). Since the proposed transfer would not transfer Certificate Nos. T-374a and TT-32B from Winstar Wireless of Virginia, LLC, to Winstar, Winstar has filed this application.

(5) Should Winstar collect customer deposits, it shall establish and maintain an escrow account for such funds, held in a Virginia office of a duly chartered state or national bank, savings and loan association or savings bank, or credit union that is unaffiliated with the Company and shall notify the Division of Economics and Finance of the escrow arrangement and any subsequent change. Any escrow arrangement established pursuant to this requirement shall be maintained until such time as the Staff or Commission determines it is no longer necessary.

(6) There being nothing further to come before the Commission, this case shall be dismissed and the papers filed herein placed in the file for ended causes.

**CASE NO. PUC020011  
FEBRUARY 25, 2002**

APPLICATION OF  
ACC TELECOMMUNICATIONS OF VIRGINIA, LLC

For certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services and interim operating authority

**ORDER FOR NOTICE AND COMMENT AND GRANTING INTERIM AUTHORITY**

On January 31, 2002, ACC Telecommunications of Virginia, LLC ("ACC" or "Applicant"), filed an application for certificates of public convenience and necessity ("certificates") with the State Corporation Commission ("Commission") to provide local exchange and interexchange telecommunications services throughout the Commonwealth of Virginia. The Applicant also requested authority to price its interexchange telecommunications services on a competitive basis pursuant to § 56-481.1 of the Code of Virginia and requested interim authority to provide the above-referenced telecommunications services.<sup>1</sup> ACC requests interim authority for a period of time sufficient to allow certain final Commission rulings directly affecting ACC to become effective.<sup>2</sup>

ACC also requests a waiver of the notice requirements in 20 VAC 5-400-180(B)(2) and 20 VAC 5-411-20<sup>3</sup> requiring notice of its application to interested parties and the public. In support of its request, ACC states that since it will be merely assuming the current operations of a carrier already certificated in the Commonwealth in a particular service territory of such carrier, no purpose is served by giving notice of what is essentially an internal reorganization of Adelphia subsidiaries and affiliates.

NOW UPON CONSIDERATION of the application, the Commission is of the opinion and finds that ACC's application should be docketed; that interested parties should have an opportunity to comment and request a hearing on ACC's application; and that the Commission Staff should conduct an investigation into the reasonableness of the application and present its findings in a Staff Report.

We deny ACC's request for waiver of the notice requirements as contrary to the provisions of § 56-265.4:4 of the Code of Virginia. Section 56-265.4:4 B 1 authorizes the Commission to grant certificates to applicants proposing to furnish local exchange telephone service in the service territory of another certificate holder only after notice has been provided to all local exchange carriers certificated in the Commonwealth and other interested parties. The Commission cannot waive this statutory requirement. Additionally, since Adelphia Virginia currently provides telecommunications services in Virginia, the requirement to provide notice to interested parties and the public will provide an opportunity for current or past Adelphia Virginia customers to provide comments to the Commission regarding certification of ACC. Therefore, we find that the Applicant must give proper notice of its application, as required by § 56-265.4:4 of the Code of Virginia, 20 VAC 5-400-180 and 20 VAC 5-411-20.

Accordingly, IT IS ORDERED THAT:

- (1) This case is docketed and assigned Case No. PUC020011.
- (2) ACC Telecommunications of Virginia, LLC, is hereby authorized to operate and provide telecommunications services to customers under the tariffs of Adelphia Business Solutions of Virginia, LLC, until the Commission renders a decision in this proceeding.
- (3) ACC's request for waiver of the notice requirements is denied.
- (4) On or before March 15, 2002, the Applicant shall complete publication of the following notice to be published on one (1) occasion as classified advertising in newspapers having general circulation throughout the Applicant's proposed service territory:

<sup>1</sup> ACC intends to assume certain of the assets, operations, and customers of an affiliated company, Adelphia Business Solutions of Virginia, LLC ("Adelphia Virginia"), that is already certificated to provide local and interexchange telecommunications services in the Commonwealth. Adelphia Virginia currently holds Certificate Nos. T-433b and TT-63C. Although ACC is requesting state-wide certification, it will initially assume and operate the Roanoke and Shenandoah area network of Adelphia Virginia.

<sup>2</sup> In Case No. PUA010080, ACC and certain other affiliated entities have pending before the Commission a request for approval of a corporate restructuring that would transfer certain Virginia assets and operations to ACC. Because Commission approval in Case No. PUA010080 may precede approval in this case, ACC requests interim authority to operate the assets transferred until such time as the Commission approves its application in the case at bar.

<sup>3</sup> On October 17, 2001, 20 VAC 5-411-20 replaced 20 VAC 5-400-60(C).

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

NOTICE TO THE PUBLIC OF AN APPLICATION BY ACC TELECOMMUNICATIONS  
OF VIRGINIA, LLC, FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY  
TO PROVIDE LOCAL EXCHANGE AND INTEREXCHANGE TELECOMMUNICATIONS  
SERVICES THROUGHOUT THE COMMONWEALTH OF VIRGINIA AND FOR  
INTERIM OPERATING AUTHORITY  
CASE NO. PUC020011

On January 31, 2002, ACC Telecommunications of Virginia, LLC ("ACC" or "Applicant"), filed an application with the State Corporation Commission ("Commission") for certificates of public convenience and necessity ("certificates") to provide local exchange and interexchange telecommunications services throughout the Commonwealth of Virginia. In its application, the Applicant also requested authority to price its interexchange telecommunications services on a competitive basis pursuant to § 56-481.1 of the Code of Virginia and requested interim operating authority to provide telecommunications services under the current tariffs of Adelphia Business Solutions of Virginia, LLC ("Adelphia Virginia").

On January 8, 2002, Adelphia Virginia and ACC filed a joint petition pursuant to Chapter 5 of Title 56 of the Code of Virginia requesting approval of a transfer of assets from Adelphia Virginia to ACC. That proceeding is docketed as Case No. PUA010080. If approved, that Petition will not transfer Adelphia Virginia's Certificate Nos. TT-63C and T-433b to provide interexchange telecommunications services and local exchange telecommunications services to ACC. Accordingly, on January 31, 2002, ACC filed this Application for certificates of public convenience and necessity ("certificates") to provide local exchange and interexchange telecommunications services.

Copies of the application are available for public inspection between the hours of 8:15 a.m. and 5:00 p.m., Monday through Friday, in the Commission's Document Control Center located on the first floor of the Tyler Building, 1300 East Main Street, Richmond, Virginia, or can be ordered from ACC's counsel, Russell M. Blau, Esquire, or Michael P. Donahue, Esquire, Swidler Berlin Shereff Friedman, LLP, 3000 K Street, N.W., Suite 300, Washington, DC 20007-5116.

Any person desiring to comment on ACC's application for certificates to provide local exchange and interexchange telecommunications services may do so by directing such comments in writing on or before March 29, 2002, to the Clerk of the Commission at the address set out below.

Any person may request a hearing on ACC's application by filing an original and fifteen (15) copies of its request for hearing on or before March 29, 2002, with the Clerk of the Commission at the address set out below. Requests for hearing must state with specificity why a hearing should be conducted.

All written communications to the Commission concerning ACC's application should be directed to Joel H. Peck, Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218, and must refer to Case No. PUC020011.

ACC TELECOMMUNICATIONS OF VIRGINIA, LLC

(5) On or before March 15, 2002, Applicant shall provide a copy of the notice contained in ordering paragraph four (4) to each local exchange telephone carrier certificated in Virginia and each interexchange carrier certificated in Virginia by personal delivery or first-class mail, postage prepaid, to the customary place of business. Lists of all current local exchange and interexchange carriers in Virginia are attached to this Order as Appendices A and B, respectively.

(6) Any person desiring to comment in writing on ACC's application for a certificate to provide local exchange and interexchange telecommunications services may do so by directing such comments on or before March 29, 2002, to the Clerk of the Commission at the address set forth below. Comments must refer to Case No. PUC020011.

(7) On or before March 29, 2002, any person wishing to request a hearing on ACC's application for certificates to provide local exchange and interexchange telecommunications services shall file an original and fifteen (15) copies of its request for hearing in writing with Joel H. Peck, Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218. Written requests for hearing shall refer to Case No. PUC020011 and shall state the following: (i) a precise statement of the interest of the filing party; (ii) a statement of the specific action sought to the extent then known; (iii) a statement of the legal basis for such action; and (iv) a precise statement why a hearing should be conducted in the matter. Copies shall also be served on the Applicant.

(8) On or before April 12, 2002, the Applicant shall file with the Commission proof of notice and proof of service as ordered herein.

(9) The Commission Staff shall analyze the reasonableness of ACC's application and present its findings in a Staff Report to be filed on or before April 17, 2002.

(10) On or before April 25, 2002, the Applicant shall file with the Clerk of the Commission an original and fifteen (15) copies of any response to the Staff Report or parties' objections and requests for hearing. A copy of the response shall be delivered to Staff and the other parties by overnight delivery.

(11) The Applicant shall respond to written interrogatories or data requests within seven (7) days after the receipt of the same. Parties shall provide to the Applicant, other additional parties, and Staff any workpapers or documents used in preparation of their requests for hearing, promptly upon request. Except as so modified, discovery shall be in accordance with Part IV of the Rules.

(12) This matter is continued generally.

**CASE NO. PUC-2002-00011  
MAY 9, 2002**APPLICATION OF  
ACC TELECOMMUNICATIONS OF VIRGINIA, LLC

For certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services and interim operating authority

**FINAL ORDER**

On January 31, 2002, ACC Telecommunications of Virginia, LLC ("ACC" or the "Company"), filed an application for certificates of public convenience and necessity with the State Corporation Commission ("Commission") to provide local exchange and interexchange telecommunications services throughout the Commonwealth of Virginia. The Company also requested authority to price its interexchange telecommunications services on a competitive basis pursuant to § 56-481.1 of the Code of Virginia and requested interim operating authority to provide the above-referenced telecommunications services under the existing tariffs of Adelphia Business Solutions of Virginia, L.L.C. ("Adelphia Virginia").<sup>1</sup>

By Order dated February 25, 2002, the Commission granted ACC's request for interim operating authority, directed the Company to provide notice to the public of its application, and directed the Commission Staff to conduct an investigation and file a Staff Report. On March 7, 2002, the Company filed proof of service, and on April 10, 2002, the Company filed proof of publication as required by the February 25, 2002, Order.

On April 17, 2002, the Staff filed its Report finding that ACC's application was in compliance with the Rules Governing the Offering of Competitive Local Exchange Telephone Service ("Local Rules") and the Rules Governing the Certification of Interexchange Carriers ("IXC Rules"). Based upon its review of ACC's application, the Staff determined it would be appropriate to grant the Company certificates to provide local exchange and interexchange telecommunications services subject to the following condition: should ACC collect customer deposits, it shall establish and maintain an escrow account for such funds, held in a Virginia office of a duly chartered state or national bank, savings and loan association or savings bank, or credit union that is unaffiliated with the Company and shall notify the Division of Economics and Finance of the escrow arrangement and any subsequent change. Any escrow arrangement established pursuant to this requirement shall be maintained until such time as the Staff or Commission determines it is no longer necessary.

NOW THE COMMISSION, having considered the application and the Staff Report, finds that the Company should be granted certificates to provide local exchange and interexchange telecommunications services. Having considered § 56-481.1, the Commission further finds that the Company may price its interexchange telecommunications services competitively.

Accordingly, IT IS ORDERED THAT:

(1) ACC Telecommunications of Virginia, LLC, is hereby granted a certificate of public convenience and necessity, No. TT-177A, to provide interexchange telecommunications services subject to the restrictions set forth in the Commission's Rules Governing the Certification of Interexchange Carriers, § 56-265.4:4 of the Code of Virginia, and the provisions of this Order.

(2) ACC Telecommunications of Virginia, LLC, is hereby granted a certificate of public convenience and necessity, No. T-585, to provide local exchange telecommunications services subject to the restrictions set forth in the Rules Governing the Offering of Competitive Local Exchange Telephone Service, § 56-265.4:4 of the Code of Virginia, and the provisions of this Order.

(3) Pursuant to § 56-481.1 of the Code of Virginia, the Company may price its interexchange telecommunications services competitively.

(4) The Company shall provide tariffs to the Division of Communications that conform to all applicable Commission rules and regulations.

(5) Should ACC collect customer deposits, it shall establish and maintain an escrow account for such funds, held in a Virginia office of a duly chartered state or national bank, savings and loan association or savings bank, or credit union that is unaffiliated with the Company and shall notify the Division of Economics and Finance of the escrow arrangement and any subsequent change. Any escrow arrangement established pursuant to this requirement shall be maintained until such time as the Staff or Commission determines it is no longer necessary.

(6) There being nothing further to come before the Commission, this case shall be dismissed and the papers filed herein placed in the file for ended causes.

<sup>1</sup> On January 8, 2002, Adelphia Virginia and ACC filed a joint petition pursuant to Chapter 5 of Title 56 of the Code of Virginia requesting approval of the transfer of certain assets, operations, and customers of Adelphia Virginia to ACC (Case No. PUA-2001-00080). Since the transfer would not transfer Certificate No. TT-63C authorizing Adelphia Virginia to provide interexchange telecommunications services and Certificate No. T-433b authorizing Adelphia Virginia to provide local exchange telecommunications services, ACC filed the instant application requesting certification and interim operating authority. The Commission granted ACC's request for interim operating authority in its February 25, 2002, Order for Notice and Comment and Granting Interim Authority. Although ACC is requesting statewide certification, it will initially assume and operate the Roanoke and Shenandoah area network of Adelphia Virginia. An order granting the requested transfer in PUA-2001-00080 is still pending.

**CASE NO. PUC020012  
FEBRUARY 27, 2002**

APPLICATION OF  
ADELPHIA BUSINESS SOLUTIONS INVESTMENT EAST, LLC

For certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services and interim operating authority

**ORDER FOR NOTICE AND COMMENT AND GRANTING INTERIM AUTHORITY**

On January 31, 2002, Adelpia Business Solutions Investment East, LLC ("ABS East" or the "Applicant"), filed an application for certificates of public convenience and necessity ("certificates") with the State Corporation Commission ("Commission") to provide local exchange and interexchange telecommunications services throughout the Commonwealth of Virginia. The Applicant also requested authority to price its interexchange telecommunications services on a competitive basis pursuant to § 56-481.1 of the Code of Virginia and requested interim authority to provide the above-referenced telecommunications services.<sup>1</sup> ABS East requests interim authority for a period of time sufficient to allow certain final Commission rulings directly affecting ABS East to become effective.<sup>2</sup>

ABS East also requests a waiver of the notice requirements in 20 VAC 5-400-180(B)(2) and 20 VAC 5-411-20<sup>3</sup> requiring notice of its application to interested parties and the public. In support of its request, ABS East states that since it will be merely assuming the current operations of a carrier already certificated in the Commonwealth in a particular service territory of such carrier, no purpose is served by giving notice of what is essentially an internal reorganization of Adelpia subsidiaries and affiliates.

NOW UPON CONSIDERATION of the application, the Commission is of the opinion and finds that ABS East's application should be docketed; that interested parties should have an opportunity to comment and request a hearing on ABS East's application; and that the Commission Staff should conduct an investigation into the reasonableness of the application and present its findings in a Staff Report.

We deny ABS East's request for waiver of the notice requirements as contrary to the provisions of § 56-265.4:4 of the Code of Virginia. Section 56-265.4:4 B 1 authorizes the Commission to grant certificates to applicants proposing to furnish local exchange telephone service in the service territory of another certificate holder only after notice has been provided to all local exchange carriers certificated in the Commonwealth and other interested parties. The Commission cannot waive this statutory requirement. Additionally, since Adelpia Virginia currently provides telecommunications services in Virginia, the requirement to provide notice to interested parties and the public will provide an opportunity for current or past Adelpia Virginia customers to provide comments to the Commission regarding certification of ABS East. Therefore, we find that the Applicant must give proper notice of its application, as required by § 56-265.4:4 of the Code of Virginia, 20 VAC 5-400-180, and 20 VAC 5-411-20.

Accordingly, IT IS ORDERED THAT:

- (1) This case is docketed and assigned Case No. PUC020012.
- (2) Adelpia Business Solutions Investment East, LLC, is hereby authorized to operate and provide telecommunications services to customers under the tariffs of Adelpia Business Solutions of Virginia, LLC, until the Commission renders a decision in this proceeding.
- (3) ABS East's request for waiver of the notice requirements is denied.
- (4) On or before March 19, 2002, the Applicant shall complete publication of the following notice to be published on one (1) occasion as classified advertising in newspapers having general circulation throughout the Applicant's proposed service territory:

NOTICE TO THE PUBLIC OF AN APPLICATION BY ADELPHIA BUSINESS SOLUTIONS  
INVESTMENT EAST, LLC, FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY  
TO PROVIDE LOCAL EXCHANGE AND INTEREXCHANGE TELECOMMUNICATIONS  
SERVICES THROUGHOUT THE COMMONWEALTH OF VIRGINIA AND FOR  
INTERIM OPERATING AUTHORITY  
CASE NO. PUC020012

On January 31, 2002, Adelpia Business Solutions Investment East, LLC ("ABS East" or "Applicant"), filed an application with the State Corporation Commission ("Commission") for certificates of public convenience and necessity ("certificates") to provide local exchange and interexchange telecommunications services throughout the Commonwealth of Virginia. In its application, the Applicant also requested authority to price its interexchange telecommunications services on a competitive basis pursuant to

<sup>1</sup> ABS East intends to assume certain of the assets, operations, and customers of an affiliated company, Adelpia Business Solutions of Virginia, LLC ("Adelpia Virginia"), that is already certificated to provide local and interexchange telecommunications services in the Commonwealth. Adelpia Virginia currently holds Certificate Nos. T-433b and TT-63C. Although ABS East is requesting state-wide certification, it will initially assume and operate the Norfolk area network of Adelpia Virginia.

<sup>2</sup> In Case No. PUA010080, ABS East and certain other affiliated entities have pending before the Commission a request for approval of a corporate restructuring that would transfer certain Adelpia Virginia assets and operations to ABS East. Because Commission approval in Case No. PUA010080 may precede approval in this case, ABS East requests interim authority to operate the assets transferred until such time as the Commission approves its application in the case at bar.

<sup>3</sup> On October 17, 2001, 20 VAC 5-411-20 replaced 20 VAC 5-400-60(C).



## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

§ 56-481.1 of the Code of Virginia and requested interim operating authority to provide telecommunications services under the current tariffs of Adelphia Business Solutions of Virginia, LLC ("Adelphia Virginia").

On January 8, 2002, Adelphia Virginia and ABS East filed a joint petition pursuant to Chapter 5 of Title 56 of the Code of Virginia requesting approval of a transfer of assets from Adelphia Virginia to ABS East. That proceeding is docketed as Case No. PUA010080. If approved, that Petition will not transfer Adelphia Virginia's Certificate Nos. T-433b and TT-63C to provide local exchange and interexchange telecommunications services to ABS East. Accordingly, on January 31, 2002, ABS East filed this Application for certificates of public convenience and necessity ("certificates") to provide local exchange and interexchange telecommunications services.

Copies of the application are available for public inspection between the hours of 8:15 a.m. and 5:00 p.m., Monday through Friday, in the Commission's Document Control Center located on the first floor of the Tyler Building, 1300 East Main Street, Richmond, Virginia, or can be ordered from ABS East's counsel, Russell M. Blau, Esquire, or Michael P. Donahue, Esquire, Swidler Berlin Shereff Friedman, LLP, 3000 K Street, N.W., Suite 300, Washington, DC 20007-5116.

Any person desiring to comment on ABS East's application for certificates to provide local exchange and interexchange telecommunications services may do so by directing such comments in writing on or before April 2, 2002, to the Clerk of the Commission at the address set out below.

Any person may request a hearing on ABS East's application by filing an original and fifteen (15) copies of its request for hearing on or before April 2, 2002, with the Clerk of the Commission at the address set out below. Requests for hearing must state with specificity why a hearing should be conducted.

All written communications to the Commission concerning ABS East's application should be directed to Joel H. Peck, Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218, and must refer to Case No. PUC020012.

## ADELPHIA BUSINESS SOLUTIONS INVESTMENT EAST, LLC

(5) On or before March 19, 2002, Applicant shall provide a copy of the notice contained in ordering paragraph four (4) to each local exchange telephone carrier certificated in Virginia and each interexchange carrier certificated in Virginia by personal delivery or first-class mail, postage prepaid, to the customary place of business. Lists of all current local exchange and interexchange carriers in Virginia are attached to this Order as Appendices A and B, respectively.

(6) Any person desiring to comment in writing on ABS East's application for certificates to provide local exchange and interexchange telecommunications services may do so by directing such comments on or before April 2, 2002, to the Clerk of the Commission at the address set forth below. Comments must refer to Case No. PUC020012.

(7) On or before April 2, 2002, any person wishing to request a hearing on ABS East's application for certificates to provide local exchange and interexchange telecommunications services shall file an original and fifteen (15) copies of its request for hearing in writing with Joel H. Peck, Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218. Written requests for hearing shall refer to Case No. PUC020012 and shall state the following: (i) a precise statement of the interest of the filing party; (ii) a statement of the specific action sought to the extent then known; (iii) a statement of the legal basis for such action; and (iv) a precise statement why a hearing should be conducted in the matter. Copies shall also be served on the Applicant.

(8) On or before April 16, 2002, the Applicant shall file with the Commission proof of notice and proof of service as ordered herein.

(9) The Commission Staff shall analyze the reasonableness of ABS East's application and present its findings in a Staff Report to be filed on or before April 26, 2002.

(10) On or before May 3, 2002, the Applicant shall file with the Clerk of the Commission an original and fifteen (15) copies of any response to the Staff Report or parties' objections and requests for hearing. A copy of the response shall be delivered to Staff and the other parties by overnight delivery.

(11) The Applicant shall respond to written interrogatories or data requests within seven (7) days after the receipt of the same. Parties shall provide to the Applicant, other additional parties, and Staff any workpapers or documents used in preparation of their requests for hearing, promptly upon request. Except as so modified, discovery shall be in accordance with Part IV of the Rules.

(12) This matter is continued generally.

**CASE NO. PUC-2002-00012  
APRIL 26, 2002**

APPLICATION OF  
ADELPHIA BUSINESS SOLUTIONS INVESTMENT EAST, LLC

For certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services and interim operating authority

**ORDER DISMISSING CASE**

On January 31, 2002, Adelpia Business Solutions Investment East, LLC ("ABS East" or the "Applicant"), filed an application for certificates of public convenience and necessity ("certificates") with the State Corporation Commission ("Commission") to provide local exchange and interexchange telecommunications services throughout the Commonwealth of Virginia. The Applicant also requested authority to price its interexchange telecommunications services on a competitive basis pursuant to § 56-481.1 of the Code of Virginia and requested interim authority to provide the above-referenced telecommunications services.

On February 27, 2002, the Commission entered an Order for Notice and Comment and Granting Interim Authority on ABS East's application, directing the Applicant to publish notice of its application, permitting interested parties to file comments and/or requests for hearing on the application, and directing the Staff to analyze the reasonableness of the application and file a Staff Report.

On April 25, 2002, ABS East filed a motion for leave to withdraw its application. In its motion, ABS states that it filed the application seeking the certificates in order to have transferred to it certain assets of an affiliated entity presently providing such services in the Commonwealth. The contemplated asset transfer, permission for which was sought in Case No. PUA-2001-00080, would have required ABS East to become certificated as a local and interexchange telecommunications services provider. The purpose of the proposed intra-company transaction, wherein ABS East would seek certification and acquire regulated assets located in Virginia, was to permit the ultimate corporate parents of ABS East to enter into a proposed financing transaction designed to strengthen the financial condition of these parent corporations and their affiliates.

According to ABS East, on or about March 27, 2002, its parent companies filed for and received Chapter 11 protection under federal bankruptcy laws in the U.S. Bankruptcy Court for the Southern District of New York. Under these altered circumstances, the contemplated financing transaction is unlikely to occur, and ABS East's need for certification no longer exists.

NOW THE COMMISSION, having considered the motion, finds that ABS East's request to withdraw the application is reasonable and should be granted.

Accordingly, IT IS THEREFORE ORDERED THAT:

- (1) ABS East's request to withdraw its application without prejudice is granted, and this case is hereby dismissed.
- (2) There being nothing further to come before the Commission, this matter is dismissed from the docket, and the record developed herein shall be placed in the file for ended causes.

**CASE NO. PUC-2002-00013  
JUNE 10, 2002**

APPLICATION OF  
VERIZON SOUTH INC.

For a change of classification of intraLATA toll service under Plan for Alternative Regulation

**ORDER APPROVING RECLASSIFICATIONS AND  
EXTENDING FOR FURTHER COMMENT**

On February 1, 2002, Verizon South Inc. ("Verizon South" or "Company") filed tariffs with the State Corporation Commission ("Commission") proposing the reclassification of certain intraLATA toll services as "Competitive" under Subsection D of its Plan for Alternative Regulation ("Plan"). The Company noted, in the cover letter accompanying the tariff filing, that "competition from a multitude of carriers in today's long distance marketplace is clearly and irreversibly an effective regulator of the price" of its long-distance service. Accordingly, Verizon South maintains that the services meet the test under its Plan for reclassification. The Company provided notice of its proposal to the Office of the Attorney General ("Attorney General") and all other certificated interexchange and local exchange telecommunications companies in the Commonwealth.

By Order entered February 22, 2002, we directed the Company to publish notice of its application and established a period for receipt of comments or requests for hearing. No requests for hearing have been filed. Pertinent comments were filed by AT&T Communications of Virginia ("AT&T") and Cox Virginia Telcom, Inc. ("Cox"). By Order dated May 2, 2002, we permitted Verizon South to file a response to the filed comments. The Company made its response on May 15, 2002.

NOW THE COMMISSION, having considered the pleadings, is of the opinion and finds that the requested reclassifications should be granted with one exception and that this matter should be continued for further orders.

We find that IntraLATA Long Distance Verification and Interrupt Service (tariff section S18.5) should remain as currently classified and not be reclassified as "Competitive." There is insufficient alternative actual or potential provision of this service upon which to find that competition or potential

competition is or can be an effective regulator of the services' prices. These are simply services that Verizon South alone now provides, irrespective of the identity of the customer's intraLATA interexchange carrier.

All other changes proposed in the tariff filing made by Verizon South on February 1, 2002, should be approved, effective as of July 1, 2002. The Commission is satisfied from the record that competition or the threat of competition sufficiently regulates the prices of those services proposed for change in classification to "Competitive." The Company is directed to work closely with the Division of Communications to identify any clerical errors in the proposed tariffs, which may be administratively corrected.

Verizon South's May 15, 2002, response shows that it seeks also to reclassify its Selective Class of Call Screening (tariff section S13.10), Special Billing Number Service (tariff section S13.18), and Zenith Service (tariff section S13.16) to "Competitive." The Company is directed forthwith to submit appropriately revised tariff pages presenting these additional reclassifications to the Commission Staff, Cox, AT&T, and the Attorney General. These parties may offer any comment regarding these proposed additional reclassifications on or before July 15, 2002. The Commission will continue this matter further to permit receipt of any comment regarding these proposed additions to the filing.

Accordingly, IT IS ORDERED THAT:

(1) The proposed reclassifications of intraLATA toll services are APPROVED as set out above. For any rate increases to these reclassified services, Verizon South shall abide by the Rules set out in the Commission's Rules Governing the Certification of Interexchange Carriers at 20 VAC 5-411.80.

(2) Comments responsive to the reclassification of Selective Class of Call Screening, Special Billing Number Service, and Zenith Service proposed by Verizon South in its response of May 15, 2002, shall be filed, in original and 15 copies, no later than July 15, 2002, with the Clerk of the Commission, P.O. Box 2118, Richmond, Virginia 23219, making reference to Case No. PUC-2002-00013.

(3) This matter is continued for further orders of the Commission, and the time period in subsection D.1.d of the Plan is hereby extended for consideration of the additional reclassifications set out in ordering paragraph two (2) above.

**CASE NO. PUC-2002-00013  
AUGUST 6, 2002**

APPLICATION OF  
VERIZON SOUTH INC.

For a change of classification of intraLATA toll service under Plan for Alternative Regulation

**ORDER APPROVING RECLASSIFICATIONS**

On February 1, 2002, Verizon South Inc. ("Verizon South" or "Company") filed with the State Corporation Commission ("Commission") tariffs proposing the reclassification of certain intraLATA toll services as "Competitive" under Subsection D of its Plan for Alternative Regulation ("Plan").

By Order entered February 22, 2002, we directed the Company to publish notice of its application and established a period for receipt of comments or requests for hearing. No requests for hearing were filed. Comments were filed by AT&T Communications of Virginia and Cox Virginia Telcom, Inc. By Order dated May 2, 2002, we permitted Verizon South to file a response to the filed comments. The Company made its response on May 15, 2002.

By Order entered June 10, 2002, we approved certain of the proposed changes and extended the time for filing comments on other changes the Company proposed in its May 15 response. No additional comments have been filed.

NOW THE COMMISSION, having considered the pleadings, is of the opinion and finds that the additional requested reclassifications should be granted.

Verizon South's May 15, 2002, response sought to reclassify its Selective Class of Call Screening (tariff section S13.10), Special Billing Number Service (tariff section S13.18), and Zenith Service (tariff section S13.16) to "Competitive." The Commission is satisfied from the record that competition, or the threat of competition, sufficiently regulates the prices of the services proposed for change in classification to "Competitive." The Appendix attached hereto is a chart showing all services that the Commission has reclassified to "Competitive" in this matter by its Order of June 10, 2002, and this Order.

Accordingly, IT IS ORDERED THAT:

(1) The proposed reclassifications of intraLATA toll services set out above are APPROVED. For any rate increases to these reclassified services, Verizon South shall abide by the customer notification requirements provided by Rule 11 of the Rules Governing the Certification of Interexchange Carriers (Case No. PUC850035; Order dated July 24, 1995).

(2) This matter is dismissed

NOTE: A copy of the Appendix is on file and may be examined at the State Corporation Commission, Clerk's Office, Document Control Center, Tyler Building, First Floor, 1300 East Main Street, Richmond, Virginia.

**CASE NO. PUC-2002-00014  
JUNE 10, 2002**

APPLICATION OF  
VERIZON VIRGINIA INC.

For a change of classification of intraLATA toll service under Plan for Alternative Regulation

**ORDER APPROVING RECLASSIFICATIONS AND  
EXTENDING FOR FURTHER COMMENT**

On February 1, 2002, Verizon Virginia Inc. ("Verizon Virginia" or "Company") filed tariffs with the State Corporation Commission ("Commission") proposing the reclassification of certain intraLATA toll services as "Competitive" under Subsection D of its Plan for Alternative Regulation ("Plan"). The Company noted in the cover letter accompanying the tariff filing that "competition from a multitude of carriers in today's long distance marketplace is clearly and irreversibly an effective regulator of the price" of its long-distance service. Accordingly, Verizon Virginia maintains that the service meets the test under its Plan for reclassification. The Company provided notice of its proposal to the Office of the Attorney General ("Attorney General") and all other certificated interexchange and local exchange telecommunications companies in the Commonwealth.

By Order entered February 22, 2002, we directed the Company to publish notice of its application and established a period for receipt of comments or requests for hearing. No requests for hearing have been filed. Comments were filed by AT&T Communications of Virginia ("AT&T") and Cox Virginia Telcom, Inc. ("Cox"). By Order dated May 2, 2002, we permitted Verizon Virginia to file a response to the filed comments. The Company made its response on May 15, 2002.

NOW THE COMMISSION, having considered the pleadings, is of the opinion and finds that the requested reclassifications should be granted and that this matter should be continued for further orders.

All changes proposed in the tariff filing made by Verizon Virginia on February 1, 2002, should be approved, effective as of July 1, 2002. The Commission is satisfied from the record that competition or the threat of competition sufficiently regulates the prices of the services proposed for change in classification to "Competitive." The Company is directed to work closely with the Division of Communications to identify any clerical errors in the proposed tariffs, which may be administratively corrected.

Verizon Virginia's May 15, 2002, response shows that it seeks also to reclassify its Business Link Rewards Plan (tariff 215, § 8) and its Special Billing Number Service (tariff 209, § 5C) to "Competitive." The Company is directed forthwith to submit appropriately revised tariff pages presenting these additional reclassifications to the Commission Staff, Cox, AT&T, and the Attorney General. These parties may offer any comment regarding these proposed additional reclassifications on or before July 1, 2002. The Commission will continue this matter further to permit receipt of any comment regarding these proposed additions to the filing.

Accordingly, IT IS ORDERED THAT:

(1) The proposed reclassifications of intraLATA toll services are APPROVED as set out above. For any rate increases to these reclassified services, Verizon Virginia shall abide by the customer notification requirements set out in the Commission's Rules Governing the Certification of Interexchange Carriers at 20 VAC 5-411-80.

(2) Comments responsive to the proposed reclassification of Business Link Rewards Plan (tariff 215, § 8) and Special Billing Number Service (tariff 209, § 5C) shall be filed, in original and 15 copies, no later than July 1, 2002, with the Clerk of the Commission, P.O. Box 2118, Richmond, Virginia 23219, making reference to Case No. PUC-2002-00014.

(3) This matter is continued for further orders of the Commission, and the time period in subsection D.1.d of the Plan is hereby extended for consideration of the additional reclassifications set out above.

**CASE NO. PUC-2002-00014  
AUGUST 6, 2002**

APPLICATION OF  
VERIZON VIRGINIA INC.

For a change of classification of intraLATA toll service under Plan for Alternative Regulation

**ORDER APPROVING RECLASSIFICATIONS**

On February 1, 2002, Verizon Virginia Inc. ("Verizon Virginia" or "Company") filed with the State Corporation Commission ("Commission") tariffs proposing the reclassification of certain intraLATA toll services as "Competitive" under Subsection D of its Plan for Alternative Regulation ("Plan").

By Order entered February 22, 2002, we directed the Company to publish notice of its application and established a period for receipt of comments or requests for hearing. No requests for hearing were filed. Comments were filed by AT&T Communications of Virginia and Cox Virginia Telcom, Inc. By Order dated May 2, 2002, we permitted Verizon Virginia to file a response to the filed comments. The Company made its response on May 15, 2002.

By Order entered June 10, 2002, we approved certain of the proposed changes and extended the time for filing comments on other changes the Company proposed in its May 15 response. No additional comments have been filed.

NOW THE COMMISSION, having considered the pleadings, is of the opinion and finds that the additional requested reclassifications should be granted.

Verizon Virginia's May 15, 2002, response sought to reclassify its Business Link Rewards Plan (tariff 215, § 8) and its Special Billing Number Service (tariff 209, § 5C) to "Competitive." The Commission is satisfied from the record that competition, or the threat of competition, sufficiently regulates the prices of the services proposed for change in classification to "Competitive." The appendix attached hereto is a chart showing all services the Commission has reclassified to "Competitive" in this matter by its Order of June 10, 2002, and this Order.

Accordingly, IT IS ORDERED THAT:

(1) The proposed reclassifications of intraLATA toll services set out above are APPROVED. For any rate increases to these reclassified services, Verizon Virginia shall abide by the customer notification requirements provided by Rule 11 of the Rules Governing the Certification of Interexchange Carriers (Case No. PUC850035; Order dated July 24, 1995).

(2) This matter is dismissed

NOTE: A copy of the Appendix is on file and may be examined at the State Corporation Commission, Clerk's Office, Document Control Center, Tyler Building, First Floor, 1300 East Main Street, Richmond, Virginia.

**CASE NO. PUC020016  
FEBRUARY 21, 2002**

APPLICATION OF  
BROADSLATE NETWORKS OF VIRGINIA, INC.

For emergency authority to discontinue local exchange telecommunications services and cancellation of certificates

**ORDER AUTHORIZING DISCONTINUANCE  
OF ALL TELECOMMUNICATIONS SERVICES  
AND CANCELLATION OF CERTIFICATES**

On February 4, 2002, Broadslate Networks of Virginia, Inc. ("Broadslate"), filed with the State Corporation Commission ("Commission") an Application for emergency authority to discontinue local exchange telecommunications services and cancellation of its certificates ("Application").<sup>1</sup> On February 13, 2002, Broadslate filed a supplement to its Application which is denoted as Attachment A to the Application. Broadslate requests approval to discontinue the provision of broadband data services in the Commonwealth effective March 15, 2002. The Company states that it has not achieved its financial goals and has been unsuccessful in obtaining financing necessary to operate due to the current economic climate and the impact of the terrorist acts of September 11, 2001. The Application further states that attempts to sell the Company or find investors have now terminated.

According to the Application, Broadslate currently provides broadband data services to approximately 655 customers in Virginia. The Company does not provide voice services and does not serve any residential customers.

Pursuant to 20 VAC 5-400-180 D 7, Broadslate cannot "abandon or discontinue local exchange service except with the approval of the Commission, and upon such terms and conditions as the Commission may prescribe." The Commission's primary concern with authorizing discontinuance is that adequate customer notice be given. Broadslate's Application states that customers were provided notice on January 29 and 30, 2002, by overnight delivery.<sup>2</sup>

The Commission finds that Broadslate's customers have received sufficient advance notice of the planned March 15, 2002, cessation of services. Broadslate has indicated in the Application that it will continue to assist its customers in transitioning them to an alternative provider until March 15, 2002.

Accordingly, IT IS ORDERED THAT:

(1) This matter is docketed and assigned Case No. PUC020016.

(2) Broadslate is hereby authorized to discontinue all telecommunications services provided in the Commonwealth of Virginia, effective March 15, 2002, subject to the findings above.

(3) Broadslate's Certificate Nos. T-470a and TT-82B are hereby cancelled, effective March 31, 2002.

(4) Broadslate's tariffs on file with the Division of Communications shall be cancelled, effective March 31, 2002.

<sup>1</sup> Broadslate was issued Certificate No. T-470a and TT-82B on March 24, 2000, in Case No. PUC000049. Certificate No. T-470a authorizes the provision of local exchange telecommunications services, and Certificate No. TT-82B authorizes the provision of facilities-based interexchange telecommunications services.

<sup>2</sup> A copy of its customer notices, mailed by overnight delivery on January 29, 2002, to 388 customers without a transition plan, and on January 30, 2002, to its other 267 Virginia customers with a plan to transition their services to DSL.net, Inc., was omitted in Attachment A to the Application and subsequently filed on February 13, 2002. The customer notices appear to satisfy the requirements of the Federal Communications Commission ("FCC"), codified at 47 CFR § 63.71. Broadslate's § 63.71 Application to the FCC was also included in Attachment A to the Application.

(5) On or before March 11, 2002, Broadslate shall report to this Commission's Division of Communications the number of its remaining customers in Virginia and any plans or efforts to transfer any of these customers to other carriers.

(6) There being nothing further to come before the Commission, this case is hereby closed.

**CASE NO. PUC-2002-00017  
JUNE 10, 2002**

APPLICATION OF  
SUNESYS OF VIRGINIA, INC.

For a certificate of public convenience and necessity to provide local exchange telecommunications services

**FINAL ORDER**

On February 6, 2002, Sunesys of Virginia, Inc. ("Sunesys" or the "Company"), filed an application for a certificate of public convenience and necessity with the State Corporation Commission ("Commission") to provide local exchange telecommunications services throughout the Commonwealth of Virginia.

By Order dated March 5, 2002, the Commission directed the Company to provide notice to the public of its application and directed the Commission Staff to conduct an investigation and file a Staff Report. On April 10, 2002, the Company filed proof of publication and proof of service as required by the March 5, 2002, Order.

In its application, Sunesys requested a temporary waiver of the requirement to file audited financial statements required by §§ B 5 a and E 1 d of the Local Rules. For the particular circumstances of the instant case, Staff requested, and Sunesys agreed, to post a \$50,000 continuous Bond in lieu of the requirement to file audited financial statements. On May 2, 2002, a Motion for Extension of Time to File Staff Report was entered and granted, pending the receipt of certain information from the Company needed by the Staff in order to complete its review of the application.

Upon receipt of that information, the Staff filed its Report on May 13, 2002, finding that Sunesys' application was in compliance with the Rules Governing the Offering of Competitive Local Exchange Telephone Service ("Local Rules"). Based upon its review of Sunesys' application, the Staff determined it would be appropriate to grant the Company a certificate to provide local exchange telecommunications services subject to the following conditions: (1) should Sunesys collect customer deposits, it shall establish and maintain an escrow account for such funds, held in a Virginia office of a duly chartered state or national bank, savings and loan association or savings bank, or credit union that is unaffiliated with the Company and shall notify the Division of Economics and Finance of the escrow arrangement and any subsequent change. Any escrow arrangement established pursuant to this requirement shall be maintained until such time as the Staff or Commission determines it is no longer necessary; (2) Sunesys shall notify the Division of Economics and Finance thirty (30) days prior to any cancellation or lapse of its Bond and shall provide a replacement Bond. This requirement shall be maintained until such time as the Staff or the Commission determines it is no longer necessary; and (3) at such time as voice services are initiated by the Company, Sunesys shall comply with all requirements of § C (Conditions for certification) of the Local Rules.

NOW THE COMMISSION, having considered the application and the Staff Report, finds that the Company should be granted a certificate to provide local exchange telecommunications services.

Accordingly, IT IS ORDERED THAT:

(1) Sunesys of Virginia, Inc., is hereby granted a certificate of public convenience and necessity, No. T-587, to provide local exchange telecommunications services subject to the restrictions set forth in the Rules Governing the Offering of Competitive Local Exchange Telephone Service, § 56-265.4:4 of the Code of Virginia, and the provisions of this Order.

(2) The Company shall provide tariffs to the Division of Communications that conform to all applicable Commission rules and regulations.

(3) Should Sunesys collect customer deposits, it shall establish and maintain an escrow account for such funds, held in a Virginia office of a duly chartered state or national bank, savings and loan association or savings bank, or credit union, that is unaffiliated with the Company and shall notify the Division of Economics and Finance of the escrow arrangement and any subsequent change. Any escrow arrangement established pursuant to this requirement shall be maintained until such time as the Staff or Commission determines it is no longer necessary.

(4) Sunesys is hereby granted a waiver of §§ B 5 a and E 1 d of the Local Rules requiring audited financial statements. In the alternative, Sunesys shall maintain the previously supplied License/Permit Bond ("Bond") in the amount of \$50,000 with the Division of Economics and Finance.

(5) Regarding paragraph 4 of this Order, Sunesys shall notify the Division of Economics and Finance thirty (30) days prior to any cancellation or lapse of its Bond and shall provide a replacement Bond. This requirement shall be maintained until such time as the Staff or the Commission determines it is no longer necessary.

(6) At such time as voice services are initiated by the Company, Sunesys shall comply with all requirements of § C (Conditions for certification) of the Local Rules.

(7) There being nothing further to come before the Commission, this case shall be dismissed and the papers filed herein placed in the file for ended causes.

**CASE NO. PUC-2002-00023  
SEPTEMBER 12, 2002**

PETITION OF  
CAVALIER TELEPHONE, LLC  
v.  
VERIZON VIRGINIA INC.

For Emergency Enforcement of Interconnection Agreement and Declaratory Relief

**ORDER DISMISSING CASE**

On February 15, 2002, Cavalier Telephone, LLC ("Cavalier"), filed a Petition for Emergency Enforcement of Interconnection Agreement and Declaratory Relief ("Emergency Petition") with the State Corporation Commission ("Commission"). The Emergency Petition sought enforcement of Cavalier's interconnection agreement with Verizon Virginia Inc. ("Verizon") with regard to the transfer of former customers of Net2000 Communications, Inc., to Cavalier's network.

Verizon responded to Cavalier's petition on March 4, 2002, and Cavalier filed its reply on March 11, 2002. Since that time, the Staff has worked with the parties to resolve the dispute, and there appears to be no further need for the emergency relief requested by Cavalier.

Accordingly, on August 30, 2002, Cavalier filed a request to dismiss this case without prejudice. Because there is no further action required by the Commission in this case, we find that the request should be granted, and this case should be dismissed.

Accordingly, IT IS ORDERED THAT this case be, and hereby is, DISMISSED without prejudice from the docket of active cases.

**CASE NO. PUC020025  
APRIL 3, 2002**

APPLICATION OF  
CAVALIER TELEPHONE, LLC

For approval to discontinue local exchange and interexchange telecommunications services to customers served out of the Bethia wire center

**ORDER OF DISMISSAL**

On February 19, 2002, Cavalier Telephone, LLC ("Cavalier" or "Company") filed with the State Corporation Commission ("Commission") the above-captioned Application for Approval to Discontinue Local Exchange and Interexchange Telecommunications Services to Customers served out of the Bethia Wire Center ("Application"). On March 29, 2002, Cavalier filed its request for leave to withdraw its Application without prejudice.

NOW THE COMMISSION is of the opinion that Cavalier should be granted leave to withdraw its Application and that this case should be dismissed without prejudice.

Accordingly, IT IS ORDERED THAT Cavalier's Application is withdrawn, and this case is dismissed without prejudice.

**CASE NO. PUC020027  
MARCH 1, 2002**

APPLICATION OF  
ECONOMIC COMPUTER SYSTEMS, INC.

For certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services and for interim authority

**ORDER FOR NOTICE AND COMMENT AND GRANTING INTERIM AUTHORITY**

On February 26, 2002, Economic Computer Systems, Inc. ("ECS" or "Applicant"), filed an application for certificates of public convenience and necessity ("certificates") with the State Corporation Commission ("Commission") to provide local exchange and interexchange telecommunications services throughout the Commonwealth of Virginia. The Applicant also requested authority to price its interexchange telecommunications services on a competitive basis pursuant to § 56-481.1 of the Code of Virginia and interim operating authority to provide uninterrupted service to certain customers of Broadslate Networks of Virginia, Inc. d/b/a Broadslate ("Broadslate").<sup>1</sup>

NOW UPON CONSIDERATION of the application, the Commission is of the opinion and finds that ECS's application should be docketed; that the Applicant should give notice to the public of its application; that interested parties should have an opportunity to comment and request a hearing on

<sup>1</sup> According to the application, ECS signed an agreement with Broadslate for the right to provide DSL service to Broadslate customers located in Fredericksburg, Charlottesville, and Roanoke and is presently negotiating with Asset Recovery Inc., a liquidator, to purchase certain network assets of Broadslate. Broadslate will cease its DSL service to its customers in Virginia on March 15, 2002.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

ECS's application; and that the Commission Staff should conduct an investigation into the reasonableness of the application and present its findings in a Staff Report.

Accordingly, IT IS ORDERED THAT:

- (1) This case is docketed and assigned Case No. PUC020027.
- (2) Economic Computer Systems, Inc., is hereby authorized to operate and provide telecommunications services to customers under the tariffs of Broadslate Networks of Virginia, Inc. d/b/a Broadslate, until the Commission renders a decision in this proceeding.
- (3) On or before March 22, 2002, the Applicant shall complete publication of the following notice to be published on one (1) occasion as classified advertising in newspapers having general circulation throughout the Applicant's proposed service territory:

NOTICE TO THE PUBLIC OF AN APPLICATION BY ECONOMIC COMPUTER SYSTEMS, INC.,  
FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY TO PROVIDE LOCAL  
EXCHANGE AND INTEREXCHANGE TELECOMMUNICATIONS SERVICES THROUGHOUT THE  
COMMONWEALTH OF VIRGINIA AND FOR INTERIM OPERATING AUTHORITY  
CASE NO. PUC020027

On February 26, 2002, Economic Computer Systems, Inc. ("ECS" or "Applicant"), filed an application with the State Corporation Commission ("Commission") for certificates of public convenience and necessity ("certificates") to provide local exchange and interexchange telecommunications services throughout the Commonwealth of Virginia. In its application, the Applicant also requested authority to price its interexchange telecommunications services on a competitive basis pursuant to § 56-481.1 of the Code of Virginia, and interim operating authority to provide uninterrupted service to certain customers of Broadslate Networks of Virginia, Inc. d/b/a Broadslate ("Broadslate"). According to the application, ECS signed an agreement with Broadslate for the right to provide DSL service to Broadslate customers located in Fredericksburg, Charlottesville, and Roanoke and is presently negotiating with Asset Recovery Inc., a liquidator, to purchase certain network assets of Broadslate. Broadslate will cease its DSL service to its customers in Virginia on March 15, 2002.

Copies of the application are available for public inspection between the hours of 8:15 a.m. and 5:00 p.m., Monday through Friday, in the Commission's Document Control Center located on the first floor of the Tyler Building, 1300 East Main Street, Richmond, Virginia, or can be ordered from ECS's counsel, Scott M.J. Anderegg, Esquire, PennStuart, 801 East Main Street, Suite 1110, Richmond, Virginia 23219.

Any person desiring to comment on ECS's application for certificates to provide local exchange and interexchange telecommunications services may do so by directing such comments in writing on or before April 5, 2002, to the Clerk of the Commission at the address set out below.

Any person may request a hearing on ECS's application by filing an original and fifteen (15) copies of its request for hearing on or before April 5, 2002, with the Clerk of the Commission at the address set out below. Requests for hearing must state with specificity why a hearing should be conducted.

All written communications to the Commission concerning ECS's application should be directed to Joel H. Peck, Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218, and must refer to Case No. PUC020027.

ECONOMIC COMPUTER SYSTEMS, INC.

- (4) On or before March 22, 2002, Applicant shall provide a copy of the notice contained in ordering paragraph three (3) to each local exchange telephone carrier certificated in Virginia and each interexchange carrier certificated in Virginia by personal delivery or first-class mail, postage prepaid, to the customary place of business. Lists of all current local exchange and interexchange carriers in Virginia are attached to this Order as Appendices A and B, respectively.
- (5) Any person desiring to comment in writing on ECS's application for a certificate to provide local exchange and interexchange telecommunications services may do so by directing such comments on or before April 5, 2002, to the Clerk of the Commission at the address set forth below. Comments must refer to Case No. PUC020027.
- (6) On or before April 5, 2002, any person wishing to request a hearing on ECS's application for certificates to provide local exchange and interexchange telecommunications services shall file an original and fifteen (15) copies of its request for hearing in writing with Joel H. Peck, Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218. Written requests for hearing shall refer to Case No. PUC020027 and shall state the following: (i) a precise statement of the interest of the filing party; (ii) a statement of the specific action sought to the extent then known; (iii) a statement of the legal basis for such action; and (iv) a precise statement why a hearing should be conducted in the matter. Copies shall also be served on the Applicant.
- (7) On or before April 22, 2002, the Applicant shall file with the Commission proof of notice and proof of service as ordered herein.
- (8) The Commission Staff shall analyze the reasonableness of ECS's application and present its findings in a Staff Report to be filed on or before May 1, 2002.



(9) On or before May 10, 2002, the Applicant shall file with the Clerk of the Commission an original and fifteen (15) copies of any response to the Staff Report or parties' objections and requests for hearing. A copy of the response shall be delivered to Staff and the other parties by overnight delivery.

(10) The Applicant shall respond to written interrogatories or data requests within seven (7) days after the receipt of the same. Parties shall provide to the Applicant, other additional parties, and Staff any workpapers or documents used in preparation of their requests for hearing, promptly upon request. Except as so modified, discovery shall be in accordance with Part IV of the Rules.

(11) This matter is continued generally.

**CASE NO. PUC-2002-00027  
MAY 22, 2002**

APPLICATION OF  
ECONOMIC COMPUTER SYSTEMS, INC.

For certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services

**FINAL ORDER**

On February 19, 2002, Economic Computer Systems, Inc. ("ECS" or the "Company"), filed an application for certificates of public convenience and necessity with the State Corporation Commission ("Commission") to provide local exchange and interexchange telecommunications services throughout the Commonwealth of Virginia. The Company also requested interim operating authority to provide telecommunications services under the existing tariffs of Broadslate Networks of Virginia, Inc. ("Broadslate"), and requested authority to price its interexchange telecommunications services on a competitive basis pursuant to § 56-481.1 of the Code of Virginia.

By Order dated March 1, 2002, the Commission directed the Company to provide notice to the public of its application and directed the Commission Staff to conduct an investigation and file a Staff Report. That Order also granted ECS' request for interim authority.

On April 22, 2002, the Company filed proof of publication for all but one newspaper. On April 24, 2002, ECS filed the remaining proof of notice and filed proof of service. Subsequently, by motion filed on April 26, 2002, the Company requested leave to publish late notice of its application.

On May 2, 2002, the Staff filed its Report finding that ECS' application was in compliance with the Rules Governing the Offering of Competitive Local Exchange Telephone Service ("Local Rules") and the Rules Governing the Certification of Interexchange Carriers ("IXC Rules"). Based upon its review of ECS' application, the Staff determined it would be appropriate to grant the Company certificates to provide local exchange and interexchange telecommunications services subject to the following conditions: (1) should ECS collect customer deposits, it shall establish and maintain an escrow account for such funds, held in a Virginia office of a duly chartered state or national bank, savings and loan association or savings bank, or credit union that is unaffiliated with the Company and shall notify the Division of Economics and Finance of the escrow arrangement and any subsequent change. Any escrow arrangement established pursuant to this requirement shall be maintained until such time as the Staff or Commission determines it is no longer necessary; (2) the Company shall provide audited financial statements to the Division of Economics and Finance no later than one (1) year from the effective date of ECS' initial tariff; and (3) at such time as voice services are initiated by the Company, ECS shall comply with all requirements of § C (Conditions for certification) of the Local Rules.

NOW THE COMMISSION, having considered the above-referenced motion, is of the opinion and finds that such motion should be granted. We also find that the Company should be granted certificates to provide local exchange and interexchange telecommunications services. Having considered § 56-481.1, the Commission further finds that the Company may price its interexchange telecommunications services competitively.

Accordingly, IT IS ORDERED THAT:

- (1) The Company's motion requesting leave to publish late notice of its application is hereby granted.
- (2) ECS is hereby granted a certificate of public convenience and necessity, No. TT-178A, to provide interexchange telecommunications services subject to the restrictions set forth in the Commission's Rules Governing the Certification of Interexchange Carriers, § 56-265.4:4 of the Code of Virginia, and the provisions of this Order.
- (3) ECS is hereby granted a certificate of public convenience and necessity, No. T-586, to provide local exchange telecommunications services subject to the restrictions set forth in the Rules Governing the Offering of Competitive Local Exchange Telephone Service, § 56-265.4:4 of the Code of Virginia, and the provisions of this Order.
- (4) Pursuant to § 56-481.1 of the Code of Virginia, the Company may price its interexchange telecommunications services competitively.
- (5) The Company shall provide tariffs in ECS' name to the Division of Communications within 60 days that conform to all applicable Commission rules and regulations.
- (6) Should ECS collect customer deposits, it shall establish and maintain an escrow account for such funds, held in a Virginia office of a duly chartered state or national bank, savings and loan association or savings bank, or credit union that is unaffiliated with the Company and shall notify the Division of Economics and Finance of the escrow arrangement and any subsequent change. Any escrow arrangement established pursuant to this requirement shall be maintained until such time as the Staff or Commission determines it is no longer necessary.
- (7) The Company shall provide audited financial statements to the Division of Economics and Finance no later than one (1) year from the effective date of ECS' initial tariff in Virginia.

(8) At such time as voice services are initiated by the Company, ECS shall comply with all requirements of § C (Conditions for certification) of the Local Rules.

(9) There being nothing further to come before the Commission, this case shall be dismissed and the papers filed herein placed in the file for ended causes.

**CASE NO. PUC020028  
MARCH 6, 2002**

APPLICATION OF  
ALLTEL COMMUNICATIONS OF VIRGINIA, INC. f/k/a  
360° COMMUNICATIONS COMPANY OF CHARLOTTESVILLE d/b/a ALLTEL

For cancellation and reissuance of certificates of public convenience and necessity to reflect corporate name change

**ORDER**

On July 12, 2001, 360° Communications Company of Charlottesville d/b/a ALLTEL ("360°") changed its corporate name to ALLTEL COMMUNICATIONS OF VIRGINIA, INC. ("ALLTEL"). By application filed with the State Corporation Commission ("Commission") on February 21, 2002, 360° requested the cancellation of certificates of public convenience and necessity previously issued to it and reissuance of the certificates in its new name. For good cause shown, the Commission will grant the request.

Accordingly, IT IS ORDERED THAT:

- (1) This matter should be docketed and assigned Case No. PUC020028.
- (2) Certificate No. TT-65A, issued to 360° to provide interexchange telecommunications services, is cancelled and shall be reissued as Certificate No. TT-65B in the name of ALLTEL COMMUNICATIONS OF VIRGINIA, INC.
- (3) Certificate No. T-437, issued to 360° to provide local exchange telecommunications services, shall be cancelled and reissued as Certificate No. T-437a in the name of ALLTEL COMMUNICATIONS OF VIRGINIA, INC.
- (4) ALLTEL COMMUNICATIONS OF VIRGINIA, INC., shall file tariffs with the Commission's Division of Communications reflecting its correct corporate name no later than sixty (60) days from the date of this Order.
- (5) There being nothing further to come before the Commission, this matter is dismissed.

**CASE NO. PUC020029  
MARCH 13, 2002**

APPLICATION OF  
MCLEODUSA TELECOMMUNICATIONS SERVICES OF VIRGINIA, INC.

For cancellation of certificates of public convenience and necessity

**ORDER**

By Order dated July 25, 2001, in Case No. PUC010057, the State Corporation Commission ("Commission") issued certificates of public convenience and necessity permitting the provision of local exchange and facilities-based interexchange telecommunications services (respectively, Certificate Nos. T-564 and TT-159A) to McLeodUSA Telecommunications Services of Virginia, Inc. ("McLeodUSA" or "Company"). By letter application filed February 25, 2002, and supplemented March 4, 2002, McLeodUSA advised that since obtaining its certificates, "factors within the telecommunications market place [sic] have caused McLeodUSA to streamline its business plan and required the Company to refocus its efforts on its core existing markets" in the Midwest and so the Company "no longer expects to be in a position to enter the Virginia local exchange market[.]" Accordingly, McLeodUSA has requested cancellation of its certificates of public convenience and necessity. The Company advises that it has never operated under the authority of its local exchange certificate in the Commonwealth of Virginia and that it currently provides and will continue to provide interexchange telecommunications services only as a reseller, and not under authority of the facilities-based interexchange certificate that it has requested be cancelled.

NOW THE COMMISSION, being sufficiently advised, will grant the requested cancellations.

Accordingly, IT IS ORDERED THAT:

- (1) This matter shall be docketed and assigned Case No. PUC020029.
- (2) Certificate Nos. T-564 and TT-159A, issued to McLeodUSA Telecommunications Services of Virginia, Inc., are hereby cancelled.
- (3) This matter is dismissed.

**CASE NO. PUC-2002-00032  
JUNE 18, 2002**

APPLICATION OF  
EPANA NETWORKS OF VIRGINIA, INC.

For certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services

**ORDER GRANTING MOTION TO WITHDRAW**

On June 13, 2002, Epana Networks of Virginia, Inc. ("Epana" or "Company"), filed a motion with the State Corporation Commission ("Commission") requesting that the Commission allow the Company to withdraw its application for certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services without prejudice.

In support of its motion, Epana states that it has since determined that its business plans should be revised to focus the Company's efforts and resources on telecommunications markets outside the Commonwealth of Virginia. The Company further states that it anticipates that it will endeavor to serve the Virginia market at some point in the future and that the Company believes that the certificates are not needed at this time. In addition, the Commission has been advised that Staff has no objection to the Company's withdrawal of its application.

NOW THE COMMISSION, having considered the request, is of the opinion and finds that the Company's motion should be granted and that this case should be dismissed.

Accordingly, IT IS ORDERED THAT:

- (1) Epana's Motion to Withdraw Application is hereby granted.
- (2) This matter is dismissed without prejudice.

**CASE NO. PUC020033  
MARCH 6, 2002**

APPLICATION OF  
EDGE CONNECTIONS OF VIRGINIA, LLC

For cancellation of certificates of public convenience and necessity

**ORDER**

By Order dated April 19, 2001, in Case No. PUC000154, the State Corporation Commission ("Commission") issued certificates of public convenience and necessity permitting the provision of local exchange and interexchange telecommunications services (respectively, Certificate Nos. T-550 and TT-146A) to Edge Connections of Virginia, LLC ("Edge" or "Company"). By application filed February 28, 2002, Edge advised that it has "been unable to raise sufficient capital to sustain its operations" and so requested cancellation of its certificates of public convenience and necessity. The Company has no customers and has never operated in the Commonwealth of Virginia.

NOW THE COMMISSION, being sufficiently advised, will grant the requested cancellations.

Accordingly, IT IS ORDERED THAT:

- (1) This matter shall be docketed and assigned Case No. PUC020033.
- (2) Certificate Nos. T-550 and TT-146A, issued to Edge Connections of Virginia, LLC, are hereby cancelled.
- (3) This matter is dismissed.

**CASE NO. PUC-2002-00037  
OCTOBER 4, 2002**

APPLICATION OF  
WAHOO BROADBAND, LLC

For a certificate of public convenience and necessity to provide local exchange telecommunications services

**ORDER GRANTING MOTION TO WITHDRAW AND DISMISSING CASE**

On October 3, 2002, Wahoo Broadband, LLC ("Wahoo" or the "Company"), filed a motion with the State Corporation Commission ("Commission") requesting authority to withdraw the above-captioned application.<sup>1</sup> Wahoo states that it initially filed such application in hopes of taking advantage of market conditions and opportunities to build a business as a provider of broadband telecommunications services. The Company states that such opportunities no longer exist and that it does not, therefore, require the requested certificate at this time.

NOW THE COMMISSION, having considered the above-referenced motion, finds that such request is reasonable and should be granted and that the above-captioned case should be dismissed.

Accordingly, IT IS ORDERED THAT Wahoo's motion to withdraw the above-referenced application is hereby granted and that this case is hereby dismissed from the Commission's docket of active cases.

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<sup>1</sup> The Company requested authority to provide local exchange telecommunications services in the City of Charlottesville and the County of Albemarle in Virginia.

**CASE NO. PUC020039  
MARCH 13, 2002**

APPLICATION OF  
JATO COMMUNICATIONS CORP. OF VIRGINIA

For cancellation of certificate of public convenience and necessity

**ORDER**

By Order dated November 30, 1999, in Case No. PUC990125, the State Corporation Commission ("Commission") issued certificate of public convenience and necessity No. T-467, permitting the provision of local exchange telecommunications services to JATO Communications Corp. of Virginia ("JATO" or "Company"). By letter application filed March 5, 2002, JATO advised that, as of December 31, 2000, it had "ceased all operations and turned over all company assets to their secured creditor, Lucent Technologies." The Company has requested cancellation of its certificate of public convenience and necessity and tariffs. The Company has no customers in the Commonwealth of Virginia.

NOW THE COMMISSION, being sufficiently advised, will grant the requested cancellations.

Accordingly, IT IS ORDERED THAT:

- (1) This matter shall be docketed and assigned Case No. PUC020039.
- (2) Certificate No. T-467 issued to JATO Communications Corp. of Virginia, and any and all tariffs filed by that Company, are hereby cancelled.
- (3) This matter is dismissed.

**CASE NOS. PUC-2002-00046 and PUC-2000-00035  
NOVEMBER 6, 2002**

IN THE MATTER OF

Verizon Virginia Inc.'s compliance with the conditions set forth in 47 U.S.C. § 271(c)

STATE CORPORATION COMMISSION

Ex Parte: In the matter of third-party testing of Operation Support Systems for Verizon Virginia Inc.

**ORDER CLOSING CASES**

The State Corporation Commission ("Commission") has concluded its consultation with the Federal Communications Commission ("FCC") as required by 47 U.S.C. § 271(d)(2)(B). On August 1, 2002, the Commission forwarded the Report of Hearing Examiner Alexander F. Skirpan, Jr., to the

FCC. On October 30, 2002, the FCC released its Memorandum Opinion and Order in WC Docket No. 02-214, which granted the application of Verizon Virginia Inc. to provide in-region, interLATA services in Virginia, effective November 8, 2002.

The Commission finds that there is nothing further to be acted upon in the above docketed Case Nos. PUC-2002-00046 and PUC-2000-00035 and that both cases should be closed.

Accordingly, IT IS ORDERED THAT Case Nos. PUC-2002-00046 and PUC-2000-00035 are hereby closed.

**CASE NO. PUC-2002-00047**  
**JUNE 10, 2002**

APPLICATION OF  
ARBROS COMMUNICATIONS LICENSING COMPANY, VA

For cancellation of certificates of public convenience and necessity

**ORDER**

On December 15, 1999, the State Corporation Commission ("Commission") issued Certificate No. T-469, permitting the provision of local exchange telecommunications services, to Arbros Communications Licensing Company, VA ("Arbros"), in Case No. PUC-1999-00124. By letter filed March 7, 2002, Arbros advised that it has decided to discontinue its resold local exchange telecommunications services in Virginia.<sup>1</sup>

On April 12, 2002, the Commission Staff requested by letter that Arbros file a formal petition for authority to cease operations and discontinue the provision of local exchange telecommunications services as required by the Commission's Rules Governing the Discontinuance of Local Exchange Telecommunications Services Provided by Competitive Local Exchange Carriers, 20 VAC 5-423-20 ("Discontinuance Rules").<sup>2</sup>

NOW THE COMMISSION finds that Arbros has not complied with the Discontinuance Rules. As of this date, we have not received the requested petition from Arbros, and Arbros has been nonresponsive to recent requests from the Commission Staff. However, we further find that customers of Arbros were given written notice of the proposed disconnection of local exchange telecommunications services between February 13 and February 14, 2002.<sup>3</sup> While the February notice with its proposed discontinuation date of March 4, 2002,<sup>4</sup> fell short of the required 30 days' written notice,<sup>5</sup> subscribers whose local exchange telecommunications services have not yet been discontinued have had more than the required 30 days' notice to select an alternate local exchange telecommunications services provider. Therefore, the Commission will permit the discontinuance of local exchange telecommunications services to be completed. We further find that Arbros' certificate is cancelled for failure to comply with the Discontinuance Rules.<sup>6</sup>

Accordingly, IT IS ORDERED that:

- (1) This matter shall be docketed and assigned Case No. PUC-2002-00047.
- (2) Certificate No. T-469 issued to Arbros Communications Licensing Company, VA is hereby cancelled as of June 21, 2002.
- (3) Arbros' tariffs are hereby cancelled as of June 21, 2002.
- (4) A copy of this Order shall be sent to Arbros' customers via first-class registered mail.
- (5) This matter is dismissed.

<sup>1</sup> It has been represented to the Staff that all customers in Virginia are served by resale.

<sup>2</sup> On March 5, 2002, the Commission adopted 20 VAC 5-423-10 *et seq.* in Case No. PUC-2001-0128, *Ex Parte: In the matter of Establishing Rules Governing the Discontinuance of Local Exchange Telecommunications Services Provided By Competitive Local Exchange Carriers*. Arbros' application was filed on March 7, 2002. As a result, the Company's letter application was sufficient for the purposes of this matter.

<sup>3</sup> The letter received from Arbros indicated that written notice was provided to its customers between January 12 and January 14, 2002. Pursuant to copies of actual notices received from Arbros' customers, the notices were dated between February 13 and February 14, 2002. In addition, Staff was earlier provided with a list of 139 Arbros customers in Virginia.

<sup>4</sup> Again, the letter received from Arbros indicated a discontinuance date of March 14, 2002.

<sup>5</sup> See 20 VAC 5-423-20 B

<sup>6</sup> 20 VAC 5-423-60 of Discontinuance Rule states:

20 VAC 5-423-60. Administrative cancellation of certificates.

"A CLEC that is found to have ceased providing local exchange telecommunications services to its customers in Virginia without complying with the requirements of 20 VAC-5-423-20 shall be in violation of this chapter, and each of its operating certificates may be administratively cancelled."

**CASE NO. PUC-2002-00050  
JULY 16, 2002**

PETITION OF  
VERIZON VIRGINIA INC.

For Extended Local Service from Verizon Virginia Inc.'s Gainesboro Exchange to its Stephens City Exchange

**FINAL ORDER**

In October 2001, telephone customers in Verizon Virginia Inc.'s ("Verizon Virginia") Gainesboro Exchange petitioned the State Corporation Commission ("Commission") for Extended Local Service ("ELS") to the Stephens City Exchange of Verizon Virginia. On March 7, 2002, the Commission received a cost study from Verizon Virginia for the Gainesboro Exchange that was used to estimate the change in monthly rates that would result from the requested extension of local service.

Pursuant to the provisions of § 56-484.2 of the Code of Virginia, by Order dated April 19, 2002, the Commission directed Verizon Virginia to poll its Gainesboro Exchange customers to determine whether a majority of those customers would be willing to pay an increase in rates for local calling to its Stephens City Exchange. The Order further directed Verizon Virginia to file the results of its poll with the Commission on or before June 18, 2002.

On June 17, 2002, Verizon Virginia filed the results of its poll. In its filing, Verizon Virginia noted that 1,965 ballots were mailed on May 6, 2002, to its Gainesboro Exchange customers and 687 (40 percent) were returned. The results further reflect that of the ballots returned, 307 (44.7 percent) voted "yes," and 380 (55.3 percent) voted "no."

NOW THE COMMISSION, upon consideration of the matter, is of the opinion and finds that because a majority of Gainesboro Exchange customers voted against extension of local service to the Stephens City Exchange, the petition should be denied.

Accordingly, IT IS ORDERED THAT:

- (1) The petition is hereby denied.
- (2) There being nothing further to be done in this matter, this matter is hereby dismissed.

**CASE NO. PUC-2002-00053  
OCTOBER 4, 2002**

PETITION OF  
DAVENPORT EXCHANGE CUSTOMERS

For Extended Local Service from Verizon Virginia Inc.'s Davenport Exchange to its Clintwood Exchange

**FINAL ORDER**

On March 21, 2002, telephone customers in Verizon Virginia Inc.'s ("Verizon Virginia") Davenport Exchange petitioned the State Corporation Commission ("Commission") for Extended Local Service ("ELS") to the Clintwood Exchange of Verizon Virginia.

On June 24, 2002, the Commission issued an Order Directing Cost Study and Poll that, among other things, directed Verizon Virginia to prepare a cost study to estimate the approximate change in the monthly rates that would result from the requested extension of local service from the Davenport Exchange to the Clintwood Exchange. Verizon Virginia also was directed to poll its Davenport Exchange customers to determine whether a majority of those customers are willing to pay an increase in rates for extended local calling to the Clintwood Exchange and to file the results of its poll with the Commission on or before November 8, 2002.

On May 10, 2002, the Commission's Division of Communications received a cost study from Verizon Virginia for the Davenport Exchange that was used to estimate the change in monthly rates. On September 4, 2002, Verizon Virginia filed the results of its poll. In its filing, Verizon Virginia noted that 1,203 ballots were mailed and 378, or 31.4%, were returned. The results further reflect that of the ballots returned, 165, or 43.7%, voted "yes," and 213, or 56.3%, voted "no."

NOW THE COMMISSION, upon consideration of the matter, is of the opinion and finds that because a majority of Davenport Exchange customers voted against extension of local service to the Clintwood Exchange, the petition should be denied.

Accordingly, IT IS ORDERED THAT:

- (1) The petition is hereby denied.
- (2) There being nothing further to be done in this matter, this matter is hereby dismissed.

**CASE NO. PUC-2002-00071  
AUGUST 21, 2002**

APPLICATION OF  
XO VIRGINIA, L.L.C.

For limited waivers of price ceilings for directory assistance and request for expedited review

**FINAL ORDER**

On April 9, 2002, XO Virginia, L.L.C. ("XO" or the "Applicant"), filed an application requesting the State Corporation Commission ("Commission") approve a limited waiver of the price ceiling applicable to the Applicant's Directory Assistance with Call Completion service<sup>1</sup> pursuant to 20 VAC 5-400-180 D 3 d of the Commission's Rules Governing the Offering of Competitive Local Exchange Telephone Service.<sup>2</sup>

On May 21, 2002, the Commission issued an Order Prescribing Notice and Inviting Comments and/or Requests for Hearing.<sup>3</sup> Interested parties were afforded the opportunity to comment and/or request a hearing on XO's application. No comments or requests were filed with the Commission by the June 27, 2002, deadline.

XO argues that its service differs from that of the incumbent local exchange carrier in that it provides Call Completion at no additional charge and that Directory Assistance may be used to access national numbers for the same price as for local numbers. The Applicant further states the service cannot be properly priced at or below that of the incumbent's separate local Directory Assistance and Call Completion services.

NOW THE COMMISSION, having considered the application and giving due regard to the public interest considerations involved, is of the opinion that it should be denied.

The Commission finds that customers must easily obtain directory listings. As we recently noted in our July 11, 2002, Final Order in Case No. PUC-2002-00005:

An essential part of furnishing telephone service is the furnishing of numbers necessary to reach others. . . .The fact remains that customers cannot use telephone service unless they have the number of the party they want to reach. These numbers should, within reason, be easily accessible to all customers.<sup>4</sup>

We have concerns that waiving the price ceiling for directory assistance services could lead to unrestrained price increases for such services. This may cause directory information to become inaccessible to some customers. We find, therefore, that a waiver may cause harm to the public interest.

Accordingly, IT IS THEREFORE ORDERED THAT:

(1) The application filed by XO is hereby denied.

(2) There being nothing further to come before the Commission, this case shall be dismissed and the papers herein placed in the file for ended causes.

<sup>1</sup> XO automatically provides Call Completion services to customers using its Directory Assistance service at no additional charge.

<sup>2</sup> 20 VAC 5-400-180 D 3 d provides that "the [C]ommission may permit pricing structures or rates of a new entrant's local exchange service(s) that do not conform with the established price ceilings, unless there is a showing that the public interest will be harmed."

<sup>3</sup> The May 21, 2002, Order was amended on June 10, 2002.

<sup>4</sup> Application of Cox Virginia Telecom, Inc., For waivers of the Three-Call Allowance Requirement, price ceilings for directory assistance, directory listings, and certain operator services, and request for expedited review, quoting Application of the Virginia Telephone Association, For authority to reduce the free call allowance for directory assistance calls. Case No. PUC-1989-00025, Final Order, 1990 S.C.C. Ann. Rept. 241 (June 7, 1990).

**CASE NO. PUC-2002-00071  
OCTOBER 3, 2002**

APPLICATION OF  
XO VIRGINIA, L.L.C.

For limited waivers of price ceilings for directory assistance and request for expedited review

**ORDER ON RECONSIDERATION**

On August 21, 2002, the State Corporation Commission ("Commission") denied the application filed by XO Virginia, L.L.C. ("XO" or the "Company"), for approval of a limited waiver of the price ceiling applicable to the Company's Directory Assistance with Call Completion service pursuant to 20 VAC 5-400-180 D 3 d of the Rules Governing the Offering of Competitive Local Exchange Telephone Service.

On September 6, 2002, XO filed with the Commission a timely Petition for Reconsideration ("Petition") requesting that the Commission reconsider its Final Order in light of the additional information supplied by the Petition. The Petition contained information concerning the Company's cost

of providing Directory Assistance with Call Completion service and a side-by-side comparison between XO's proposed offering and that of the incumbent provider, Verizon Virginia Inc. ("Verizon").

On September 11, 2002, the Commission issued an Order Granting Reconsideration and Suspending Final Order in the matter in order to permit full consideration of XO's request.

XO requests that the Commission approve its provision of Directory Assistance with Call Completion service. XO asserts that this service differs from Verizon's local directory assistance in that it includes both local and national listings and call completion at no additional charge. XO proposes to provide each customer a three free call allowance per month, with a charge of \$0.75 for each additional call. For local listings, Verizon provides a three free call allowance per month and a charge of \$0.29 for each additional call, plus an optional call connection charge of \$0.30 per call. For calls outside the local service area, Verizon's "National 411" service is \$1.25 per call. XO states that its proposed rates are needed to cover the cost of delivering the Company's proposed service.

NOW THE COMMISSION, upon reconsideration of the matter, finds that XO's proposed pricing structure for Directory Assistance with Call Completion service should be permitted pursuant to 20 VAC 5-400-180 D 3 d. However, to alleviate our concerns regarding unrestrained price increases, we will permit XO to only charge up to a maximum of \$0.75 for each call placed above the three free call allowance. The \$0.75 maximum charge will be applicable only to XO's Directory Assistance with Call Completion service for both local and national listings.

Accordingly, IT IS THEREFORE ORDERED THAT:

- (1) Our Final Order in this matter is hereby vacated.
- (2) XO's proposed Directory Assistance with Call Completion service pricing structure is hereby permitted.
- (3) A maximum charge of \$0.75 for each call placed above the three free call allowance is hereby permitted.
- (4) The \$0.75 maximum charge shall be applicable only to XO's Directory Assistance with Call Completion service for both local and national listings.
- (5) There being nothing further to come before the Commission in this docket, this matter is dismissed and the papers filed herein shall be placed in the Commission's file for ended causes.

**CASE NO. PUC-2002-00073  
APRIL 24, 2002**

PETITION OF  
WINSTAR WIRELESS OF VIRGINIA, LLC  
and  
WINSTAR OF VIRGINIA, LLC

Joint petition for authority to partially discontinue telecommunications services in the Commonwealth of Virginia

**ORDER PERMITTING PARTIAL DISCONTINUANCE OF SERVICES**

On March 29, 2002, Winstar Wireless of Virginia, LLC ("Old Winstar"), and Winstar of Virginia, LLC ("New Winstar") (collectively "Winstar," or "Petitioners") filed with the State Corporation Commission ("Commission") a Petition For Authority To Partially Discontinue Telecommunications Services in the Commonwealth of Virginia ("Petition").<sup>1</sup> In its Petition, Winstar states that it has determined that such action is a necessary business decision for the Company.<sup>2</sup>

According to the Petition, Winstar is specifically requesting authority to discontinue only its facilities-based wireline services, which are facilities-based local exchange and interexchange telecommunications services that are being provided using wireline facilities leased from underlying carriers as opposed to Winstar's own fixed wireline services. This will affect approximately 62 customers located in the metropolitan Washington, D.C. area.

Pursuant to 20 VAC 5-400-180 D 7 and 20 VAC 5-411-40, Winstar cannot abandon or discontinue local exchange or interexchange telecommunications services except with the approval of the Commission and upon such terms and conditions as the Commission may prescribe. The Commission's primary concern with authorizing any discontinuance is that adequate customer notice be given. The Petitioners represent that notice was

<sup>1</sup> Winstar's Petition indicates that the customers whose services will be discontinued are currently still being served by Old Winstar pending approval of the transfer and transition of their underlying service to New Winstar. In addition, since the discontinuance may actually occur after that transfer process is completed, the Petitioners are filing this Petition jointly.

<sup>2</sup> Old Winstar did not request that its certificates of public convenience and necessity ("CPCN") be canceled in this proceeding. Winstar holds CPCN No. T--374a to provide local exchange telecommunications services and CPCN No. TT-32B to provide interexchange telecommunications services, issued June 3, 1999, in Case No. PUC-1999-00013. In another case, PUC-2002-00010, regarding the local exchange and interexchange certification application of New Winstar, it has been represented to the Staff that once the transfer of assets from Old Winstar has been completed (PUA-2002-00003; Order issued April 4, 2002) Old Winstar will request cancellation of its certificates.



provided to all affected customers on March 15, 2002. Winstar's Petition complies with a portion of Rule 20 VAC 5-423-20 A (Requirements for discontinuance) at subsection 2, which calls for a description of customer notification efforts and copies of written notices.<sup>3</sup>

The Commission finds that Winstar's customers should receive at least thirty (30) days' advance notice of discontinuance.

NOW THE COMMISSION, being sufficiently advised, will grant the requested partial discontinuance of local exchange and interexchange telecommunications services.

Accordingly, IT IS ORDERED THAT:

(1) This matter is docketed and assigned Case No. PUC-2002-00073.

(2) Winstar is hereby granted authority to partially discontinue its provision of telecommunications services provided by its facilities-based wireline services, which are facilities-based local exchange and interexchange telecommunications services effective April 29, 2002.

(3) On or before April 26, 2002, Winstar shall report to the Commission's Division of Communications the number of any remaining customers affected by the proposed partial discontinuance.

(4) This case shall be closed, and the papers herein shall be placed in the file for ended causes.

<sup>3</sup> A copy of its customer notice is attached to the Petition. The customer notice appears overall to satisfy the requirements of the Rules Governing the Discontinuance of Local Exchange Telecommunications Services Provided by Competitive Local Exchange Carriers (20 VAC 5-423-10 et seq.).

**CASE NO. PUC-2002-00078  
NOVEMBER 19, 2002**

APPLICATION OF  
ERNEST COMMUNICATIONS OF VIRGINIA, INC.

For a certificate of public convenience and necessity to provide local exchange telecommunications services

**FINAL ORDER**

On July 19, 2002, Ernest Communications of Virginia, Inc. ("Ernest" or the "Company"), completed an application for a certificate of public convenience and necessity with the State Corporation Commission ("Commission") to provide local exchange telecommunications services throughout the Commonwealth of Virginia.

By Order dated August 2, 2002, the Commission directed the Company to provide notice to the public of its application and directed the Commission Staff to conduct an investigation and file a Staff Report. On September 20 and 23, 2002, the Company filed proof of publication and proof of service as required by the August 2, 2002, Order.

On September 26, 2002, the Staff filed its Report finding that Ernest's application was in compliance with the Rules Governing the Offering of Competitive Local Exchange Telephone Service ("Local Rules"). Based upon its review of Ernest's application, the Staff determined it would be appropriate to grant the Company a certificate to provide local exchange telecommunications services subject to the following conditions: (1) should Ernest collect customer deposits, it shall, prior to collecting any customer deposits, establish and maintain an escrow account for such funds, held in a Virginia office of a duly chartered state or national bank, savings and loan association, savings bank, or credit union that is unaffiliated with Ernest. The Division of Economics and Finance shall be notified of the escrow arrangement at its inception and any subsequent change to the arrangement. Any escrow arrangement established pursuant to this requirement shall be maintained until such time as the Staff or Commission determines it is no longer necessary; and (2) a \$50,000 continuous bond shall be delivered to the Division of Economics and Finance prior to granting Ernest a certificate of public convenience and necessity in this case. Staff recommended that the bond be accepted as a permanent waiver of § B 5 a and § E 1 d of the Local Rules that require audited financial statements.

On November 7, 2002, Staff filed a supplement to its September 26, 2002, Report wherein it stated that it had received the \$50,000 bond from the Company.

NOW THE COMMISSION, having considered the application and the Staff Report, finds that the Company should be granted a certificate to provide local exchange telecommunications services. We further find that the \$50,000 bond delivered to the Commission's Division of Economics and Finance should be accepted as a permanent waiver of § B 5 a and § E 1 d of the Local Rules that require audited financial statements. We will also require Ernest to notify the Division of Economics and Finance of any cancellation or lapse of such bond consistent with our requirement in other proceedings.

Accordingly, IT IS ORDERED THAT:

(1) Ernest Communications of Virginia, Inc., is hereby granted a certificate of public convenience and necessity, No. T-597, to provide local exchange telecommunications services subject to the restrictions set forth in the Rules Governing the Offering of Competitive Local Exchange Telephone Service, § 56-265.4:4 of the Code of Virginia, and the provisions of this Order.

(2) The Company shall provide tariffs to the Division of Communications that conform to all applicable Commission rules and regulations.

(3) Should Ernest collect customer deposits, it shall, prior to collecting any customer deposits, establish and maintain an escrow account for such funds, held in a Virginia office of a duly chartered state or national bank, savings and loan association, savings bank, or credit union that is unaffiliated with the Company and shall notify the Division of Economics and Finance of the escrow arrangement at its inception and any subsequent change to the arrangement. Any escrow arrangement established pursuant to this requirement shall be maintained until such time as the Staff or Commission determines it is no longer necessary.

(4) The \$50,000 bond delivered to the Division of Economics and Finance is hereby accepted as a permanent waiver of § B 5 a and § E 1 d of the Local Rules.

(5) Regarding paragraph 4 of this Order, Ernest shall notify the Division of Economics and Finance thirty (30) days prior to any cancellation or lapse of the bond and shall provide a replacement bond. This requirement shall be maintained until such time as the Staff or the Commission determines it is no longer necessary.

(6) There being nothing further to come before the Commission, this case shall be dismissed and the papers filed herein placed in the file for ended causes.

**CASE NO. PUC-2002-00081  
JULY 11, 2002**

APPLICATION OF  
CITIZENS TELEPHONE COOPERATIVE  
and  
SPRINT SPECTRUM, L.P.

For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996

**DISMISSAL ORDER**

On April 12, 2002, Citizens Telephone Cooperative ("Citizens Telephone") and Sprint Spectrum, L.P. ("Sprint Spectrum") filed a Commercial Mobile Radio Services ("CMRS") interconnection agreement ("Agreement"), entered under §§ 251 and 252 of the Telecommunications Act of 1996 ("the Act"), 47 U.S.C. §§ 251 and 252, for State Corporation Commission ("Commission") approval pursuant to § 252(e) of the Act, 47 U.S.C. § 252(e).

This Agreement establishes the terms, conditions, and prices for the mutual exchange and termination of traffic originating on each party's network.

On July 10, 2002, Citizens Telephone filed a Motion to Withdraw advising the Commission that due to its failure to serve a copy of the Agreement on the modified service list in this case, as defined in the Commission's Procedural Rules for Implementing §§ 251 and 252 of the Act, 20 VAC 5-419-10 et seq., Citizens Telephone was withdrawing its application for approval of the interconnection Agreement between Citizens Telephone and Sprint Spectrum.

Accordingly, this matter is dismissed without prejudice to Applicant to re-file when it is able to assure this Commission of its ability and willingness to comply with its statutory obligation to provide notice of its application.

IT IS THEREFORE ORDERED THAT:

(1) The application filed by Citizens Telephone Cooperative and Sprint Spectrum, L.P., herein is hereby dismissed without prejudice.

(2) There being nothing further to come before the Commission, this matter is dismissed from the docket, and the record developed herein shall be placed in the file for ended causes.

**CASE NO. PUC-2002-00083  
APRIL 25, 2002**

APPLICATION OF  
NETWORK PLUS VIRGINIA, INC.

For cancellation of certificates of public convenience and necessity and authority to discontinue service

**ORDER**

By Order dated June 15, 2001, in Case No. PUC010034 or PUC-2001-00034, the State Corporation Commission ("Commission") issued certificates of public convenience and necessity permitting the provision of local exchange and facilities-based interexchange telecommunications services (respectively, Certificate Nos. T-560 and TT-154A) to Network Plus Virginia, Inc. ("Network Plus" or "Company").

By application dated April 16, 2002, Network Plus advised that it had filed for bankruptcy protection on February 4, 2002, in the U.S. Bankruptcy Court of Delaware. Currently, the Company provides only resold interexchange telecommunications services to approximately 245 customers within Virginia. Network Plus has requested permission to discontinue its telecommunications services and cancellation of its certificates of public

convenience and necessity, all on an expedited basis to enable it to make arrangements for continued service to these customers, through other carriers, before its own operations cease entirely.

NOW THE COMMISSION, being sufficiently advised, will grant the requested cancellations and permit Network Plus to discontinue its resold interexchange telecommunications services in Virginia.

Accordingly, IT IS ORDERED THAT:

- (1) This matter shall be docketed and assigned Case No. PUC-2002-00083.
- (2) Certificate Nos. T-560 and TT-154A, issued to Network Plus Virginia, Inc., are hereby cancelled.
- (3) This matter is dismissed.

**CASE NO. PUC-2002-00084  
JULY 16, 2002**

APPLICATION OF  
PROGRESS TELECOM VIRGINIA, LLC

For certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services

**FINAL ORDER**

On April 17, 2002, Progress Telecom Virginia, LLC ("Progress" or the "Company"), filed an application for certificates of public convenience and necessity with the State Corporation Commission ("Commission") to provide local exchange and interexchange telecommunications services throughout the Commonwealth of Virginia. The Company also requested authority to price its interexchange telecommunications services on a competitive basis pursuant to § 56-481.1 of the Code of Virginia.

By Order dated May 2, 2002, the Commission directed the Company to provide notice to the public of its application and directed the Commission Staff to conduct an investigation and file a Staff Report. On June 10, 2002, the Company filed proof of publication and proof of service as required by the May 2, 2002, Order.

On June 28, 2002, the Staff filed its Report finding that Progress' application was in compliance with the Commission's Rules Governing the Offering of Competitive Local Exchange Telephone Service and the Rules Governing the Certification of Interexchange Carriers. Based upon its review of Progress' application, the Staff determined it would be appropriate to grant the Company certificates to provide local exchange and interexchange telecommunications services subject to the following condition: should Progress collect customer deposits, it shall establish and maintain an escrow account for such funds, held in a Virginia office of a duly chartered state or national bank, savings and loan association or savings bank, or credit union that is unaffiliated with the Company and shall notify the Division of Economics and Finance of the escrow arrangement and any subsequent change. Any escrow arrangement established pursuant to this requirement shall be maintained until such time as the Staff or Commission determines it is no longer necessary.

NOW THE COMMISSION, having considered the application and the Staff Report, finds that the Company should be granted certificates to provide local exchange and interexchange telecommunications services. Having considered § 56-481.1, the Commission further finds that the Company may price its interexchange telecommunications services competitively.

Accordingly, IT IS ORDERED THAT:

- (1) Progress is hereby granted a certificate of public convenience and necessity, No. TT-180A, to provide interexchange telecommunications services subject to the restrictions set forth in the Commission's Rules Governing the Certification of Interexchange Carriers, § 56-265.4:4 of the Code of Virginia, and the provisions of this Order.
- (2) Progress is hereby granted a certificate of public convenience and necessity, No. T-589, to provide local exchange telecommunications services subject to the restrictions set forth in the Commission's Rules Governing the Offering of Competitive Local Exchange Telephone Service, § 56-265.4:4 of the Code of Virginia, and the provisions of this Order.
- (3) Pursuant to § 56-481.1 of the Code of Virginia, the Company may price its interexchange telecommunications services competitively.
- (4) The Company shall provide tariffs to the Division of Communications that conform to all applicable Commission rules and regulations.
- (5) Should Progress collect customer deposits, it shall establish and maintain an escrow account for such funds, held in a Virginia office of a duly chartered state or national bank, savings and loan association or savings bank, or credit union that is unaffiliated with the Company and shall notify the Division of Economics and Finance of the escrow arrangement and any subsequent change. Any escrow arrangement established pursuant to this requirement shall be maintained until such time as the Staff or Commission determines it is no longer necessary.
- (6) There being nothing further to come before the Commission, this case shall be dismissed and the papers filed herein placed in the file for ended causes.

**CASE NO. PUC-2002-00087  
AUGUST 12, 2002**

APPLICATION OF  
CRG INTERNATIONAL, INC. d/b/a NETWORK ONE

For discontinuance of local exchange telecommunications services and cancellation of certificate of public convenience and necessity

**ORDER**

By Order dated February 17, 1998, in Case No. PUC-1997-00023, the State Corporation Commission ("Commission") issued certificate of public convenience and necessity T-401, permitting the provision of local exchange telecommunications services to CRG International of Virginia, Inc. d/b/a Network One ("Network One" or "Company"). By letter application dated April 17, 2002, Network One advised that it "is ceasing all of its local exchange and interexchange resale operations, due to the lack of funds to continue operating." This discontinuation of service was to be effective the following day, April 18, 2002.

The Company advised that it had mailed a notice to its customers, if any, in the Commonwealth of Virginia as to the offer of its former billing agent, OneStar Communications, LLC, and the agent's affiliated long distance reseller, OneStar Long Distance, Inc., to continue to provide uninterrupted services to such customers. The April 17, 2002, letter application did not state whether Network One actually had any customers in the Commonwealth. It appeared to be a form notice that could be sent to any state regulatory agency. The letter advised that the Company had approximately 12,350 customers nationwide, of which approximately 5,731 were located in West Virginia.

NOW THE COMMISSION, being sufficiently advised, will permit the discontinuance of local exchange telecommunications services in light of the Company's assertion that it "simply no longer has the financial resources to continue as a going concern." While we presume the Company may have intended its "notice" to also be a request by the Company for cancellation of its certificate of public convenience and necessity, we will not take that action at this time since we have learned that the Company is in the protection of the United States Bankruptcy Court in Georgia. We will, however, direct the Company to make clear its intentions with regard to its Virginia certificate within 120 days.

Accordingly, IT IS ORDERED THAT:

- (1) This matter shall be docketed and assigned Case No. PUC-2002-00087.
- (2) The motion of CRG International of Virginia, Inc. d/b/a Network One requesting permission to discontinue local exchange telecommunications services in the Commonwealth of Virginia is hereby GRANTED.
- (3) The Company shall advise the Division of Communications within 120 days regarding the cancellation of its certificate of public convenience and necessity to provide local exchange telecommunications services.
- (4) This matter is dismissed.

**CASE NO. PUC-2002-00088  
OCTOBER 28, 2002**

PETITION OF  
CAVALIER TELEPHONE, LLC

For Injunction Against Verizon Virginia Inc. for Violations of Interconnection Agreement and For Expedited Relief to Order Verizon to Provision Unbundled Network Elements in Accordance with the Telecommunications Act of 1996

**ORDER DIRECTING INVESTIGATION**

On April 19, 2002, Cavalier Telephone, LLC ("Cavalier") filed the above-captioned Petition, docketed in Case No. PUC-2002-00088, with the State Corporation Commission ("Commission"). Cavalier operates in Virginia as a competitive local exchange carrier ("CLEC"). Cavalier complains of the "no construction" policy asserted by Verizon Virginia Inc. ("Verizon Virginia") in refusing to provision certain orders for DS-1 unbundled network element ("UNE") loops. Cavalier maintains that the application of Verizon Virginia's "no construction" policy results in Verizon Virginia breaching: (1) its obligations under § 251(c)(3) of the Telecommunications Act of 1996 ("Act"); (2) specified sections of Attachment III to its Interconnection Agreement;<sup>1</sup> (3) Verizon Virginia's obligation "to make available network features, functions, interface points, and other service elements on an unbundled basis" pursuant to 20 VAC 5-400-180 F; (4) Federal Communications Commission ("FCC") rules at 47 C.F.R. § 51.311, § 51.313, and § 51.319; (5) several FCC orders; and (6) this Commission's Bell Atlantic/GTE Merger Order<sup>2</sup> to adopt the "best practices" of the pre-merged entities. Cavalier also cites § 251(d)(3) of the Act and § 56-247 of the Code of Virginia to support this Commission's investigation and ordering of further unbundling requirements for Verizon Virginia.

<sup>1</sup> For Cavalier's present Interconnection Agreement with Verizon Virginia, Cavalier elected pursuant to § 252(i) of the Act to adopt the Agreement between Verizon Virginia and MCI Metro Access Transmission Services of Virginia, Inc. Cavalier filed a Petition for Arbitration of a new agreement with Verizon Virginia on August 14, 2002, in Case No. PUC-2002-00171. An Order of Dismissal was issued on October 11, 2002, allowing the parties to request arbitration by the Federal Communications Commission.

<sup>2</sup> *Joint Petition of Bell Atlantic Corporation and GTE Corporation for Approval of Agreement and Plan of Merger*, Order Approving Petition, Case No. PUC-1999-00100, at 8, 14 (Nov. 29, 1999).

On May 10, 2002, Verizon Virginia filed a combined Motion To Dismiss, Answer, and Affirmative Defenses. Verizon Virginia states its policy in this regard at page 5 of its Motion To Dismiss:

Consistent with the FCC's rules, Verizon will not: (a) deploy new copper or fiber facilities, (b) deploy new multiplexers in the central office or at the customer's premise where existing equipment is fully utilized, (c) deploy a new apparatus case on the loop or transport facilities where existing equipment is fully utilized, (d) reconfigure a multiplexer (that is, rewire and reprogram a shelf on the multiplexer from DS-3 to DS-1), or (e) deploy new facilities where it cannot correct a defect in existing facilities and no spare facilities are available.

Verizon Virginia responds in its Motion To Dismiss, Answer, and Affirmative Defenses that it is under no duty based upon the Interconnection Agreement, federal law, or state law to accommodate Cavalier on DS-1 UNE loop orders rejected under Verizon Virginia's policy, and that Cavalier's Petition fails to state a claim upon which relief may be granted and should be dismissed. Verizon Virginia urges the Commission to defer to the FCC, which it contends is the proper forum to consider this matter.<sup>3</sup>

On May 22, 2002, Cavalier filed a Response to Verizon Virginia's Motion to Dismiss. Cavalier asserts, among other things, that: (1) Cavalier has alleged a valid claim under Virginia law; (2) the FCC's loop conditioning rules do not favor dismissal; (3) FCC and United States Supreme Court decisions do not support Verizon Virginia's arguments; (4) the Commission identified Verizon Virginia's provisioning practices as an area of concern in a previous complaint proceeding; and (5) the Commission should deny Verizon Virginia's Motion to Dismiss.

On June 30, 2002, Verizon Virginia filed a Reply in Support of its Motion to Dismiss. Verizon Virginia asserts, among other things, that: (1) the FCC already has held, in approving Verizon's § 271 application in Pennsylvania, that Verizon Virginia's DS-1 UNE provisioning policy is consistent with current FCC rules; and (2) Cavalier's reliance on recent United States Supreme Court precedent is grossly misplaced.

NOW UPON CONSIDERATION of the pleadings and the applicable law, the Commission finds as follows. We deny Verizon Virginia's Motion To Dismiss and direct the Commission's Staff ("Staff") to investigate and file a report in this matter.

We note that Cavalier's Petition raises a similar complaint over the policies and practices of Verizon Virginia as that raised by Broadslate Networks of Virginia, Inc. ("Broadslate"), and 360 Communications Company of Charlottesville d/b/a ALLTEL ("ALLTEL") in their separate petitions, docketed in Case Nos. PUC-2001-00166 and PUC-2001-00176. We denied motions by Verizon Virginia to dismiss the Broadslate and ALLTEL petitions.<sup>4</sup> Both Broadslate and ALLTEL, however, withdrew their petitions before full investigation was made by the Commission's Staff, and both cases were dismissed without prejudice.<sup>5</sup>

In the instant proceeding, pursuant to 5 VAC 5-20-100 B and 5 VAC 5-20-80 D, the Staff is directed to conduct an investigation into Verizon Virginia's policies and practices in provisioning DS-1 UNE loops to Cavalier. The Staff is directed to file a report on its investigation. The Staff's report also may include a brief on any legal issues relevant to its investigation. All parties are directed to respond to the Staff's discovery within ten business days.

On or before November 15, 2002, Verizon Virginia may file further explanation of its existing policies and practices in furnishing service and facilities ordered as UNE loops. Cavalier may file additional comments on the investigation no later than December 2, 2002. Verizon Virginia may file a responsive pleading no later than December 16, 2002. The Staff shall file a report on its investigation on or before January 16, 2003. Verizon and Cavalier may file comments on the Staff's report and any request for hearing on or before January 31, 2003.

Accordingly, IT IS HEREBY ORDERED THAT:

- (1) The Motion To Dismiss filed by Verizon Virginia is denied.
- (2) The Staff is directed to conduct an investigation into Verizon Virginia's policies and practices in provisioning DS-1 UNE loops to Cavalier, consistent with the findings above.
- (3) On or before November 15, 2002, Verizon Virginia may file further explanation of its existing policies and practices in furnishing service and facilities ordered as UNE loops.
- (4) On or before December 2, 2002, Cavalier may file comments on the investigation.
- (5) On or before December 16, 2002, Verizon Virginia may file a responsive pleading to Cavalier's comments.
- (6) On or before January 16, 2003, the Staff shall submit a report on its investigation, which may include a brief on any legal issues relevant to its investigation.

<sup>3</sup> Verizon Virginia submits that the proper forum for the relief Cavalier requests is the FCC's triennial review of UNEs, docketed by the FCC. See *In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996; Development of Wireline Service Offering Advanced Telecommunications Capability*, 16 FCC Rcd 22781, ¶ 63 (2001).

<sup>4</sup> See Order Consolidating Cases and Assigning Hearing Examiner, Case Nos. PUC-2001-00166 and PUC-2001-00176 (November 16, 2001).

<sup>5</sup> See Order Dismissing Case, in Case No. PUC-2001-00166 (Feb. 20, 2002), and Order Dismissing Case, Case No. PUC-2001-00176 (Feb. 11, 2002).

(7) On or before January 31, 2003, Verizon Virginia or Cavalier may file comments on the Staff's report and/or a request for hearing. Any request for hearing shall state why the issues raised cannot be adequately addressed in written comments.

(8) This matter is hereby continued pending further order of the Commission.

**CASE NO. PUC-2002-00091  
MAY 2, 2002**

APPLICATION OF  
PRIME TELECOM POTOMAC, LLC

For cancellation of certificate of public convenience and necessity

**ORDER**

By Order dated November 2, 1998, in Case No. PUC-1998-00112, the State Corporation Commission ("Commission") issued certificate of public convenience and necessity No. T-422, permitting the provision of local exchange telecommunications services, to Prime Telecom Potomac LLC ("Prime" or "Company"). By letter application filed April 19, 2002, Prime requested cancellation of its certificate of public convenience and necessity. The Company has never had customers in the Commonwealth of Virginia.

NOW THE COMMISSION, being sufficiently advised, will grant the requested cancellation.

Accordingly, IT IS ORDERED that:

- (1) This matter shall be docketed and assigned Case No. PUC-2002-00091.
- (2) Certificate No. T-422, issued to Prime Telecom Potomac, LLC, and any and all tariffs filed by that Company, are hereby cancelled.
- (3) This matter is dismissed.

**CASE NO. PUC-2002-00092  
MAY 22, 2002**

PETITION OF  
ADVANCED TELECOM GROUP OF VIRGINIA, INCORPORATED  
d/b/a ADVANCED TELECOM GROUP

Petition for authority to cease operations and discontinue telecommunications services in the Commonwealth of Virginia

**ORDER PERMITTING DISCONTINUANCE OF  
SERVICES AND CANCELLATION OF CERTIFICATES**

On April 23, 2002, Advanced Telecom Group of Virginia, Incorporated ("Advanced Telecom"), filed with the State Corporation Commission ("Commission") a Petition For Authority To Cease Operations and Discontinue Telecommunications Services in the Commonwealth of Virginia ("Petition"). In its Petition, Advanced Telecom states that it has determined that such action is a necessary business decision for the Company.<sup>1</sup> In addition, Petitioner requests waiver of 20 VAC 5-423-20 C 4 (requirement that individual customer notices contain particular customer's network information) of the Commission's Rules Governing the Discontinuance of Local Exchange Telecommunications Services Provided by Competitive Local Exchange Carriers ("Discontinuance Rules") and 5 VAC 5-20-30 (requirement that pleadings or papers be filed on behalf of party by licensed local Virginia counsel) of the Commission's Rules of Practice and Procedure.

Pursuant to 20 VAC 5-411-40 of the Commission's Rules Governing the Certification of Interexchange Carriers ("IXC Rules"), Advanced Telecom cannot "abandon or discontinue local service . . . except with the approval of the Commission, and under the terms and conditions as the Commission may prescribe." Additionally, the Discontinuance Rules (20 VAC 5-423-10 *et seq.*) require CLECs to file a formal petition for authority to cease local exchange operations and discontinue service and to provide at least 30 days' written notice to its customers. The Commission's primary concern with authorizing discontinuance is that adequate customer notice be given. Advanced Telecom's Petition complies with the IXC Rules and the Discontinuance Rules. Pursuant to the Petition, the Company represented that customers will be provided forty (40) days' notice through two scheduled notification letters.<sup>2</sup>

NOW THE COMMISSION, being sufficiently advised, will grant the requested discontinuance of local exchange and interexchange telecommunications services.

<sup>1</sup> Advanced Telecom requests that its certificates of public convenience and necessity ("CPCNs") be cancelled. Advanced Telecom holds CPCN Nos. T-453 to provide local exchange telecommunications services and TT-73A to provide interexchange telecommunications services issued July 29, 1999, in Case No. PUC-1999-00088.

<sup>2</sup> A copy of its initial customer notice and second written notice is attached to the Petition. The customer notices appear to satisfy the requirements of the Discontinuance Rules.

Accordingly, IT IS ORDERED THAT:

- (1) This matter is docketed and assigned Case No. PUC-2002-00092.
- (2) Advanced Telecom is hereby granted authority to discontinue its provision of local exchange and interexchange telecommunications services provided in Virginia effective June 7, 2002.
- (3) On or before June 4, 2002, Advanced Telecom shall report to the Commission's Division of Communications the number of any remaining local exchange and interexchange telecommunications customers affected by the proposed discontinuance.
- (4) Advanced Telecom's Certificate Nos. T-453 and TT-73A and associated tariffs are hereby cancelled, effective June 7, 2002.
- (5) Advanced Telecom is hereby granted waiver of 20 VAC 5-423-20 C 4 of the Commission's Discontinuance Rules and 5 VAC 5-20-30 of the Commission's Rules of Practice and Procedure.
- (6) This case shall be closed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. PUC-2002-00097  
AUGUST 6, 2002**

APPLICATION OF  
US LEC OF VIRGINIA L.L.C.

For waiver of the price ceiling for an additional white page directory listing, and request for expedited review

**ORDER OF DISMISSAL**

On May 9, 2002, US LEC of Virginia L.L.C. ("US LEC" or "Applicant"), filed an application for a waiver of the price ceiling for an additional white page directory listing and a request for expedited review with the State Corporation Commission ("Commission"). The Applicant requests that the Commission waive the price ceiling, as set forth in 20 VAC 5-400-180 D 3 c of the Commission's Rules Governing the Offering of Competitive Local Exchange Telephone Service, for additional white page directory listings.

An Order Prescribing Notice and Inviting Comments and/or Requests for Hearing was issued June 10, 2002.

On July 31, 2002, US LEC filed a Motion to Withdraw Application, requesting that this matter be dismissed without prejudice.

NOW THE COMMISSION is of the opinion that this case should be dismissed without prejudice.

Accordingly, IT IS ORDERED THAT:

- (1) The Motion to Withdraw Application is hereby granted.
- (2) There being nothing further to come before the Commission, this case is hereby dismissed without prejudice.

**CASE NO. PUC-2002-00101  
AUGUST 12, 2002**

JOINT PETITION OF  
XO COMMUNICATIONS, INC.,  
XO VIRGINIA, LLC,  
and  
XO LONG DISTANCE SERVICES (VIRGINIA), LLC

For approval of a transfer of control pursuant to a corporate restructuring involving the issuance and sale of new common stock to (1) certain affiliates of Forstmann Little & Co.; and (2) a subsidiary of Telefonos de Mexico, S.A. de C.V., each to acquire a 40% voting interest

**ORDER GRANTING APPROVAL**

On May 15, 2002, XO Communications, Inc. ("XO"), and its wholly owned subsidiary, XO Virginia, LLC ("XO Virginia"), together with Telefonos de Mexico, S.A. de C.V. ("Telmex"), Forstmann Little & Co. Equity Partnership-VII, L.P., and Forstmann Little & Co. Subordinated Debt and Equity Management Buyout Partnership-VIII, L.P. (together, "Forstmann Little"), filed a joint petition with the State Corporation Commission ("Commission") requesting authority, pursuant to § 56-88.1 of the Code of Virginia ("Code"), to transfer ownership and control of XO and its operating subsidiaries from Craig O. McCaw and the existing shareholders of XO to the shareholders of the restructured and recapitalized XO, including Telmex and Forstmann Little. On June 14, 2002, the joint petition was amended to include XO Long Distance Services (Virginia), LLC ("XO Long Distance Virginia"), XO, XO Virginia, and XO Long Distance Virginia are collectively referenced as "Petitioners." Forstmann Little and Telmex are collectively referenced as the "Investors."

XO is a Delaware corporation headquartered in Reston, Virginia. Through its operating subsidiaries, XO provides bundled local and long distance as well as dedicated voice and data telecommunications services primarily to business customers. XO is authorized, through its subsidiaries, to provide intrastate interexchange telecommunications services virtually nationwide and is authorized to provide local exchange telecommunications services in approximately 30 states. XO also offers international telecommunications services, which are incidental to its core domestic business. XO is currently controlled by Craig O. McCaw through his ownership interest in Eagle River Investments, L.L.C., and through other direct and indirect holdings of XO securities and various voting arrangements.

XO Virginia is a 100% wholly owned subsidiary of XO. XO Virginia is headquartered in Reston, Virginia, with XO. XO Virginia is authorized to provide local exchange and interexchange telecommunications services in Virginia.<sup>1</sup>

XO Long Distance Services, Inc. ("XO Long Distance"), is another wholly owned subsidiary of XO. XO Long Distance provides resold interexchange telecommunications services in Virginia through XO Long Distance Virginia.

XO Long Distance Virginia is also a wholly owned subsidiary of XO. XO Long Distance Virginia is authorized and provides interexchange telecommunications services in Virginia.<sup>2</sup>

In a letter to the Commission dated June 20, 2002, the Petitioners notified Staff that on June 17, 2002, XO Communications, Inc., filed a petition with the United States Bankruptcy Court for the Southern District of New York pursuant to Chapter 11 of the United States Bankruptcy Code. XO's Virginia operating subsidiaries did not file for bankruptcy protection.

Forstmann Little is a private equity firm founded in 1978, located in New York, New York. Forstmann Little & Co. Equity Partnership-VII, L.P. and Forstmann Little & Co. Subordinated Debt and Equity Management Buyout Partnership-VIII, L.P., are both Delaware limited partnerships. Forstmann Little, through several limited partnerships ultimately controlled by individual general partners, has made acquisitions and equity investments in high growth, high quality companies. Funds affiliated with Forstmann Little have made equity investments in XO totaling \$1.5 billion. These investments give the funds the right to designate two directors.

Telmex is a Mexican corporation providing telecommunications services in Mexico. Telmex and its subsidiaries offer advanced telecommunications, data, and video services, along with Internet and integrated telecommunications solutions for corporate customers through a fiber-optic digital network. Telmex is controlled by Carso Global Telecom, S.A. de C.V., a Mexican holding company. Telmex owns Controladora de Servicios de Telecomunicaciones, S.A. de C.V., which owns Teninver. Teninver is the Mexican entity through which Telmex proposes to make its investment in XO.

Under the proposed transaction, ownership and control of XO and its operating subsidiaries will be transferred from Craig O. McCaw and the existing shareholders of XO to the shareholders of the restructured and recapitalized XO, including Telmex and Forstmann Little. The transfer of control will be a result of XO's planned restructuring involving the modification of XO's existing credit facility, the elimination of all equity and outstanding notes, and the purchase of new common stock in XO by the Investors for \$800 million.

The restructuring involves the completion of transactions that would result in XO having no more than \$1 billion of outstanding senior secured debt in addition to other existing capital lease and secured obligations. Equity will consist of each Investor's 40% common stock interest with the remaining 20% divided between management and other holders. According to the joint petition, the proposed \$800 million investment, together with already available funds, will provide the resources needed for XO's restructuring and continued operation.

The proposed transaction is the result of a Stock Purchase Agreement, dated January 15, 2002, among XO, Forstmann Little, and Telmex. Pursuant to this agreement, XO will issue new common shares to the Investors, each of whom will pay \$400 million in cash for the shares, for a total investment in XO of \$800 million. According to the Stock Purchase Agreement, Forstmann Little will purchase 79,999,998 shares of Class A Common Stock, par value \$0.01 per share, of XO and two shares of a newly created Class D Common Stock, par value \$0.01 per share, of XO. The combined shares held by Forstmann Little are expected to equal approximately 40% of the total outstanding equity securities of XO. According to the agreement, Telmex will purchase 80,000,000 shares of a newly created Class C Common Stock, par value \$0.01 per share, of XO, which will equal approximately 40% of the total outstanding equity securities of XO. As a result of the acquisition of stock in XO, Forstmann Little and Telmex will also be able to designate persons to the XO Board of Directors in proportion to their equity interests.

The Commission issued its Order for Notice and Comment on June 21, 2002. On July 10, 2002, the Petitioners filed the required proofs of notice and service. No comments were filed in response to the joint petition.

On July 30, 2002, Staff filed its report on the joint petition. In its report, Staff states that the proposed transfer is simply a transfer of ultimate ownership, resulting in Telmex and Forstmann Little each directly holding 40% of XO, and indirectly holding 40% of XO Virginia, XO Long Distance, and XO Long Distance Virginia. This transaction will provide the necessary funding to allow Petitioners to continue to serve customers in Virginia. Staff further states that it appears the proposed transaction will not significantly affect operations and that services will continue to be provided to customers in Virginia with no changes in rates, terms, and conditions of service. Staff concludes that there is no indication that the proposed transfer will have any adverse impact on the provision of adequate service to the public at just and reasonable rates and that the proposed transfer, therefore, meets the test of the Utility Transfers Act. Therefore, Staff recommends approval of the transfer of ownership' and control of XO Virginia and XO Long Distance Virginia.

<sup>1</sup> NEXTLINK Virginia, L.L.C. ("NEXTLINK"), was granted certificates of public convenience and necessity ("CPCNs") to provide local exchange and interexchange telecommunications services by the Commission on July 29, 1998, in Case No. PUC-1998-00065. On December 20, 2000, NEXTLINK filed to have its CPCNs revised to reflect the new name, XO Virginia, LLC. An Order revising the CPCNs was issued on February 5, 2001, in Case No. PUC-2001-00001.

<sup>2</sup> XO Long Distance Services (Virginia), LLC, was granted a certificate of public convenience and necessity by the Commission on November 27, 2001, in Case No. PUC-2001-00171 to provide interexchange telecommunications services.



THE COMMISSION, having considered the joint petition, the Staff Report, and applicable law, is of the opinion and finds that the transaction, as described herein, involving the transfer of ownership and control of XO Virginia and XO Long Distance Virginia will neither impair nor jeopardize the provision of adequate service to the public at just and reasonable rates and should, therefore, be approved.

Accordingly, IT IS ORDERED THAT:

- 1) Pursuant to §§ 56-88.1 and 56-90 of the Code of Virginia, approval is hereby granted for the transfer of ownership and control of XO Virginia and XO Long Distance Virginia, as described herein.
- (2) There appearing nothing further to be done in this matter, it is hereby dismissed.

**CASE NO. PUC-2002-00103  
OCTOBER 23, 2002**

APPLICATION OF  
MCGRAW COMMUNICATIONS OF VIRGINIA, INC.

For certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services

**FINAL ORDER**

On May 23, 2002, McGraw Communications of Virginia, Inc. ("McGraw" or the "Company"), filed an application for certificates of public convenience and necessity with the State Corporation Commission ("Commission") to provide local exchange and interexchange telecommunications services throughout the Commonwealth of Virginia. The Company also requested authority to price its interexchange telecommunications services on a competitive basis pursuant to § 56-481.1 of the Code of Virginia.

By Order dated June 13, 2002, the Commission directed the Company to provide notice to the public of its application and directed the Commission Staff to conduct an investigation and file a Staff Report. On September 12, 2002, the Company filed proof of publication and proof of service as required by the June 13, 2002, Order.

On October 4, 2002, the Staff filed its Report finding that McGraw's application was in compliance with the Rules Governing the Offering of Competitive Local Exchange Telephone Service and the Rules Governing the Certification of Interexchange Carriers. Based upon its review of McGraw's application, the Staff determined it would be appropriate to grant the Company certificates to provide local exchange and interexchange telecommunications services subject to the following conditions: (1) should McGraw collect customer deposits, it shall, prior to collecting such deposits, establish and maintain an escrow account for such funds, held in a Virginia office of a duly chartered state or national bank, savings and loan association, savings bank, or credit union that is unaffiliated with the Company and shall notify the Division of Economics and Finance of the escrow arrangement at its inception and any subsequent change to the arrangement. Any escrow arrangement established pursuant to this requirement shall be maintained until such time as the Staff or Commission determines it is no longer necessary; and (2) the Company shall provide audited financial statements of its parent, McGraw Communications, Inc., to the Division of Economics and Finance no later than one (1) year from the effective date of McGraw's initial tariff in Virginia.

NOW THE COMMISSION, having considered the application and the Staff Report, finds that the Company should be granted certificates to provide local exchange and interexchange telecommunications services. Having considered § 56-481.1, the Commission further finds that the Company may price its interexchange telecommunications services competitively.

Accordingly, IT IS ORDERED THAT:

(1) McGraw Communications of Virginia, Inc., is hereby granted a certificate of public convenience and necessity, No. TT-183A, to provide interexchange telecommunications services subject to the restrictions set forth in the Commission's Rules Governing the Certification of Interexchange Carriers, § 56-265.4:4 of the Code of Virginia, and the provisions of this Order.

(2) McGraw Communications of Virginia, Inc., is hereby granted a certificate of public convenience and necessity, No. T-593, to provide local exchange telecommunications services subject to the restrictions set forth in the Rules Governing the Offering of Competitive Local Exchange Telephone Service, § 56-265.4:4 of the Code of Virginia, and the provisions of this Order.

(3) Pursuant to § 56-481.1 of the Code of Virginia, the Company may price its interexchange telecommunications services competitively.

(4) The Company shall provide tariffs to the Division of Communications that conform to all applicable Commission rules and regulations.

(5) Should McGraw collect customer deposits, it shall, prior to collecting such deposits, establish and maintain an escrow account for such funds, held in a Virginia office of a duly chartered state or national bank, savings and loan association, savings bank, or credit union that is unaffiliated with the Company and shall notify the Division of Economics and Finance of the escrow arrangement at its inception and any subsequent change to the arrangement. Any escrow arrangement established pursuant to this requirement shall be maintained until such time as the Staff or Commission determines it is no longer necessary.

(6) The Company shall provide audited financial statements for its parent, McGraw Communications, Inc., to the Division of Economics and Finance no later than one (1) year from the effective date of McGraw's initial tariff in Virginia.

(7) There being nothing further to come before the Commission, this case shall be dismissed and the papers filed herein placed in the file for ended causes.

**CASE NO. PUC-2002-00104  
SEPTEMBER 3, 2002**

APPLICATION OF  
CYPRESS COMMUNICATIONS HOLDING COMPANY OF VIRGINIA, INC.

For certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services

**FINAL ORDER**

On May 24, 2002, Cypress Communications Holding Company of Virginia, Inc. ("Cypress" or the "Company"), filed an application for certificates of public convenience and necessity with the State Corporation Commission ("Commission") to provide local exchange and interexchange telecommunications services throughout the Commonwealth of Virginia. The Company also requested authority to price its interexchange telecommunications services on a competitive basis pursuant to § 56-481.1 of the Code of Virginia.

By Order dated June 5, 2002, the Commission directed the Company to provide notice to the public of its application and directed the Commission Staff to conduct an investigation and file a Staff Report. On July 15, 2002, the Company filed proof of publication and proof of service as required by the June 5, 2002, Order. No comments or requests for hearing were filed in this matter.

On August 16, 2002, the Staff filed its Report finding that Cypress' application was in compliance with the Rules Governing the Offering of Competitive Local Exchange Telephone Service and the Rules Governing the Certification of Interexchange Carriers. Based upon its review of Cypress' application, the Staff determined it would be appropriate to grant the Company certificates to provide local exchange and interexchange telecommunications services subject to the following condition: should Cypress collect customer deposits, it shall establish and maintain an escrow account for such funds, held in a Virginia office of a duly chartered state or national bank, savings and loan association or savings bank, or credit union that is unaffiliated with the Company and shall notify the Division of Economics and Finance of the escrow arrangement and any subsequent change. Any escrow arrangement established pursuant to this requirement shall be maintained until such time as the Staff or Commission determines it is no longer necessary.

Cypress did not file a response to the Staff's Report.

NOW THE COMMISSION, having considered the application and the Staff Report, finds that the Company should be granted certificates to provide local exchange and interexchange telecommunications services. Having considered § 56-481.1, the Commission further finds that the Company may price its interexchange telecommunications services competitively.

Accordingly, IT IS ORDERED THAT:

(1) Cypress Communications Holding Company of Virginia, Inc., is hereby granted a certificate of public convenience and necessity, No. TT-181A, to provide interexchange telecommunications services subject to the restrictions set forth in the Commission's Rules Governing the Certification of Interexchange Carriers, § 56-265.4:4 of the Code of Virginia, and the provisions of this Order.

(2) Cypress is hereby granted a certificate of public convenience and necessity, No. T-590, to provide local exchange telecommunications services subject to the restrictions set forth in the Rules Governing the Offering of Competitive Local Exchange Telephone Service, § 56-265.4:4 of the Code of Virginia, and the provisions of this Order.

(3) Pursuant to § 56-481.1 of the Code of Virginia, the Company may price its interexchange telecommunications services competitively.

(4) The Company shall provide tariffs to the Division of Communications that conform to all applicable Commission rules and regulations.

(5) Should the Company collect customer deposits, it shall establish and maintain an escrow account for such funds, held in a Virginia office of a duly chartered state or national bank, savings and loan association or savings bank, or credit union that is unaffiliated with the Company and shall notify the Division of Economics and Finance of the escrow arrangement and any subsequent change. Any escrow arrangement established pursuant to this requirement shall be maintained until such time as the Staff or Commission determines it is no longer necessary.

(6) There being nothing further to come before the Commission, this case shall be dismissed and the papers filed herein placed in the file for ended causes.

**CASE NO. PUC-2002-00105  
AUGUST 6, 2002**

PETITION OF  
US LEC OF VIRGINIA INC.

For Arbitration Pursuant to § 252(b) of the Telecommunications Act of 1996 to Establish an Interconnection Agreement with Verizon Virginia Inc. and Verizon South Inc.

**ORDER OF DISMISSAL**

On May 24, 2002, US LEC of Virginia Inc. ("US LEC") filed with the State Corporation Commission ("Commission") a Petition for arbitration of unresolved issues in its interconnection negotiations ("Arbitration Petition") with Verizon Virginia Inc. ("Verizon Virginia") and Verizon South Inc.

("Verizon South") (collectively, "Verizon") pursuant to § 252(b) of the Telecommunications Act of 1996<sup>1</sup> and §§ 5-400-180 and 5-419-10 *et seq.* of Title 20 of the Virginia Administrative Code. US LEC requests that the Commission resolve its dispute with Verizon by: (i) adopting an interconnection agreement between US LEC and Verizon reflecting the undisputed contract language shown in Exhibit B to the Arbitration Petition; (ii) resolving the disputed issues; (iii) affirmatively ordering the parties to submit an interconnection agreement for approval by the Commission in accordance with Section 252(e) of the Act; and (iv) retaining jurisdiction until Verizon has complied with all implementation time frames specified in the arbitrated interconnection agreement and has fully implemented the terms of this agreement.

On June 18, 2002, Verizon filed its Response to the Arbitration Petition of US LEC. Verizon admits that the draft interconnection agreement attached to the Arbitration Petition as Exhibit B accurately reflects the parties' negotiation to date, except that the parties have settled issue 9. Verizon's response addresses the eight remaining issues.

US LEC brings its Arbitration Petition pursuant to 47 U.S.C. §§ 251 and 252 and the effective rules implementing these provisions of the Act, issued by the Federal Communications Commission ("FCC") in its Local Competition Order.<sup>2</sup> US LEC also relies upon this Commission's Procedural Rules for Implementing §§ 251 and 252 of the Act (20 VAC 5-419-10 *et seq.*) and Rules Governing the Offering of Competitive Local Exchange Telephone Service (20 VAC 5-400-180). 20 VAC 5-400-180 F 6 provides for our "arbitration" of contested interconnection matters.<sup>3</sup> US LEC submits its Arbitration Petition for consideration according to the Act and not simply under state law. US LEC recognizes in its Arbitration Petition that the Commission may choose to decline to exercise jurisdiction over this matter and instead refer it to the FCC.<sup>4</sup> US LEC states that it does not oppose such consideration of the Arbitration Petition by the FCC and requests that our determination be made on an expedited basis.

The Commission has declined to waive sovereign immunity under the Eleventh Amendment to the Constitution of the United States. We have avoided waiver of our immunity and explained our reasons in the Commission's Order of Dismissal of the Application of AT&T Communications of Virginia, Inc., et al., For Arbitration with Verizon Virginia, Case No. PUC-2000-00282, issued December 20, 2000, ("AT&T Dismissal Order").<sup>5</sup> We repeat below our holding in the AT&T Dismissal Order in which we declined to exercise jurisdiction.

As stated in our November 22, 2000, Order, until the issue of the Eleventh Amendment immunity from federal appeal under the Act is resolved by the Courts of the United States, we will not act solely under the Act's federally conveyed authority in matters that might arguably implicate a waiver of the Commonwealth's immunity, including the arbitration of rates, terms, and conditions of interconnection agreements between local exchange carriers. (AT&T Dismissal Order, p. 2)

In Verizon Md. Inc. v. Public Serv. Comm'n of Md., 535 U.S. \_\_\_, 70 USLW 4432 (2002) ("Verizon Md. v. PSC of Md."), the Supreme Court held that the federal courts have jurisdiction under 28 USC § 1331 to review state commission orders for compliance with the Act or with an FCC ruling issued thereunder<sup>6</sup> and that suit against individual members of the state commission may proceed under the doctrine of Ex Parte Young, 209 U.S. 123 (1908). However, Verizon Md. v. PSC of Md. did not disclose whether state commissions waive their sovereign immunity by participating in § 252 matters nor whether Congress effectively divested the states of their Eleventh Amendment immunity from suit under § 252 of the Act.<sup>7</sup> We now await the Fourth

<sup>1</sup> Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56, *codified at* 47 U.S.C. § 151 *et seq.* ("Act").

<sup>2</sup> Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, FCC Docket No. 96-98, First Report and Order, 11 FCC Rcd 15499 (1996) hereinafter the "Local Competition Order."

<sup>3</sup> As discussed in our Order of June 15, 2000, in Case No. PUC990101, Petition of Cavalier Telephone, LLC, for arbitration of interconnection rates, terms, and conditions, and related relief, the Commission has authority under state law to order interconnection between carriers operating within the Commonwealth, and § 56-38 of the Code of Virginia authorizes us, upon request of the parties, "to effect, by mediation, the adjustment of claims, and the settlement of controversies, between public service companies, and their employees and patrons."

<sup>4</sup> US LEC cites our recent dismissal of the Global NAPs' Arbitration Petition. See Petition of Global NAPs South, Inc., for Arbitration Pursuant to Section 252(b) of the Telecommunications Act of 1996 to Establish an Interconnection Agreement with Verizon Virginia Inc., Case No. PUC-2002-00001, Preliminary Order (Va. SCC Feb. 20, 2002) at 2-3. See also, Id., Order of Dismissal (Va. SCC March 20, 2002). Thereafter, Global NAPs filed on June 19, 2002, a Petition, pursuant to § 252(e)(5) of the Act requesting the FCC to preempt this Commission and arbitrate an interconnection agreement between itself and Verizon Virginia. See Public Notice, rel. July 2, 2002, DA02-1567, WC Docket No. 02-180.

<sup>5</sup> On July 17, 2002, the FCC released the first of two orders (its non-pricing order) on AT&T's Arbitration Petition. See Memorandum Opinion and Order by the Chief, Wireline Competition Bureau, CC Docket No. 00-251.

<sup>6</sup> While Verizon Md. v. PSC of Md. was decided on the state commission's enforcement of an interconnection agreement, this decision may suggest federal court jurisdiction under 28 USC § 1331 also applies to a state commission's arbitration of an interconnection agreement as well. The Supreme Court noted in by-passing a determination of whether § 252(e)(6) applied to enforcement actions:

...none of the other provisions of the Act evince any intent to preclude federal review of a commission determination. If anything, they reinforce the conclusion that § 252(e)(6)'s silence on the subject leaves the jurisdictional grant of § 1331 untouched. Section 252(e)(4) provides: "No State court shall have jurisdiction to review the action of a state commission in approving or rejecting an agreement under this section." In sum, nothing in the Act displays any intent to withdraw federal jurisdiction under § 1331; we will not presume that the statute means what it neither says nor fairly implies (footnote omitted).

Verizon Md. v. PSC of Md., 70 USLW 4432 at 4435.

<sup>7</sup> "Whether the Commission waived its immunity is another question we need not decide, because - as the same parties also argue - even absent waiver, Verizon may proceed against the individual commissioners in their official capacities, pursuant to the doctrine of Ex Parte Young, 209 U.S. 123 (1908)." Verizon Md. v. PSC of Md., 70 USLW 4432 at 4435.

Circuit Court's determination following remand of *Verizon Md. v. PSC of Md.* by the Supreme Court. The Fourth Circuit Court of Appeals may yet offer us further insight into the condition of state immunity under the Eleventh Amendment.

The parties to the present case may elect to proceed with arbitration by the FCC under the Act in lieu of this Commission, or the parties may pursue resolution of unresolved issues pursuant to 20 VAC 5-400-180 F 6. As we have noted above, US LEC has elected to forego resolution of the remaining issues under state law. Therefore, the Commission finds that the Arbitration Petition of US LEC should be dismissed so that the parties may proceed before the FCC. It shall be the responsibility of the parties to serve copies of all pleadings filed herein on the FCC.

Accordingly, IT IS ORDERED THAT:

- (1) This case is hereby dismissed without prejudice, consistent with the findings above. This Commission will not arbitrate the interconnection issues under federal law for the reasons set forth in the findings above.
- (2) There being nothing further to come before the Commission, this case is dismissed.

**CASE NO. PUC-2002-00106  
NOVEMBER 13, 2002**

APPLICATION OF  
EAST TENNESSEE NETWORK, LLC

For certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services

**FINAL ORDER**

On August 12, 2002, East Tennessee Network, LLC ("ETN" or the "Company"), completed an application for certificates of public convenience and necessity with the State Corporation Commission ("Commission") to provide local exchange and interexchange telecommunications services throughout the Commonwealth of Virginia. The Company also requested authority to price its interexchange telecommunications services on a competitive basis pursuant to § 56-481.1 of the Code of Virginia.

By Order dated August 27, 2002, the Commission directed the Company to provide notice to the public of its application and directed the Commission Staff to conduct an investigation and file a Staff Report. On October 21, 2002, the Company filed proof of publication and proof of service as required by the August 27, 2002, Order.

On October 25, 2002, the Staff filed its Report finding that ETN's application was in compliance with the Rules Governing the Offering of Competitive Local Exchange Telephone Service and the Rules Governing the Certification of Interexchange Carriers. Based upon its review of ETN's application, the Staff determined it would be appropriate to grant the Company certificates to provide local exchange and interexchange telecommunications services subject to the following condition: should ETN collect customer deposits, it shall, prior to collecting any deposits, establish and maintain an escrow account for such funds, held in a Virginia office of a duly chartered state or national bank, savings and loan association, savings bank, or credit union, that is unaffiliated with the Company and shall notify the Division of Economics and Finance of the escrow arrangement at its inception and any subsequent change to the arrangement. Any escrow arrangement established pursuant to this requirement shall be maintained until such time as the Staff or Commission determines it is no longer necessary.

NOW THE COMMISSION, having considered the application and the Staff Report, finds that the Company should be granted certificates to provide local exchange and interexchange telecommunications services. Having considered § 56-481.1, the Commission further finds that the Company may price its interexchange telecommunications services competitively.

Accordingly, IT IS ORDERED THAT:

- (1) East Tennessee Network, LLC, is hereby granted a certificate of public convenience and necessity, No. TT-184A, to provide interexchange telecommunications services subject to the restrictions set forth in the Commission's Rules Governing the Certification of Interexchange Carriers, § 56-265.4:4 of the Code of Virginia, and the provisions of this Order.
- (2) East Tennessee Network, LLC, is hereby granted a certificate of public convenience and necessity, No. T-596, to provide local exchange telecommunications services subject to the restrictions set forth in the Rules Governing the Offering of Competitive Local Exchange Telephone Service, § 56-265.4:4 of the Code of Virginia, and the provisions of this Order.
- (3) Pursuant to § 56-481.1 of the Code of Virginia, the Company may price its interexchange telecommunications services competitively.
- (4) The Company shall provide tariffs to the Division of Communications that conform to all applicable Commission rules and regulations.
- (5) Should ETN collect customer deposits, it shall, prior to collecting any deposits, establish and maintain an escrow account for such funds, held in a Virginia office of a duly chartered state or national bank, savings and loan association, savings bank, or credit union that is unaffiliated with the Company and shall notify the Division of Economics and Finance of the escrow arrangement at its inception and any subsequent change to the arrangement. Any escrow arrangement established pursuant to this requirement shall be maintained until such time as the Staff or Commission determines it is no longer necessary.
- (6) There being nothing further to come before the Commission, this case shall be dismissed and the papers filed herein placed in the file for ended causes.

**CASE NO. PUC-2002-00107  
OCTOBER 17, 2002**

APPLICATION OF  
UNITED TELEPHONE - SOUTHEAST, INC.  
AND CENTRAL TELEPHONE COMPANY OF VIRGINIA  
and  
MOUNTAINET TELEPHONE COMPANY

For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996

**DISMISSAL ORDER**

On February 20, 2001, United Telephone - Southeast, Inc., and Central Telephone Company of Virginia (jointly, "Sprint") and Mountain Telephone Company ("MountainNet"), filed an interconnection agreement ("Agreement"), entered under §§ 251 and 252 of the Telecommunications Act of 1996 (the "Act"), 47 U.S.C. §§ 251 and 252, for State Corporation Commission ("Commission") approval pursuant to § 252(e) of the Act, 47 U.S.C. § 252(e). This Agreement was approved by Order Approving Agreement dated August 6, 2002, in Case No. PUC-2002-00107.

On September 10, 2002, Sprint filed a joint application for approval of an interconnection agreement between Sprint and MountainNet. This agreement was assigned Case No. PUC-2002-00184 and has been approved by separate Order. As verified by letter from counsel for the Applicant dated September 10, 2002, we find that the Agreement approved in Case No. PUC-2002-00107 has been replaced by the Agreement approved in Case No. PUC-2002-00184. Therefore, Case No. PUC-2002-00107 should be dismissed.

Accordingly, IT IS ORDERED THAT the agreement approved in Case No. PUC-2002-00184 shall supersede the agreement approved in Case No. PUC-2002-00107, and the captioned matter is hereby dismissed from the Commission's docket of active cases.

**CASE NO. PUC-2002-00112  
JUNE 13, 2002**

APPLICATION OF  
HARVARDNET-VIRGINIA, INC.

For cancellation of certificates of public convenience and necessity

**ORDER**

By Order dated December 30, 1999, in Case No. PUC-1999-00108, the State Corporation Commission ("Commission") issued certificates of public convenience and necessity T-472, permitting the provision of local exchange telecommunications services, and TT-83A, permitting the provision of interexchange telecommunications services to HarvardNet-Virginia, Inc. ("HarvardNet" or "Company"). By letter application dated April 29, 2002, HarvardNet advised that it "ceased operations on March 15, 2001." HarvardNet also advised that it had no customers in the Commonwealth of Virginia. Accordingly, the Company requested that "any and all certificates and tariffs of the corporation should be cancelled as of March 15, 2001."

NOW THE COMMISSION, being sufficiently advised, will cancel Certificates No. T-472 and TT-83A issued in the above-referenced case.

Accordingly, IT IS ORDERED that:

- (1) This matter shall be docketed and assigned Case No. PUC-2002-00112.
- (2) Certificate Nos. T-472 and TT-83A issued to HarvardNet-Virginia, Inc., are hereby cancelled.
- (3) Any and all tariffs of the Company are hereby cancelled.
- (4) This matter is dismissed.

**CASE NO. PUC-2002-00119  
JULY 26, 2002**

APPLICATION OF  
AT&T COMMUNICATIONS OF VIRGINIA, INC.

For cancellation of certificates of public convenience and necessity

**ORDER**

By Order dated March 27, 2002, in Case No. PUC-2001-00255, the State Corporation Commission ("Commission") issued Certificate No. T-577 permitting the provision of local exchange telecommunications services and Certificate No. TT-169A permitting the provision of interexchange telecommunications services to AT&T Communications of Virginia, LLC ("AT&T LLC" or "Company").

By letter application dated May 23, 2002, the Company requested the cancellation of the certificates of public convenience and necessity that had previously been issued to AT&T Communications of Virginia, Inc., citing the corporate restructuring that resulted in it now doing business as AT&T LLC.

NOW THE COMMISSION, being sufficiently advised, will cancel Certificates No. T-363 and TT-1G issued to AT&T Communications of Virginia, Inc.

Accordingly, IT IS ORDERED THAT:

- (1) This matter shall be docketed and assigned Case No. PUC-2002-00119.
- (2) Certificate Nos. T-363 and TT-1G, issued to AT&T Communications of Virginia, Inc., are hereby cancelled.
- (3) Any and all tariffs of AT&T Communications of Virginia, Inc., shall be canceled.
- (4) This matter is dismissed.

**CASE NO. PUC-2002-00122  
AUGUST 2, 2002**

APPLICATION OF  
XSPEDIUS MANAGEMENT CO. OF VIRGINIA, LLC

For certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services and for interim operating authority

**ORDER FOR NOTICE AND COMMENT AND  
GRANTING INTERIM OPERATING AUTHORITY**

On July 23, 2002, Xspedius Management Co. of Virginia, LLC ("Xspedius" or "Applicant"), completed an application for certificates of public convenience and necessity ("certificates") with the State Corporation Commission ("Commission") to provide local exchange and interexchange telecommunications services throughout the Commonwealth of Virginia.<sup>1</sup> In addition, Xspedius requested the Commission grant it interim operating authority to serve the existing customers of American Communications Services of Virginia, Inc. d/b/a e.spire Communications, Inc. ("e.spire"), pursuant to the tariffs currently on file with the Commission's Division of Communications and/or expedited treatment of its application.<sup>2</sup> The Applicant also requested authority to price its interexchange telecommunications services on a competitive basis pursuant to § 56-481.1 of the Code of Virginia.

NOW UPON CONSIDERATION of the application, the Commission is of the opinion and finds that Xspedius' application should be docketed; that the Applicant should give notice to the public of its application; that interested parties should have an opportunity to comment and request a hearing on Xspedius' application; and that the Commission Staff should conduct an investigation into the reasonableness of the application and present its findings in a Staff Report. We will also grant Xspedius' request for interim operating authority to serve the existing customers of e.spire under the tariffs currently on file for that entity.

Accordingly, IT IS ORDERED THAT:

- (1) This case is docketed and assigned Case No. PUC-2002-00122.
- (2) Xspedius is hereby granted interim operating authority to provide local exchange and interexchange telecommunications services to the existing customers of e.spire under the tariffs currently on file for that entity.
- (3) On or before August 19, 2002, the Applicant shall complete publication of the following notice to be published on one (1) occasion as classified advertising in newspapers having general circulation throughout the Applicant's proposed service territory:

<sup>1</sup> In a joint petition filed with the Commission on June 18, 2002 (Case No. PUC-2002-00121), ACSI Local Switched Services, Inc. d/b/a e.spire, American Communications Services of Virginia, Inc. d/b/a e.spire Communications Services of Virginia, Inc., Xspedius Management Co. Switched Services, LLC, and Xspedius Management Co. of Virginia, LLC, requested authority to transfer substantially all of the assets and customers in Virginia to Xspedius.

<sup>2</sup> Pursuant to a Commission Order entered on November 8, 1996, in Case No. PUC-1996-00087, the Commission granted certificates of public convenience and necessity to provide local exchange telecommunications services (Certificate No. T-366) and interexchange telecommunications services (Certificate No. TT-27A) in Virginia to American Communications Services of Virginia, Inc. d/b/a e.spire. Subsequent to entry of that Order, American Communications Services of Virginia, Inc., filed the necessary documents to do business as e.spire.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

NOTICE TO THE PUBLIC OF AN APPLICATION BY  
 XSPEDIUS MANAGEMENT CO. OF VIRGINIA, LLC,  
 FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY  
 TO PROVIDE LOCAL EXCHANGE AND INTEREXCHANGE  
 TELECOMMUNICATIONS SERVICES THROUGHOUT THE COMMONWEALTH  
 OF VIRGINIA AND FOR INTERIM OPERATING AUTHORITY  
CASE NO. PUC-2002-00122

On July 23, 2002, Xspedius Management Co. of Virginia, LLC ("Xspedius" or "Applicant"), filed an application with the State Corporation Commission ("Commission") for certificates of public convenience and necessity ("certificates") to provide local exchange and interexchange telecommunications services throughout the Commonwealth of Virginia. In addition, Xspedius requested the Commission to grant it interim operating authority to provide the above-referenced telecommunications services to the existing customers of American Communications Services of Virginia, Inc. d/b/a e.spire Communications, Inc., pursuant to tariffs currently on file with the Commission's Division of Communications and/or expedited treatment of its application. In its application, the Applicant also requested authority to price its interexchange telecommunications services on a competitive basis pursuant to § 56-481.1 of the Code of Virginia.

Copies of the application are available for public inspection between the hours of 8:15 a.m. and 5:00 p.m., Monday through Friday, in the Commission's Document Control Center located on the first floor of the Tyler Building, 1300 East Main Street, Richmond, Virginia, or can be ordered from Xspedius' counsel, Eric M. Page, Esquire, LeClair Ryan, P.C., 4201 Dominion Boulevard, Suite 200, Glen Allen, Virginia 23060.

Any person desiring to comment on Xspedius' application for certificates to provide local exchange and interexchange telecommunications services may do so by directing such comments in writing on or before September 3, 2002, to the Clerk of the Commission at the address set out below and shall serve a copy of the same on or before September 3, 2002, upon Xspedius' counsel at the address set forth above.

Any person may request a hearing on Xspedius' application by filing an original and fifteen (15) copies of its request for hearing on or before September 3, 2002, with the Clerk of the Commission at the address set out below. Requests for hearing must state with specificity why a hearing should be conducted. Persons filing a request for hearing shall serve a copy of their request on or before September 3, 2002, upon Xspedius' counsel at the address set forth above.

All written communications to the Commission concerning Xspedius' application should be directed to Joel H. Peck, Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218, and must refer to Case No. PUC-2002-00122.

XSPEDIUS MANAGEMENT CO. OF VIRGINIA, LLC

(4) On or before August 19, 2002, Applicant shall provide a copy of the notice contained in ordering paragraph three (3) to each local exchange telephone carrier certificated in Virginia and each interexchange carrier certificated in Virginia by personal delivery or first-class mail, postage prepaid, to the customary place of business. Lists of all current local exchange and interexchange carriers in Virginia are attached to this Order as Appendices A and B, respectively.

(5) Any person desiring to comment in writing on Xspedius' application for a certificate to provide local exchange and interexchange telecommunications services may do so by directing such comments on or before September 3, 2002, to the Clerk of the Commission at the address set forth below. On or before September 3, 2002, a copy of such comments shall be served on Xspedius' counsel, Eric M. Page, Esquire, LeClair Ryan, P.C., 4201 Dominion Boulevard, Suite 200, Glen Allen, Virginia 23060. Comments must refer to Case No. PUC-2002-00122.

(6) On or before September 3, 2002, any person wishing to request a hearing on Xspedius' application for certificates to provide local exchange and interexchange telecommunications services shall file an original and fifteen (15) copies of its request for hearing in writing with Joel H. Peck, Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218. Written requests for hearing shall refer to Case No. PUC-2002-00122 and shall state the following: (i) a precise statement of the interest of the filing party; (ii) a statement of the specific action sought to the extent then known; (iii) a statement of the legal basis for such action; and (iv) a precise statement why a hearing should be conducted in the matter. Copies shall also be served on the Applicant at the address set forth above.

(7) On or before September 9, 2002, the Applicant shall file with the Commission proof of notice and proof of service as ordered herein.

(8) The Commission Staff shall analyze the reasonableness of Xspedius' application and present its findings in a Staff Report to be filed on or before September 20, 2002.

(9) On or before September 27, 2002, the Applicant shall file with the Clerk of the Commission an original and fifteen (15) copies of any response to the Staff Report or parties' objections and requests for hearing. A copy of the response shall be delivered to Staff and the other parties by overnight delivery.

(10) The Applicant shall respond to written interrogatories or data requests within seven (7) days after the receipt of the same. Parties shall provide to the Applicant, other additional parties, and Staff any workpapers or documents used in preparation of their requests for hearing, promptly upon request. Except as so modified, discovery shall be in accordance with Part IV of the Commission's Rules of Practice and Procedure.

(11) The Applicant shall respond promptly to requests from interested parties for copies of the Application and shall provide one copy of same free of charge to the requesting party.

(12) This matter is continued generally.

**CASE NO. PUC-2002-00122  
OCTOBER 23, 2002**

APPLICATION OF  
XSPEDIUS MANAGEMENT CO. OF VIRGINIA, LLC

For certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services

**FINAL ORDER**

On July 23, 2002, Xspedius Management Co. of Virginia, LLC ("Xspedius" or the "Company"), completed an application for certificates of public convenience and necessity with the State Corporation Commission ("Commission") to provide local exchange and interexchange telecommunications services throughout the Commonwealth of Virginia. The Company also requested interim operating authority to serve the existing customers of American Communications Services of Virginia, Inc. d/b/a e.spire Communications, Inc. ("ACSI"), pursuant to the accepted tariffs on file with the Commission's Division of Communications. In addition, the Company requested authority to price its interexchange telecommunications services on a competitive basis pursuant to § 56-481.1 of the Code of Virginia.<sup>1</sup>

By Order dated August 2, 2002, the Commission granted the Company's request for interim operating authority, directed the Company to provide notice to the public of its application, and directed the Commission Staff to conduct an investigation and file a Staff Report. On September 9, 2002, the Company filed proof of publication and proof of service as required by the August 2, 2002, Order.

On September 20, 2002, the Staff filed its Report finding that Xspedius' application was in compliance with the Rules Governing the Offering of Competitive Local Exchange Telephone Service and the Rules Governing the Certification of Interexchange Carriers. In that Report, Staff noted that Xspedius provided a \$50,000 continuous performance bond ("Bond") in lieu of the requirement for audited financial statements. Based upon its review of Xspedius' application, the Staff determined it would be appropriate to grant the Company certificates to provide local exchange and interexchange telecommunications services subject to the following conditions: (1) should Xspedius collect customer deposits, it shall, prior to collecting such deposits, establish and maintain an escrow account for such funds, held in a Virginia office of a duly chartered state or national bank, savings and loan association, savings bank, or credit union that is unaffiliated with the Company and shall notify the Division of Economics and Finance of the escrow arrangement at its inception and of any subsequent change. Any escrow arrangement established pursuant to this requirement shall be maintained until such time as the Staff or Commission determines it is no longer necessary; and (2) Xspedius shall notify the Division of Economics and Finance thirty (30) days prior to the cancellation or lapse of its Bond and shall provide a replacement bond. This requirement shall be maintained until such time as the Staff or the Commission determines it is no longer necessary.

In its Report, Staff noted that it had not, as yet, received a response from Xspedius to Staff's August 21, 2002, request for certain monitoring data.

NOW THE COMMISSION, having considered the application and the Staff Report, finds that the Company should be granted certificates to provide local exchange and interexchange telecommunications services. Having considered § 56-481.1, the Commission further finds that the Company may price its interexchange telecommunications services competitively. Additionally, the Commission wishes to impress upon Xspedius its duty as a certificated entity to respond to Staff inquiries and to provide, in a timely manner, data required by the Commission.

Accordingly, IT IS ORDERED THAT:

(1) Xspedius Management Co. of Virginia, LLC, is hereby granted a certificate of public convenience and necessity, No. TT-182A, to provide interexchange telecommunications services subject to the restrictions set forth in the Commission's Rules Governing the Certification of Interexchange Carriers, § 56-265.4:4 of the Code of Virginia, and the provisions of this Order.

(2) Xspedius Management Co. of Virginia, LLC, is hereby granted a certificate of public convenience and necessity, No. T-592, to provide local exchange telecommunications services subject to the restrictions set forth in the Rules Governing the Offering of Competitive Local Exchange Telephone Service, § 56-265.4:4 of the Code of Virginia, and the provisions of this Order.

(3) Pursuant to § 56-481.1 of the Code of Virginia, the Company may price its interexchange telecommunications services competitively.

(4) The Company shall provide tariffs to the Division of Communications that conform to all applicable Commission rules and regulations within 60 days of the date of this Order.

(5) Should Xspedius collect customer deposits, it shall, prior to collecting such deposits, establish and maintain an escrow account for such funds, held in a Virginia office of a duly chartered state or national bank, savings and loan association, savings bank, or credit union that is unaffiliated with the Company and shall notify the Division of Economics and Finance of the escrow arrangement at its inception and of any subsequent change. Any escrow arrangement established pursuant to this requirement shall be maintained until such time as the Staff or Commission determines it is no longer necessary.

<sup>1</sup> In a related proceeding (Case No. PUC-2002-00121), ACSI Local Switched Services, Inc. d/b/a e.spire, American Communications Services of Virginia, Inc. d/b/a e.spire Communications Services of Virginia, Inc., Xspedius Management Co. Switched Services, LLC, and Xspedius Management Co. of Virginia, LLC, requested authority to transfer substantially all of the assets and customers based in Virginia from ACSI to Xspedius.



(6) The Company shall notify the Division of Economics and Finance thirty (30) days prior to the cancellation or lapse of its Bond and shall provide a replacement bond. This requirement shall be maintained until such time as the Staff or Commission determines it is no longer necessary.

(7) There being nothing further to come before the Commission, this case shall be dismissed and the papers filed herein placed in the file for ended causes.

**CASE NO. PUC-2002-00123  
AUGUST 12, 2002**

APPLICATION OF  
WORLDCOM, INC.  
and  
INTERMEDIA COMMUNICATIONS, INC.

To partially discontinue local exchange telecommunications services in Virginia

**ORDER PERMITTING PARTIAL DISCONTINUANCE OF SERVICE**

On June 20, 2002, WorldCom, Inc. and Intermedia Communications, Inc.<sup>1</sup> (collectively, "Petitioners"),<sup>2</sup> filed a Joint Petition with the State Corporation Commission ("Commission") requesting Commission approval to discontinue Intermedia's provision of local exchange telecommunications services to customers in Virginia. The Joint Petition specifically requests approval to discontinue Intermedia's resold basic local exchange telecommunications services in Virginia. In their petition WorldCom states that it has made a business decision to discontinue Intermedia's resold local exchange telecommunications services based upon the limited number of Intermedia resale customers in Virginia.<sup>3</sup>

The Petitioners propose to discontinue Intermedia's resold local exchange telecommunications services in the Commonwealth of Virginia on or before August 9, 2002. Customers were provided notice of the discontinuance via first-class mail on June 11, 2002.

The Commission's primary concern with authorizing any discontinuance of telecommunications services is that adequate notice to the customers be provided. The Commission's rule regarding partial discontinuance, 20 VAC 5-423-30 (Requirements for Partial Discontinuance), requires that an application include a description of the customer notification efforts and that customers be provided at least 30 days' written notice of a proposed partial discontinuance of local exchange telecommunications services. Intermedia's notice to the affected customers exceeded the required 30 days' notice of the pending discontinuance of local exchange telecommunications services.

NOW THE COMMISSION, being sufficiently advised, will grant the requested partial discontinuance of local exchange telecommunications services.

Accordingly, IT IS ORDERED THAT:

(1) This matter is docketed and assigned Case No. PUC-2002-00123.

(2) WorldCom, Inc. and Intermedia Communications, Inc., are hereby granted authority to discontinue its provision of resold local exchange telecommunications services to customers in the Commonwealth of Virginia effective August 9, 2002.

(3) Intermedia Communications, Inc., shall immediately revise its tariffs on file with the Division of Communications to reflect any needed revisions.

(4) This case shall be closed, and the papers herein shall be placed in the file for ended causes.

<sup>1</sup> The Petition indicates that the Virginia entity is Intermedia Communications of Virginia, Inc., when in fact the certificated Virginia entity is Intermedia Communications, Inc.

<sup>2</sup> On July 1, 2001, WorldCom acquired Intermedia pursuant to the Commission's Order approving transfer dated December 12, 2000, in Case No. PUA-2000-00087. The Joint Petition states that as part of WorldCom's ongoing evaluation of Intermedia's operations since WorldCom's acquisition in July 2001, WorldCom has determined that it is necessary and appropriate to discontinue Intermedia's resold local exchange telecommunications services.

<sup>3</sup> The Joint Petition states that the discontinuance of Intermedia's resold local exchange telecommunications services will not affect Intermedia's other services. WorldCom does not seek to cancel any certificate issued by the Commission to Intermedia or any tariff on file at the Commission since Intermedia will continue to provide certain government contract and other telecommunications services pursuant to its existing certificates.

**CASE NO. PUC-2002-00124  
JUNE 28, 2002**

APPLICATION OF  
ALLTEL COMMUNICATIONS OF VIRGINIA, INC.

To discontinue local exchange telecommunications services in Virginia

**ORDER PERMITTING DISCONTINUANCE OF SERVICES**

On June 21, 2002, ALLTEL Communications of Virginia, Inc. ("ALLTEL" or the "Company"), filed a Petition with the State Corporation Commission ("Commission") requesting Commission approval to discontinue its provision of local exchange telecommunications services to customers in Virginia on June 28, 2002. In its application, ALLTEL states that it has determined such action is a necessary business decision for the Company.<sup>1</sup>

According to the Petition, ALLTEL currently provides local exchange telecommunications services to approximately 749 business and residential customers in and around Richmond and Norfolk, Virginia.

Pursuant to 20 VAC 5-180 D 7, a competitive local exchange carrier cannot "abandon or discontinue local service except with the approval of the Commission, and upon such terms and conditions as the Commission may prescribe." The Commission's primary concern with authorizing discontinuance is providing adequate notice. While it appears that ALLTEL has provided adequate customer notice, the petition was not filed with the Commission until June 21, 2002, and the Company filing reflected that there were a number of remaining customers, both business and residential. Therefore, the Commission believes that additional time may be helpful to complete the transition of customers in an orderly manner.

NOW THE COMMISSION, being sufficiently advised, will grant the requested discontinuance of services.

Accordingly, IT IS ORDERED THAT:

- (1) This matter is docketed and assigned Case No. PUC-2002-00124.
- (2) ALLTEL is hereby granted authority to discontinue its provision of local exchange telecommunications services to business and residential customers in Virginia effective July 19, 2002.
- (3) On or before July 15, 2002, ALLTEL shall report to the Commission's Division of Communications the number of its remaining business customers and its remaining residential customers in Virginia.
- (4) The local exchange tariffs of ALLTEL, on file with the Division of Communications, shall be canceled effective July 22, 2002.
- (5) ALLTEL shall provide a copy of its Petition upon written request by interested parties to counsel for the Company, Eric C. Page, Esquire, LeClair Ryan, P.C., 4201 Dominion Boulevard, Suite 200, Glen Allen, Virginia 23060. The Petition is also available for public inspection Monday through Friday, 8:15 a.m. to 5:00 p.m., at the Commission's Document Control Center, Tyler Building, First Floor, 1300 East Main Street, Richmond, Virginia.
- (6) This case shall be closed, and the papers herein shall be placed in the file for ended causes.

<sup>1</sup> ALLTEL has requested that its local certificate of public convenience and necessity ("CPCN") not be canceled. The local CPCN, Certificate No. T-437, was originally issued under the name 360° Communications Company of Charlottesville d/b/a/ ALLTELL on March 26, 1999, in Case No. PUC-1998-00179. Certificate No. T-437a was issued March 6, 2002, in Case No. PUC-2002-00028, when the Company changed its name to ALLTEL Communications of Virginia, Inc.

**CASE NO. PUC-2002-00124  
JULY 19, 2002**

APPLICATION OF  
ALLTEL COMMUNICATIONS OF VIRGINIA, INC.

To discontinue local exchange telecommunications services in Virginia

**ORDER GRANTING PETITION FOR RECONSIDERATION  
AND SUSPENDING ORDER PERMITTING  
DISCONTINUANCE OF SERVICES**

On July 18, 2002, ALLTEL Communications of Virginia, Inc. ("ALLTEL" or the "Company"), filed with the State Corporation Commission ("Commission") a petition for reconsideration of the Commission's Order Permitting Discontinuance of Services issued on June 28, 2002.

Pursuant to Rule 5 VAC 5-20-220 of the Commission's Rules of Practice and Procedure, the Commission has determined that ALLTEL's petition for reconsideration should be granted.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

Accordingly, IT IS THEREFORE ORDERED THAT:

- (1) The July 18, 2002, petition of ALLTEL Communications of Virginia, Inc. for reconsideration of the June 28, 2002, Order Permitting Discontinuance of Services is hereby granted.
- (2) ALLTEL is hereby granted authority to discontinue its provision of local exchange telecommunications services to its remaining business and residential customers in Virginia beginning August 9, 2002.
- (3) ALLTEL shall notify the Commission when the discontinuance of local exchange telecommunications services ordered herein is completed.
- (4) The local exchange tariffs of ALLTEL, on file with the Division of Communications, shall remain in effect until further order of the Commission.
- (5) This matter is continued until further order of the Commission.

**CASE NO. PUC-2002-00125  
AUGUST 2, 2002**

APPLICATION OF  
FAIRPOINT COMMUNICATIONS CORP. - VIRGINIA

To cancel existing certificates and issue certificates reflecting new name

**FINAL ORDER**

By letter application filed June 26, 2002, FairPoint Communications Corp. – Virginia ("FairPoint"), informed the State Corporation Commission ("Commission") that it had changed its corporate name to FairPoint Communications Solutions Corp. - Virginia. The application requested that the Company's certificates of public convenience and necessity be modified to reflect the new corporate name.

FairPoint holds certificates of public convenience and necessity, TT-107A and T-502, issued August 29, 2000, which authorize FairPoint to provide interexchange telecommunications services and local exchange telecommunications services in the Commonwealth of Virginia, respectively. The Commission is of the opinion that revised certificates of public convenience and necessity should be granted.

Accordingly, IT IS ORDERED THAT:

- (1) This matter should be docketed and assigned Case No. PUC-2002-00125.
- (2) Certificates of public convenience and necessity, T-502 for local exchange telecommunications services and TT-107A for interexchange telecommunications services, are canceled and shall be reissued as amended Certificate Nos. T-502a and TT-107B in the name of FairPoint Communications Solutions Corp. - Virginia.
- (3) There being nothing further to come before the Commission, this matter is dismissed.

**CASE NO. PUC-2002-00126  
SEPTEMBER 27, 2002**

APPLICATION OF  
THE CITY OF BRISTOL

For a certificate of public convenience and necessity to provide local exchange telecommunications services and for interim operating authority

**ORDER PERMITTING LIMITED INTERIM OPERATING AUTHORITY**

On August 5, 2002, the City of Bristol d/b/a Bristol Virginia Utilities Board ("Bristol" or "Applicant") completed an application ("Application") with the State Corporation Commission ("Commission") for a certificate of public convenience and necessity ("certificate") to provide local exchange telecommunications services in the cities of Bristol and Norton and the counties of Washington, Scott, Lee, Wise, Russell, Tazewell, Smyth, and Grayson; and for interim operating authority to operate as a local exchange carrier. The initial Application filed by Bristol was amended on July 8, July 19, July 25, 2002, and completed on August 5, 2002.

On August 12, 2002, Central Telephone Company of Virginia and United Telephone-Southeast, Inc. (jointly, "Sprint"), filed a Notice of Participation and an objection to Bristol's request for interim operating authority.

On August 16, 2002, the Commission issued an Order for Notice and Comment that, among other things, docketed this case, required public notice of the Application, and denied Bristol interim operating authority.

On August 21, 2002, Bristol filed an answer to the objection of Sprint and, pursuant to Rule 5 VAC 5-20-110 of the Commission's Rules of Practice and Procedure, a Motion for Reconsideration of Interim Authority ("Motion"). Bristol requested that the Commission reconsider its decision concerning interim operating authority. Bristol requested interim authority so that it can continue to service the governmental and commercial customers

that were in place prior to the effective date of Senate Bill No. 245 of the 2002 Session of the Virginia General Assembly, as well as any future customers that may desire service. Bristol asserted that its situation is analogous to previous cases where the Commission has granted interim authority when one entity is purchasing the business of another, allowing the new entity to continue serving existing customers.

The Applicant also reiterated that: (1) it is furnishing high-speed data connections to itself, the City of Bristol government offices, and Bristol Virginia City Schools; (2) it is operating as an internet service provider ("ISP") for approximately 700 dial-up customers and for the governmental agencies noted in (1) above; and (3) it has installed and implemented a LAN-based PBX system for telephone services to the governmental agencies in (1) above. In addition, Bristol explained that it currently is providing commercial telephone service to one entity. Bristol states that all of these customers continue to demand service and rely upon Bristol for such continued service during the pendency of this proceeding.

On August 21, 2002, the Commission issued an Order determining that we would reconsider our decision denying interim operating authority, establishing a schedule for responses to the Motion and for replies to such responses, and modifying the text of the public notice required in this case to remove the reference to the Commission's earlier denial of interim operating authority.

On August 30, 2002, Sprint filed a response to the Motion. Sprint states, among other things, that contrary to Virginia law, Bristol is offering public utility telecommunications services without certification and that statements made in Bristol's Motion indicate that it will not comply with the cross subsidy provisions of Virginia statutes. Sprint asserts that the Commission should deny interim authority because Bristol has not demonstrated compliance with the cross subsidy and price restrictions in §§ 15.2-2160 and 56-265.4:4 B 4 of the Code of Virginia ("Code"). Sprint contends that the interim authority granted by the Commission in merger situations is not persuasive precedent for granting Bristol interim operating authority.

In addition, Sprint states that the Commission should not grant Bristol interim authority to provide services to any commercial or residential customers. Sprint also objects to Bristol's interim provision of commercial telephone service to the unnamed entity mentioned on page 2 of the Motion. Sprint does not object to Bristol offering high-speed data services at the currently operational locations to the City of Bristol government offices, Bristol Virginia City Schools, and the Bristol Virginia Utilities Board. Sprint does not object to Bristol providing services as an ISP. Sprint also does not object to Bristol offering LAN-based PBX services to the City of Bristol government offices, Bristol Virginia City Schools, and the Bristol Virginia Utilities Board. Sprint, however, urges as a condition of any grant of interim authority that the Applicant be allowed only to continue existing service to these existing customers at existing locations under existing rates, terms, and conditions.

On August 30, 2002, Verizon Virginia Inc. and Verizon South Inc. (jointly, "Verizon") filed a response to the Motion. Verizon asserts, among other things, that under Virginia law Bristol does not need any authority from the Commission, interim or otherwise, to serve or to continue to serve local government customers and to operate as an ISP. Verizon states that the cases cited by Bristol, where the Commission authorized companies to assume the customers and/or operate the assets of existing competitive local exchange carriers while their own certification applications were pending before the Commission, do not support Bristol's request because these customers and/or assets were being transferred from a previously certificated entity separate from the applicant.

Verizon explains that it is not asking the Commission to require Bristol to disconnect any services critical to its one unidentified commercial customer, if the customer does not have other, sufficient services in place from a certificated provider. Verizon asserts that any grant of interim authority to avoid harm to this customer should be carefully crafted to limit the authority to the specific services being provided to this customer only. Verizon contends that §§ 56-265.4:4 B 1 and B 4 of the Code include dictates that cannot be satisfied prior to considering the merits of Bristol's application. In addition, Verizon states that § 56-265.4:4 B 5 requires the Commission to promulgate rules necessary to implement such subsection. Verizon requests that the Commission institute a rulemaking proceeding to adopt competitive safeguard rules prior to granting a certificate to any locality to operate as a local exchange carrier.

On September 6, 2002, Bristol filed a reply to the responses of Sprint and Verizon. Bristol states, among other things, that it began serving its commercial customer prior to March 1, 2002, and acted lawfully in relying on *City of Bristol v. Earley*, 145 F.Supp.2d 741 (W.D. Va 2001), in beginning the provision of telecommunications services. Bristol requests interim authority so that it can continue to serve its lawful customers, as well as any future customers that may desire service. Bristol asserts that nothing in its Application implies that it will resort to a subsidy to fund its business and that, to the contrary, it has continuously stated that it will not use a subsidy. Bristol explains that it plans to pay any amounts that it is required to pay and, likewise, it plans to take into account, by imputation or allocation, equivalent charges for all taxes, pole rentals, rights-of-way, licenses, and similar costs required to be paid or charged by for-profit providers. In addition, Bristol asserts that Virginia statutes do not require the Commission to adopt additional regulations, as requested by Verizon, prior to the Applicant receiving interim authority or its certificate.

Bristol also states that its operation pursuant to interim authority will present no threat of irreparable harm to anyone, except to Bristol. Bristol continues to rely on cases where the Commission granted interim authority to a newly regulated entity to permit it to serve existing customers. Bristol asserts that its situation is similar to that of an entity that plans to acquire, either through merger, bankruptcy, or other forms of sale, the assets of an existing entity. Bristol states that, in such situations, the Commission's focus has been to strive for continued service to the existing customers by granting interim authority to those previously non-regulated acquiring entities. Bristol contends that its situation is analogous to Commission precedent because the imposition of regulatory oversight occurred while Bristol was in the middle of trying to launch a new business in accordance with current legal authority.

NOW UPON CONSIDERATION of the pleadings and the applicable law, the Commission finds as follows. We grant Bristol limited interim operating authority to serve its existing commercial customer, which it began serving prior to March 1, 2002. We do not place the limitations requested by Sprint on Bristol's service to this customer. We otherwise deny interim operating authority. In addition, Bristol does not need authority from this Commission to operate as an ISP; Bristol also does not need our authority to serve certain governmental customers, including its current governmental customers listed in the Motion.<sup>1</sup>

Bristol began serving its one commercial customer prior to the imposition of the Virginia statute that requires the Applicant to obtain a certificate from this Commission. The limited interim operating authority that we grant today permits continued, undisrupted service to this customer. We do not, however, grant the Applicant interim operating authority to serve new customers prior to this Commission's statutorily required consideration of the merits of Bristol's Application.

<sup>1</sup> See, e.g., Va. Code §§ 15.2-2109 C and 15.2-1500 B.

Accordingly, IT IS HEREBY ORDERED THAT:

- (1) Bristol shall have limited interim operating authority to provide service to its existing commercial customer, which it began serving prior to March 1, 2002. Bristol is otherwise denied interim operating authority.
- (2) Bristol does not need authority from this Commission to operate as an internet service provider or to serve certain governmental customers including itself, the City of Bristol governmental offices, and Bristol Virginia City Schools.
- (3) Pursuant to Rule 5 VAC 5-20-120 of the Commission's Rules of Practice and Procedure, a Hearing Examiner is assigned to this case for the purpose of ruling on any discovery matters that may arise in this proceeding.
- (4) This matter is continued.

**CASE NO. PUC-2002-00126  
NOVEMBER 26, 2002**

APPLICATION OF  
THE CITY OF BRISTOL

For a certificate of public convenience and necessity to provide local exchange telecommunications services and for interim operating authority

**ORDER GRANTING CERTIFICATE**

On August 5, 2002, the City of Bristol d/b/a Bristol Virginia Utilities Board ("Bristol" or "Applicant"), completed an application with the State Corporation Commission ("Commission") for a certificate of public convenience and necessity to provide local exchange telecommunications services in the cities of Bristol and Norton and the counties of Washington, Scott, Lee, Wise, Russell, Tazewell, Smyth, and Grayson; and for interim operating authority to operate as a local exchange carrier. The initial application filed by Bristol on July 1, 2002, was amended on July 8, July 19, and July 25, 2002, and was completed on August 5, 2002.

On August 12, 2002, Central Telephone Company of Virginia and United Telephone-Southeast, Inc. (jointly, "Sprint"), filed a Notice of Participation and an objection to Bristol's request for interim operating authority.

By Order dated August 16, 2002, the Commission directed the Applicant to provide notice to the public of its application, directed the Commission Staff to conduct an investigation and file a Staff Report, and established a procedural schedule. The August 16, 2002, Order also denied Bristol's request for interim operating authority.

On August 21, 2002, Verizon Virginia Inc. and Verizon South Inc. (jointly, "Verizon") filed a Notice of Participation.

On August 21, 2002, Bristol filed a Motion for Reconsideration of Interim Authority. On August 21, 2002, the Commission issued an Order granting reconsideration of its decision denying interim authority and scheduling subsequent pleadings on Bristol's motion. On August 30, 2002, Sprint and Verizon filed responses to Bristol's motion stating that interim authority should not be granted. Bristol filed a reply on September 6, 2002. On September 27, 2002, the Commission issued its Order Permitting Limited Operating Authority. The Commission's Order granted Bristol "limited interim operating authority to provide service to its existing commercial customer, which it began serving prior to March 1, 2002."

Bristol filed proof of publication and proof of service on September 11, 2002,<sup>1</sup> as required by the August 16, 2002, Order. On September 13, 2002, the Virginia Cable Telecommunications Association ("VCTA") filed a Notice of Participation.

On September 19, 2002, Charter Communications Inc. ("Charter") filed a Notice of Participation. In its notice, Charter stated that it "offers for sale to the public communications services, including telecommunications services, in the proposed service territory of the City of Bristol" and requested that the Commission schedule a hearing on the matter to allow for cross-examination by private competitors such as Charter.

Pursuant to the August 16, 2002, Order, comments were to be filed by interested parties on or before October 3, 2002. On September 26, 2002, Sprint filed a Motion for an Extension of Time and Motion for a Protective Order. On September 27, 2002, VCTA filed a Motion to Compel and Motion for Extension of October 3 Deadline. On September 30, 2002, Charter filed a Motion in Support of VCTA's Motion for an Extension of October 3 Comment Deadline. On September 27, 2002, Bristol filed a Motion for a Protective Order. On October 1, 2002, Charter filed a Supplement to its September 27, 2002, motion. On October 1, 2002, Bristol filed a Response to the Motions of Charter, VCTA and Sprint. On October 2, 2002, the Commission issued its Order on Motions for Extension, granting an extension of the comment period for interested parties until October 10, 2002.

On October 1, 2002, Hearing Examiner Michael D. Thomas issued his ruling granting Bristol's Motion for Protective Order. On October 2, 2002, Hearing Examiner Thomas issued his ruling granting VCTA's Motion to Compel.

On October 10, 2002, Sprint, Verizon, Charter, and VCTA filed comments. Sprint, Charter, and VCTA requested a hearing. MountaiNet Telephone Company and KMC Telecom, two competitive local exchange carriers, filed letters in support of Bristol's application. In addition, over 450 letters from the public supporting Bristol's application were filed.

<sup>1</sup> The individual Publication Affidavits were filed on September 18, 19, and 26, 2002.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

On October 22, 2002, Bristol filed a response to the requests for hearing and a motion to separate the certification proceeding if the Commission deems that a hearing is appropriate. On October 28, 2002, VCTA filed a reply to Bristol's response and motion. On October 31, 2002, Sprint filed a response to Bristol's motion. On November 6, 2002, Charter filed a reply to Bristol's motion.

On October 22, 2002, the Staff filed its Motion for Extension to File Staff Report requesting an extension from October 28, 2002, to November 1, 2002. On October 25, 2002, the Commission issued its Order Extending the Time for Filing Staff's Report granting Staff's request.

On October 31, 2002, the Staff filed its Report finding that Bristol's application was in compliance with the Rules Governing the Offering of Competitive Local Exchange Telephone Service, 20 VAC 5-400-180. Based upon its review of Bristol's application, the Staff determined that it would be appropriate to grant the Company a certificate to provide local exchange telecommunications services, subject to the following condition: The Staff recommended that, if Bristol collects customer deposits, it shall, prior to collecting any deposits, establish and maintain an escrow account for such funds, held in a Virginia office of a duly chartered state or national bank, savings and loan association, savings bank, or credit union that is unaffiliated with the City of Bristol, and shall notify the Division of Economics and Finance of the escrow arrangement at its inception and any subsequent change to the arrangement. The Staff further recommended that any escrow arrangement established pursuant to this requirement shall be maintained until such time as the Staff or the Commission determines it is no longer necessary.

On November 7, 2002, Bristol filed a response to comments of other parties and in support of the Staff Report. On November 12, 2002, Sprint filed a reply to Bristol's response to the Staff Report.

NOW UPON CONSIDERATION of the Application, Staff Report, pleadings, and the applicable law, the Commission finds as follows. We grant Bristol a certificate to provide local exchange telecommunications services in the cities of Bristol and Norton and the counties of Washington, Scott, Lee, Wise, Russell, Tazewell, Smyth, and Grayson.<sup>2</sup>

The Applicant has shown, pursuant to § 56-265.4:4 B 1 of the Code of Virginia ("Code"), that it possesses sufficient technical, financial, and managerial resources. Section 56-265.4:4 B 1 of the Code also states as follows:

Before granting any such certificate, the Commission shall: (i) consider whether such action reasonably protects the affordability of basic local exchange telephone service, as such service is defined by the Commission, and reasonably assures the continuation of quality local exchange telephone service; and (ii) find that such action will not unreasonably prejudice or disadvantage any class of telephone company customers or telephone service providers, including the new entrant and any incumbent local exchange telephone company, and is in the public interest. (Emphasis added.)

In this regard, we have considered whether granting a certificate reasonably protects the affordability of basic local exchange service and reasonably assures the continuation of quality local exchange telecommunications services, and find that these considerations support granting a certificate. In addition, we find that granting a certificate will not unreasonably prejudice or disadvantage any class of telephone company customers or telephone service providers, including the new entrant and any incumbent local exchange telephone company, and is in the public interest.

Respondents in this case assert, among other things, that the Commission cannot grant a certificate until Bristol demonstrates actual compliance with other statutory provisions, such as §§ 56-265.4:4 B 4 and 15.2-2160 of the Code. Respondents contend that the Commission must find that Bristol will be in full compliance with these other statutory mandates at the moment of certification. For example, Sprint states that the Commission must affirmatively make determinations under § 56-265.4:4 B 4 of the Code prior to granting a certificate. Based on the plain reading of the Code, these assertions are misplaced; the statute contains no such prerequisites.

To the contrary, the Code explicitly directs, in § 56-265.4:4 B 1, what the Commission must consider and find "[b]efore granting any such certificate" (emphasis added). In contrast, § 56-265.4:4 B 4 of the Code imposes obligations on Bristol that take effect "[u]pon the Commission's granting of a certificate" (emphasis added).<sup>3</sup> The statute is unambiguous on what the Commission must consider and find "before" a certificate is issued. We will not create additional statutory prerequisites for obtaining a certificate.<sup>4</sup>

Respondents also contend that telephone service providers will be unreasonably prejudiced or disadvantaged if Bristol, after obtaining a certificate, violates §§ 56-265.4:4 B 4 and 15.2-2160 of the Code. For example, respondents state that Bristol could rapidly capture customers and displace all local exchange carriers if Bristol offers service at predatory prices or illegally subsidized rates. In accordance with § 56-265.4:4 B 1, however, we find that the action of issuing a certificate will not unreasonably prejudice or disadvantage telephone service providers.

Rather, upon receiving a certificate, Bristol must comply with all applicable laws, including §§ 56-265.4:4 B 4 and 15.2-2160 of the Code. Respondents allege that Bristol has and/or will violate these statutory requirements. The possibility that Bristol or its yet-to-be-filed tariffs may not comply with §§ 56-265.4:4 B 4 or 15.2-2160 does not, under the Code, unreasonably prejudice or disadvantage telephone service providers. The possibility of noncompliance with §§ 56-265.4:4 B 4 or 15.2-2160, subsequent to receiving a certificate, is part of the statutory scheme established in the Code.

<sup>2</sup> The Applicant's service area includes any towns that may be located within the counties listed above. See Application of the City of Danville d/b/a Danville Department of Utilities, For certificates of public convenience and necessity to provide local exchange telecommunications services, Case No. PUC-2002-00128, Final Order (Nov. 1, 2002) ("City of Danville").

<sup>3</sup> Similarly, § 15.2-2160 of the Code does not require the Commission to make any findings thereunder prior to issuing a certificate. This section, among other things, places obligations on a locality "that has obtained a certificate." See Va. Code §§ 15.2-2160 B and C. In addition, § 15.2-2160 D places restrictions on the "prices charged and the revenue received by a locality." Contrary to § 56-265.4:4 B 1, however, the Code does not direct the Commission to make any findings under § 15.2-2160 prior to issuing a certificate.

<sup>4</sup> Indeed, in City of Danville, we issued a certificate to the City of Danville pursuant to the same statutory requirements as those under which Bristol has applied. In that case, as here, we did not require the City of Danville to demonstrate actual compliance with §§ 56-265.4:4 B 4 and 15.2-2160 of the Code prior to granting the certificate.

In granting a certificate, we are not approving rates. Bristol has filed illustrative tariffs and attested to its intent to comply with all statutory and regulatory requirements that attach upon receiving a certificate. Prior to providing service under the certificate issued today, Bristol must submit tariffs to the Commission's Division of Communications that conform to all applicable rules and regulations.<sup>5</sup> Any alleged noncompliance with the above statutes may be brought before the Commission pursuant to any means provided by existing statutes and regulations. Again, this is the sequence of events resulting from the statutory scheme found in the Code.

We also reject respondents' contention that the Commission must adopt new rules or safeguards prior to granting the certificate herein.<sup>6</sup> We fully expect Bristol, or any other local exchange carrier that currently has or will obtain a certificate, to comply with the Code and the Commission's existing subsequently adopted rules. On October 15, 2002, in Case No. PUC-2002-00115, the Commission issued an Order for Notice and Comment and/or Requests for Hearing on Proposed Rules. The proposed rules include new regulatory standards and safeguards pursuant to § 56-265.4:4 of the Code. The Code, however, does not require the Commission to promulgate new rules or safeguards prior to issuing any new certificate. In addition, we find that we can make the statutory determinations necessary, in order to grant the certificate herein, without new rules or safeguards.

Respondents also request a hearing. Section 56-265.4:4 B 1 permits the Commission to grant a certificate to Bristol "following an opportunity for hearing."<sup>7</sup> Accordingly, our Order for Notice and Comment, dated August 16, 2002, provided for respondents to submit hearing requests and precise statements of why a hearing should be conducted. Based on the pleadings and our findings above, we reject the respondents' requests for hearing. The respondents have not raised any matters that warrant a hearing as to the granting of a certificate under § 56-265.4:4 B 1 of the Code. The issues raised by respondents primarily relate to concerns that arise after a certificate is granted. Further, respondents request a hearing on matters related to the Applicant's compliance with §§ 56-265.4:4 B 4 or 15.2-2160 of the Code. As found above, however, such matters are outside the scope of what we must consider and find prior to granting a certificate.<sup>8</sup>

Bristol requests a service territory based on the following provision in § 15.2-2160 A of the Code: "Any locality providing telecommunications services on March 1, 2002, may provide such services within any locality within seventy-five miles of the geographic boundaries of its electric distribution system as such system existed on March 1, 2002." Bristol was providing service to one commercial customer on March 1, 2002. In Sprint's comments, however, it asserts that Bristol was not lawfully providing telecommunications services on March 1, 2002, and does not satisfy this statutory provision. Specifically, Sprint states that as of March 1, 2002, no state statute gave Bristol authority to offer telecommunications services. Sprint also states that Bristol failed to add lawfully such authority to its charter subsequent to the May 2001 federal court decision, which found that a Virginia statute prohibiting Bristol from providing certain telecommunications services was preempted by federal law.<sup>9</sup>

In response, Bristol states that it timely amended its charter but inadvertently did not submit the same to the General Assembly during the 2002 Session. Bristol also asserts, as did the federal court in City of Bristol v. Earley, that §§ 15.2-2109 and 56-265.1 of the Code authorized Bristol to provide telecommunications services on March 1, 2002.

We reject Sprint's objection to Bristol's requested service territory. Based on the record before us, we find that Bristol was providing "telecommunications services" on March 1, 2002, in accordance with § 15.2-2160 A of the Code. Furthermore, although not relied upon by Bristol, we note that it began furnishing telecommunications services to its government offices, city schools, and itself in September 2000 and that it was providing such telecommunications services on March 1, 2002.

Finally, we reject Charter's request that Bristol comply with the affiliate transaction requirements of § 56-77 of the Code. As explained in the Staff Report, no other competitive local exchange carrier is subject to this section of the Code, and a majority of the incumbent local exchange carriers subject to this section do not file for approval of affiliate transactions due to a high exemption threshold. We find that imposing § 56-77 upon Bristol at this time would result in an unnecessary burden on the Applicant.

Accordingly, IT IS HEREBY ORDERED THAT:

(1) Bristol is hereby granted a certificate of public convenience and necessity, No. T-598, to provide local exchange telecommunications services in the cities of Bristol and Norton and the counties of Washington, Scott, Lee, Wise, Russell, Tazewell, Smyth, and Grayson.

(2) Should Bristol collect customer deposits, it shall, prior to collecting any deposits, establish and maintain an escrow account for such funds, to be held in a Virginia office of a duly chartered state or national bank, savings and loan association, savings bank, or credit union that is unaffiliated with the City of Bristol, and shall notify the Commission's Division of Economics and Finance of the escrow arrangement at its inception and any subsequent change to the arrangement. Any escrow arrangement established pursuant to this requirement shall be maintained until such time as the Staff or Commission determines it is no longer necessary.

<sup>5</sup> We direct Bristol contemporaneously to serve upon the service list for this case a copy of those tariffs. Absent subsequent order of the Commission, such tariffs may become effective a minimum of 30 days after being submitted to the Division of Communications.

<sup>6</sup> This is consistent with our finding in City of Danville.

<sup>7</sup> This statute does not mandate a hearing upon request. Rather, a party requesting a hearing may be required to establish the reasons why a hearing is necessary. Compare, e.g., Va. Code § 56-46.1 C ("If, prior to such approval, any interested party shall request a public hearing, the Commission shall . . . hold such hearing . . .").

<sup>8</sup> Finding that a hearing is not required in this proceeding, we do not reach Bristol's Motion to Separate Certification Proceeding If the Commission Deems Hearing Appropriate.

<sup>9</sup> City of Bristol v. Earley, 145 F.Supp.2d 741 (W.D. Va. 2001).

(3) Bristol shall provide tariffs to the Commission's Division of Communications that conform to all applicable rules and regulations before it begins offering local exchange telecommunications services. Bristol shall contemporaneously serve upon the service list for this case a copy of those tariffs.

(4) This case shall be dismissed and removed from the list of pending cases.

**CASE NO. PUC-2002-00127  
JULY 24, 2002**

PETITION OF  
O1 COMMUNICATIONS OF VIRGINIA, LLC

For cancellation of local exchange and interexchange telecommunications certificates

**ORDER**

On November 17, 2000, the State Corporation Commission ("Commission") issued Certificate No. T-519, permitting the provision of local exchange telecommunications services, and Certificate No. TT-114A, permitting the provision of interexchange telecommunications services, to O1 Communications of Virginia, LLC ("O1 Communications"), in Case No. PUC-2000-00028. On July 2, 2002, pursuant to the requirements included in the Commission's Rules Governing the Discontinuance of Local Exchange Telecommunications Services Provided by Competitive Local Exchange Carriers, 20 VAC 5-423-20 ("Discontinuance Rules"), O1 Communications filed with the Commission a Petition to Discontinue Competitive Local Exchange and Interexchange Services stating it had a change in business plans and that it wished to relinquish its certificates to provide such telecommunications services in Virginia.

NOW THE COMMISSION, being sufficiently advised, will grant the requested cancellations.

Accordingly, IT IS ORDERED that:

- (1) This matter shall be docketed and assigned Case No. PUC-2002-00127.
- (2) Certificate No. T-519, issued to O1 Communications of Virginia, LLC, is hereby cancelled.
- (3) Certificate No. TT-114A, issued to O1 Communications of Virginia, LLC, is hereby cancelled.
- (4) This matter is hereby dismissed.

**CASE NO. PUC-2002-00128  
NOVEMBER 1, 2002**

APPLICATION OF  
THE CITY OF DANVILLE d/b/a DANVILLE DEPARTMENT OF UTILITIES

For certificates of public convenience and necessity to provide local exchange telecommunications services

**FINAL ORDER**

On July 1, 2002, the City of Danville d/b/a Danville Department of Utilities ("Danville" or the "Company"), filed an application for certificates of public convenience and necessity with the State Corporation Commission ("Commission") to provide local exchange telecommunications services in the City of Danville and the counties of Halifax, Henry, Patrick, and Pittsylvania.

By Order dated July 22, 2002, the Commission issued an Order for Notice and Comment, which directed the Company to provide notice to the public of its application and directed the Commission Staff to conduct an investigation and file a Staff Report. The Commission received written notices of participation from Verizon Virginia Inc., and Verizon South Inc. (collectively, "Verizon").<sup>1</sup> Central Telephone Company of Virginia ("Sprint") and Verizon filed comments.<sup>2</sup> Danville filed a response to the comments of Sprint and Verizon. No requests for a hearing on the application of Danville were received.

On September 11, 2002, the Company filed proof of publication and proof of service as required by the Order for Notice and Comment. On September 30, 2002, the Staff filed its Report. Danville filed its Response to the Staff Report on October 4, 2002, which indicated that the Company had no objection to the recommendations contained therein. Also in response to the Staff Report, Sprint filed Supplemental Comments on October 22, 2002.

The initial comments filed by Sprint address the specific service area being requested by Danville. Sprint states that Danville's application appears to be unclear as to what service area Danville is requesting (*i.e.*, the specific territory listed, or, statewide) in its application. Sprint does not specifically object to granting a certificate to Danville, but Sprint does request to participate in the approval process of any proposed rates and asks the Commission to order Danville to provide Sprint a copy of any proposed rates and to hold a hearing on any proposed rates.

<sup>1</sup> Additionally, the Virginia Cable Telecommunications Association filed a request to be placed on the official service list in the proceeding.

<sup>2</sup> While Sprint and Verizon both styled their filings as comments, the comments of each included motions which will be addressed in this Order.



Verizon, in its comments, states that a certificate should not be granted to any locality before the Commission promulgates rules pursuant to the provisions of § 56-265.4:B.5 of the Virginia Code. Specifically, Verizon asserts that the Commission should adopt rules providing competitive safeguards before permitting a locality to provide telecommunications services.

In its September 30, 2002, Report, the Staff finds that Danville's application is in compliance with the Rules Governing the Offering of Competitive Local Exchange Telephone Service ("Local Rules").<sup>3</sup> Based upon its review of Danville's application, the Staff determines that it would be appropriate to grant the Company a certificate to provide local exchange telecommunications services, as requested, subject to the following conditions: (1) should Danville collect customer deposits, it shall establish and maintain an escrow account for such funds, held in a Virginia office of a duly chartered state or national bank, savings and loan association, savings bank, or credit union that is unaffiliated with the Company and shall notify the Division of Economics and Finance of the escrow arrangement at its inception and any subsequent change (any escrow arrangement established pursuant to this requirement shall be maintained until such time as the Staff or Commission determines it is no longer necessary); and (2) at such time as voice services are initiated by Danville, it shall comply with all requirements of § C (Conditions for Certification) of the Commission's Local Rules.

NOW THE COMMISSION, having considered the pleadings and the applicable law, finds that the Company should be granted a certificate to provide local exchange telecommunications services. We note that Danville, once it plans to offer local exchange telecommunications services, must file tariffs with the Commission's Division of Communications pursuant to the Local Rules. Danville is directed to serve a copy of its initial tariffs on the service list for this case. We will not rule upon Sprint's request for a hearing on Danville's rates at this time; Sprint may renew its request once Danville proposes to offer local exchange telecommunications services.

The Commission adopts the recommendations of the Staff Report. We reject Verizon's contention that the Commission must adopt new rules or safeguards before we may certificate Danville to provide local exchange telecommunications services. We fully expect Danville, or any other local exchange carrier that currently has or will obtain a certificate, to comply with the Code of Virginia and this Commission's existing Local Rules and any subsequently adopted rules.<sup>4</sup>

Both Verizon and Sprint oppose a portion of the territory requested by Danville to be certificated. Verizon argues that for Danville to have electric distribution facilities within Patrick County, it must also have retail customers in Patrick County. Danville responds that its Pinnacles Hydroelectric Plant in Patrick County provides power to the powerhouse and five residences located in Patrick County over a 12.47 kV distribution system. The Staff Report agrees that this constitutes distribution facilities in Patrick County, even if the residences are owned by Danville and there are no retail customers. We find no requirement in § 15.2-2160 A that Danville must serve retail customers with its distribution facilities in Patrick County. Therefore, Danville has satisfied the statutory requirement for providing telecommunications services within Patrick County.

Sprint argues in its Supplemental Comments that Danville should be allowed to offer telecommunications services only in the unincorporated areas of Patrick County. Sprint reasons that because § 15.2-2160 A limits Danville to providing telecommunications services only where it has electric distribution system facilities, and "localities" is defined by § 15.2-102 to mean county, city, or town, then Danville must have electric distribution system facilities as of March 1, 2002, within the Town of Stuart, a locality within Patrick County, in order to serve the Town of Stuart. Danville did not represent that it had electric distribution system facilities in the Town of Stuart.

Pursuant to § 15.2-102 of the Code of Virginia a "locality" means a county, city, or town as the context may require. We must determine the meaning of "locality" within the context of § 15.2-2160 A, which restricts the provision of telecommunications services to within any locality in which it has electric distribution system facilities as of March 1, 2002.

Article VII, Section 1 of the Constitution of Virginia defines "town," in pertinent part, to mean any existing town or an incorporated community within one or more counties which became a town as provided by law. Thus we conclude, for the purpose of applying § 15.2-2160 A, that a town is within the locality of the surrounding county. Since § 15.2-2160 A allows Danville to provide telecommunications services within the locality of Patrick County, and since the Town of Stuart is within Patrick County, we conclude that Danville would be permitted by the statute to provide telecommunications services in the Town of Stuart if Danville were found to have electric distribution facilities within Patrick County.

We find that Danville did have "electric distribution facilities" within Patrick County as of March 1, 2002, and therefore meets the statutory requirement set forth at § 15.2-2160 A of the Code of Virginia. Thus, Danville may serve Patrick County and the Town of Stuart.

The Staff Report indicates that Danville agrees to meet all conditions for certification identified in § C of the Local Rules. Danville has also agreed to "comply with all rules and regulations of the Commission and laws of the Commonwealth of Virginia [and] intends to comply with the applicable and duly-promulgated safeguards or requirements mandated by House Bill 1021 enacted by the 2002 Session of the Virginia General Assembly."<sup>5</sup>

Accordingly, IT IS ORDERED THAT:

(1) Danville is hereby granted a certificate of public convenience and necessity, No. T-594, to provide local exchange telecommunications services in the City of Danville and counties of Halifax, Henry, Patrick, and Pittsylvania. This certificate is subject to the restrictions set forth in the Rules Governing the Offering of Competitive Local Exchange Telephone Service, § 56-265.4:4 of the Code of Virginia, and the provisions of this Order.

(2) Should Danville collect customer deposits, it shall establish and maintain an escrow account for such funds, held in a Virginia office of a duly chartered state or national bank, savings and loan association, savings bank, or credit union that is unaffiliated with the Company and shall notify the Division of Economics and Finance of the escrow arrangement at its inception and any subsequent change. Any escrow arrangement established pursuant to this requirement shall be maintained until such time as the Staff or Commission determines it is no longer necessary.

<sup>3</sup> The Local Rules were adopted in Case No. PUC-1995-00018 by Order dated December 13, 1995, and are codified at 20 VAC 5-400-180.

<sup>4</sup> On October 15, 2002, the Commission issued an Order For Notice and Comment and/or Requests for Hearing on Proposed Rules, Case No. PUC-2002-00115. The proposed Rules include new regulatory requirements pursuant to § 56-265.4:4 and § 15.2-2160 of the Code of Virginia.

<sup>5</sup> Staff Report, p.6.

- (3) At such time as voice services are initiated by Danville, it shall comply with all requirements of § C of the Local Rules.
- (4) Danville shall provide tariffs to the Division of Communications that conform to all applicable Commission rules and regulations before it begins offering local exchange telecommunications services. Danville shall serve upon the service list for this case a copy of those tariffs.
- (5) There being nothing further to come before the Commission, this case shall be dismissed and the papers filed herein placed in the file for ended causes.

**CASE NO. PUC-2002-00129  
OCTOBER 4, 2002**

APPLICATION OF  
BULLSEYE TELECOM OF VIRGINIA, LLC

For a certificate of public convenience and necessity to provide local exchange telecommunications services

**FINAL ORDER**

On July 1, 2002, BullsEye Telecom of Virginia, LLC ("BullsEye Telecom" or the "Company"), filed an application for a certificate of public convenience and necessity with the State Corporation Commission ("Commission") to provide local exchange telecommunications services throughout the Commonwealth of Virginia.

By Order dated July 22, 2002, the Commission directed the Company to provide notice to the public of its application and directed the Commission Staff to conduct an investigation and file a Staff Report. On August 28, 2002, the Company filed proof of publication and proof of service as required by the July 22, 2002, Order.

On September 12, 2002, the Staff filed its Report finding that BullsEye Telecom's application was in compliance with the Rules Governing the Offering of Competitive Local Exchange Telephone Service. Based upon its review of BullsEye Telecom's application, the Staff determined it would be appropriate to grant the Company a certificate to provide local exchange telecommunications services subject to the following condition: should BullsEye Telecom collect customer deposits, it shall establish and maintain an escrow account for such funds, held in a Virginia office of a duly chartered state or national bank, savings and loan association or savings bank, or credit union that is unaffiliated with the Company and shall notify the Division of Economics and Finance of the escrow arrangement at its inception and of any subsequent change. Any escrow arrangement established pursuant to this requirement shall be maintained until such time as the Staff or Commission determines it is no longer necessary.

NOW THE COMMISSION, having considered the application and the Staff Report, finds that the Company should be granted a certificate to provide local exchange telecommunications services.

Accordingly, IT IS ORDERED THAT:

- (1) BullsEye Telecom of Virginia, LLC, is hereby granted a certificate of public convenience and necessity, No. T-591, to provide local exchange telecommunications services subject to the restrictions set forth in the Rules Governing the Offering of Competitive Local Exchange Telephone Service, § 56-265.4:4 of the Code of Virginia, and the provisions of this Order.
- (2) The Company shall provide tariffs to the Division of Communications that conform to all applicable Commission rules and regulations.
- (3) Should BullsEye Telecom collect customer deposits, it shall establish and maintain an escrow account for such funds, held in a Virginia office of a duly chartered state or national bank, savings and loan association or savings bank, or credit union that is unaffiliated with the Company and shall notify the Division of Economics and Finance of the escrow arrangement at its inception and of any subsequent change. Any escrow arrangement established pursuant to this requirement shall be maintained until such time as the Staff or Commission determines it is no longer necessary.
- (4) There being nothing further to come before the Commission, this case shall be dismissed and the papers filed herein placed in the file for ended causes.

**CASE NO. PUC-2002-00131  
OCTOBER 3, 2002**

JOINT PETITION OF  
ONFIBER CARRIER SERVICES - VIRGINIA, INC.  
and  
SPHERA OPTICAL NETWORKS (VIRGINIA) N.A., INC.

For approval of the transfer of the assets, including the carrier customers, of Sphera Optical Networks (Virginia) N.A., Inc., to OnFiber Carrier Services - Virginia, Inc.

**ORDER GRANTING APPROVAL**

On July 8, 2002, OnFiber Carrier Services - Virginia, Inc. ("OnFiber Carrier Services - VA"), and Sphera Optical Networks (Virginia) N.A., Inc. ("Sphera N.A. - VA") (together, the "Petitioners"), filed a joint petition with the State Corporation Commission ("Commission") requesting approval, under the Utility Transfers Act, for the transfer of assets, including the carrier customers, of Sphera N.A. - VA to OnFiber Communications, Inc., the parent company of OnFiber Carrier Services - VA.

OnFiber Carrier Services - VA is a Virginia corporation incorporated on April 10, 2000. Its principal place of business is located in Austin, Texas. In Virginia, OnFiber Carrier Services - VA is authorized to provide interexchange telecommunications services pursuant to certificate of public convenience and necessity ("CPCN") No. TT-109A granted on September 19, 2000, in Case No. PUC-2000-00133 (PUC000133). OnFiber Carrier Services - VA is also authorized to provide facilities-based local exchange telecommunications services pursuant to CPCN No. T-506 granted in Case No. PUC-2000-00133 (PUC000133) on that same day.

OnFiber Carrier Services, Inc. ("OnFiber Carrier Services"), an affiliate of OnFiber Carrier Services - VA, provides telecommunications services in other states. OnFiber Carrier Services is a privately held Delaware corporation, incorporated on October 20, 1999. Its principal place of business is also located in Austin, Texas. OnFiber Carrier Services is currently authorized to provide resold and facilities-based local exchange and interexchange telecommunications services in 19 states.

Both OnFiber Carrier Services - VA and OnFiber Carrier Services are wholly owned subsidiaries of OnFiber Communications, Inc. ("OnFiber"). OnFiber, through its subsidiaries, operates fiber optic networks in major metropolitan areas, delivering broadband connectivity services primarily to other carriers and Internet Service Providers ("ISPs") through SONET, Ethernet, and Optical Wavelength product offerings.

Sphera N.A. - VA is a Virginia corporation incorporated on September 1, 2000. Its principal place of business is located in New York, New York. In Virginia, Sphera N.A. - VA is authorized to provide facilities-based interexchange telecommunications services pursuant to CPCN No. TT-134A approved in Case No. PUC-2000-00256 (PUC000256) on February 5, 2001. Sphera N.A. - VA is also authorized to provide facilities-based local exchange telecommunications services pursuant to CPCN No. T-539 approved in Case No. PUC-2000-00256 (PUC000256) on that same day.<sup>1</sup>

Sphera Optical Networks, N.A., Inc. ("Sphera N.A."), an affiliate of Sphera N.A. - VA, provides telecommunications services in several other states. Sphera N.A. is a privately held Delaware corporation incorporated on February 19, 2000. Its principal place of business is also located in New York, New York. Sphera N.A. is currently authorized to provide resold and facilities-based local exchange and interexchange telecommunications services in approximately eight states.

Sphera N.A. - VA and Sphera N.A. are both wholly owned subsidiaries of Sphera Optical Networks, Inc. ("Sphera"). Through its subsidiaries, Sphera provides broadband connectivity services primarily to other carriers and ISPs over fiber optic networks in major metropolitan areas. Sphera's entire customer base is comprised of only 20 customers in approximately seven states, including Virginia. Of these 20 customers, two of the customers are located in Virginia and are served via contract by Sphera N.A. - VA. These customers are provided high-speed data transmission services (SONET). None of these customers are end user subscribers of local, intraLATA toll, or long-distance services.

On February 11, 2002, Sphera and Sphera N.A. filed a joint petition for reorganization under Chapter 11 of the United States Bankruptcy Code in the United States Bankruptcy Court for the District of New Jersey ("Bankruptcy Court"). On February 12, 2002, Universal Access, Inc., announced its intention to acquire Sphera and negotiated a written agreement incorporating the terms of a sale. That deal collapsed on April 24, 2002, when Universal Access, Inc., filed a motion to terminate that agreement.

After the collapse of the Universal Access, Inc., Agreement, negotiations began between Sphera, Sphera N.A., and OnFiber, which resulted in the Asset Purchase Agreement attached to the joint petition. Pursuant to this Agreement, OnFiber agreed to acquire substantially all of Sphera's telecommunications assets including its customer accounts and contracts. Due to Sphera's dire financial situation, the Bankruptcy Court approved the transfer of Sphera's assets to OnFiber, including its customer contracts, on May 2, 2002. Pursuant to the Bankruptcy Court Order ("Sale Order") entered May 10, 2002, the transaction was to occur on or before May 9, 2002, under the terms of the Asset Purchase Agreement.<sup>2</sup>

The Petitioners request that the Commission approve the transfer of Sphera's telecommunications assets and associated customers to include the assets and customers of Sphera N.A. - VA to OnFiber Carrier Services -VA.<sup>3</sup> The assets to be transferred include Sphera's facilities-based

<sup>1</sup> In the joint petition, Sphera N.A. - VA requests the Commission to cancel the above-referenced CPCNs and applicable tariffs. This request will be handled in a separate proceeding (PUC-2002-00162).

<sup>2</sup> In the Sale Order, the Bankruptcy Court noted that the parties agreed to obtain the *necessary* regulatory approvals following the closing of the above-referenced transaction.

<sup>3</sup> OnFiber is the buyer of Sphera's assets. OnFiber's wholly owned subsidiary, OnFiber Carrier Services -VA, will be the entity actually operating the assets and providing service to customers in Virginia.

telecommunications assets and the operations and existing customer base associated therewith. The total sales price for all of the assets of Sphera, including the assets of Sphera, N.A. - VA, is set at approximately \$2.4 million. The Bankruptcy Court determined that this price was the highest and best offer received for the sale of the assets.

THE COMMISSION, upon consideration of the joint petition and representations of the Petitioners and having been advised by its Staff, is of the opinion and finds that the transaction, as described herein, involving the transfer of the assets of Sphera N.A. - VA to OnFiber Communications, Inc., will neither impair nor jeopardize the provision of adequate service to the public at just and reasonable rates and should, therefore, be approved.

Accordingly, IT IS ORDERED THAT:

- 1) Pursuant to §§ 56-88.1 and 56-90 of the Code of Virginia, approval is hereby granted for the transfer of the assets of Sphera N.A. - VA to OnFiber Communications, Inc., as described herein.
- 2) There appearing nothing further to be done in this matter, it is hereby dismissed.

**CASE NO. PUC-2002-00138  
AUGUST 6, 2002**

APPLICATION OF  
ADELPHIA BUSINESS SOLUTIONS OF VIRGINIA, LLC

To discontinue local exchange and interexchange telecommunications services in certain areas of Virginia

**ORDER PERMITTING PARTIAL DISCONTINUANCE OF SERVICES**

On July 12, 2002, Adelpia Business Solutions of Virginia, LLC ("ABS-VA" or the "Company"),<sup>1</sup> filed an application with the State Corporation Commission ("Commission") requesting Commission approval to discontinue its provision of telecommunications services to customers in two areas of Virginia. The Company's application specifically requests approval to discontinue its facilities-based and resale services in the Northern Virginia area adjacent to and within the local calling area of Washington, D.C.,<sup>2</sup> and discontinue its resale services in the "Tri-Cities" area that includes Bristol and Abingdon, Virginia.<sup>3</sup> In its application, ABS-VA states that it has made a business decision to either close a non-cash flow positive market or focus primarily on provisioning facilities-based services by discontinuing its resale services.<sup>4</sup>

The Company proposes to discontinue telecommunications services in the Northern Virginia area on August 15, 2002. Customers were provided notice of the discontinuance via first-class mail on June 13, 2002. The Company proposes to discontinue telecommunications services in the Tri-Cities area on September 20, 2002. Those customers were provided notice of the discontinuance via first-class mail on June 18, 2002.

The Commission's primary concern with authorizing any discontinuance of telecommunications services is that adequate notice to the customers be provided. The Commission's rule regarding partial discontinuance, 20 VAC 5-423-30 (Requirements for Partial Discontinuance), requires that an application include a description of the customer notification efforts and that customers be provided at least 30 days' written notice of a proposed partial discontinuance of service. ABS-VA's customers were provided over 60 days' notice of the pending discontinuance of service.

NOW THE COMMISSION, being sufficiently advised, will grant the requested partial discontinuance of local exchange and interexchange telecommunications services.

Accordingly, IT IS ORDERED THAT:

- (1) This matter is docketed and assigned Case No. PUC-2002-00138.
- (2) On or before August 10, 2002, ABS-VA shall report to the Commission's Division of Communications the number of any remaining customers in Northern Virginia affected by the proposed discontinuance.
- (3) On or before September 16, 2002, ABS-VA shall report to the Commission's Division of Communications the number of any remaining customers in the Tri-Cities area, including Bristol and Abingdon, Virginia, affected by the proposed discontinuance.
- (4) ABS-VA is hereby granted authority to discontinue its provision of local exchange and interexchange telecommunications services to customers in Northern Virginia effective August 15, 2002.
- (5) ABS-VA is hereby granted authority to discontinue its provision of local exchange and interexchange telecommunications services to customers in the Tri-Cities area, including Bristol and Abingdon, Virginia, effective September 20, 2002.

<sup>1</sup> The application states that ABS-VA filed for Chapter 11 bankruptcy protection on June 18, 2002, in the U.S. Bankruptcy Court for the Southern District of New York.

<sup>2</sup> Service will no longer be provided in Washington, D.C. and Maryland, and the switch serving that area will be decommissioned. This will impact the customers of Northern Virginia since those customers are provided service via the same switch.

<sup>3</sup> The Tri-Cities area consists of Johnson City and Bristol, Tennessee, along with Bristol and Abingdon, Virginia.

<sup>4</sup> The application states that the Company will continue to provide telecommunications services in the Tidewater area of Virginia.

- (6) ABS-VA shall revise its tariffs on file with the Division of Communications to reflect its revised service area.
- (7) This case shall be closed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. PUC-2002-00139  
OCTOBER 28, 2002**

APPLICATION OF  
AMERICAN COMMUNICATIONS SERVICES OF VIRGINIA, INC. d/b/a e.spire COMMUNICATIONS, INC.

For cancellation of certificates of public convenience and necessity

**ORDER**

By Order dated November 8, 1996, in Case No. PUC-1996-00087, the State Corporation Commission ("Commission") granted American Communications Services of Virginia, Inc. d/b/a e.spire Communications, Inc. ("ACSI" or the "Company"), Certificate No. T-366 to provide local exchange telecommunications services and Certificate No. TT-27A to provide interexchange telecommunications services in Virginia.

By application dated June 18, 2002, ACSI requested that the Commission cancel its certificates and tariffs. Pursuant to an Order dated August 2, 2002, in Case No. PUC-2002-00122, Xspedius Management Co. of Virginia, LLC ("Xspedius"), was granted interim operating authority to serve the existing customers of ACSI pursuant to the accepted tariffs of the Company on file with the Commission's Division of Communications.<sup>1</sup>

NOW THE COMMISSION, having considered the matter, is of the opinion that ACSI's certificates should be cancelled.

Accordingly, IT IS ORDERED THAT:

- (1) This matter shall be docketed and assigned Case No. PUC-2002-00139.
- (2) Certificate No. T-366 and Certificate No. TT-27A issued to American Communications Services of Virginia, Inc. d/b/a e.spire Communications, Inc., are hereby cancelled.
- (3) Any existing tariffs of the Company currently on file with the Commission's Division of Communications are hereby cancelled.
- (4) This matter is hereby dismissed.

<sup>1</sup> In Case No. PUC-2002-00122, Xspedius Management Co. of Virginia, LLC, requested local exchange and interexchange certification and interim operating authority. By Order dated October 23, 2002, Xspedius was granted both a local exchange certificate and interexchange certificate.

Additionally, in a joint petition filed with the Commission on June 18, 2002, in Case No. PUC-2002-00121, ASCI Local Switched Services, Inc., American Communications Services of Virginia, Inc. d/b/a e.spire Communications Services of Virginia, Inc., Xspedius Management Co. Switched Services, LLC, and Xspedius Management Co. of Virginia, LLC, requested authority to transfer substantially all of the assets and customers in Virginia from ACSI to Xspedius. That transfer was approved by Order dated October 18, 2002.

**CASE NO. PUC-2002-00142  
OCTOBER 30, 2002**

APPLICATION OF  
CAVALIER BROADBAND, LLC

For certificates of public convenience and necessity to provide local exchange telecommunications services

**FINAL ORDER**

On July 19, 2002, Cavalier Broadband, LLC ("Cavalier Broadband" or the "Company"), filed an application for a certificate of public convenience and necessity with the State Corporation Commission ("Commission") to provide local exchange telecommunications services throughout the Commonwealth of Virginia.

By Order dated August 6, 2002, the Commission directed the Company to provide notice to the public of its application and directed the Commission Staff to conduct an investigation and file a Staff Report. On September 9, 2002, the Company filed proof of publication and proof of service as required by the August 6, 2002, Order.

On October 2, 2002, the Staff filed its Report finding that Cavalier Broadband's application was in compliance with the Rules Governing the Offering of Competitive Local Exchange Telephone Service. Based upon its review of Cavalier Broadband's application, the Staff determined it would be appropriate to grant the Company a certificate to provide local exchange telecommunications services subject to the following conditions: (1) should Cavalier Broadband collect customer deposits, it shall, prior to collecting any deposits, establish and maintain an escrow account for such funds, held in a Virginia office of a duly chartered state or national bank, savings and loan association, savings bank, or credit union that is unaffiliated with the Company

and shall notify the Division of Economics and Finance of the escrow arrangement at its inception and any subsequent change to the arrangement. Any escrow arrangement established pursuant to this requirement shall be maintained until such time as the Staff or Commission determines it is no longer necessary; and (2) at such time as voice services are initiated by Cavalier Broadband, it shall comply with all requirements of § C of the Rules Governing the Offering of Competitive Local Exchange Telephone Service ("Local Rules").<sup>1</sup>

NOW THE COMMISSION, having considered the application and the Staff Report, finds that the Company should be granted a certificate to provide local exchange telecommunications services.

Accordingly, IT IS ORDERED THAT:

(1) Cavalier Broadband is hereby granted a certificate of public convenience and necessity, No. T-595, to provide local exchange telecommunications services subject to the restrictions set forth in the Rules Governing the Offering of Competitive Local Exchange Telephone Service, § 56-265.4:4 of the Code of Virginia, and the provisions of this Order.

(2) The Company shall provide tariffs to the Division of Communications that conform to all applicable Commission rules and regulations.

(3) Should Cavalier Broadband collect customer deposits, it shall, prior to collecting any deposits, establish and maintain an escrow account for such funds, held in a Virginia office of a duly chartered state or national bank, savings and loan association, savings bank, or credit union that is unaffiliated with the Company and shall notify the Division of Economics and Finance of the escrow arrangement at its inception and any subsequent change to the arrangement. Any escrow arrangement established pursuant to this requirement shall be maintained until such time as the Staff or Commission determines it is no longer necessary.

(4) Cavalier Broadband is ordered at such time as voice services are initiated to comply with all requirements of § C of the Local Rules.

(5) There being nothing further to come before the Commission, this case shall be dismissed and the papers filed herein placed in the file for ended causes.

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<sup>1</sup> 20 VAC 5-400-180.

**CASE NO. PUC-2002-00145  
DECEMBER 12, 2002**

APPLICATION OF  
PLAN B COMMUNICATIONS OF VIRGINIA, INC.

For certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services

**FINAL ORDER**

On August 15, 2002, Plan B Communications of Virginia, Inc. d/b/a Spectrotel ("Plan B" or the "Company"), completed an application with the State Corporation Commission ("Commission") for certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services throughout the Commonwealth of Virginia. The Company also requested authority to price its interexchange telecommunications services on a competitive basis pursuant to § 56-481.1 of the Code of Virginia.

By Order dated August 27, 2002, the Commission directed the Company to provide notice to the public of its application and directed the Commission Staff to conduct an investigation and file a Staff Report. On October 17, 2002, the Company filed proof of publication and proof of service as required by the August 27, 2002, Order.

On November 6, 2002, the Staff filed its Report finding that Plan B's application was in compliance with the Rules Governing the Offering of Competitive Local Exchange Telephone Service and the Rules Governing the Certification of Interexchange Carriers. Based upon its review of Plan B's application, the Staff determined it would be appropriate to grant the Company certificates to provide local exchange and interexchange telecommunications services subject to the following conditions: (1) should Plan B collect customer deposits, it shall, prior to collecting any deposits, establish and maintain an escrow account for such funds, held in a Virginia office of a duly chartered state or national bank, savings and loan association, savings bank, or credit union that is unaffiliated with the Company, and shall notify the Division of Economics and Finance of the escrow arrangement at its inception and any subsequent change to the arrangement. Any escrow arrangement established pursuant to this requirement shall be maintained until such time as the Staff or Commission determines it is no longer necessary; and (2) the Company shall notify the Division of Economics and Finance 30 days prior to the cancellation or lapse of its bond and shall provide a replacement bond. This requirement shall be maintained until such time as the Staff or the Commission determines it is no longer necessary.

NOW THE COMMISSION, having considered the application and the Staff Report, finds that the Company should be granted certificates to provide local exchange and interexchange telecommunications services. Having considered § 56-481.1, the Commission further finds that the Company may price its interexchange telecommunications services competitively.

Accordingly, IT IS ORDERED THAT:

(1) Plan B Communications of Virginia, Inc., is hereby granted a certificate of public convenience and necessity, No. TT-185A, to provide interexchange telecommunications services subject to the restrictions set forth in the Commission's Rules Governing the Certification of Interexchange Carriers, § 56-265.4:4 of the Code of Virginia, and the provisions of this Order.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

(2) Plan B Communications of Virginia, Inc., is hereby granted a certificate of public convenience and necessity, No. T-599, to provide local exchange telecommunications services subject to the restrictions set forth in the Rules Governing the Offering of Competitive Local Exchange Telephone Service, § 56-265.4:4 of the Code of Virginia, and the provisions of this Order.

(3) Pursuant to § 56-481.1 of the Code of Virginia, the Company may price its interexchange telecommunications services competitively.

(4) The Company shall provide tariffs to the Division of Communications that conform to all applicable Commission rules and regulations.

(5) Should Plan B collect customer deposits, it shall, prior to collecting any deposits, establish and maintain an escrow account for such funds, held in a Virginia office of a duly chartered state or national bank, savings and loan association, savings bank, or credit union that is unaffiliated with the Company, and shall notify the Division of Economics and Finance of the escrow arrangement at its inception and any subsequent change to the arrangement. Any escrow arrangement established pursuant to this requirement shall be maintained until such time as the Staff or Commission determines it is no longer necessary.

(6) The Company shall notify the Division of Economics and Finance thirty (30) days prior to the cancellation or lapse of its bond and shall provide a replacement bond. This requirement shall be maintained until such time as the Staff or the Commission determines it is no longer necessary.

(7) There being nothing further to come before the Commission, this case shall be dismissed and the papers filed herein placed in the file for ended causes.

**CASE NO. PUC-2002-00147  
AUGUST 2, 2002**

APPLICATION OF  
COGENT COMMUNICATIONS OF VIRGINIA, INC. f/k/a ALLIED RISER OF VIRGINIA, INC.

For cancellation and reissuance of certificates of public convenience and necessity to reflect corporate name change

**ORDER**

On January 31, 2002, Allied Riser of Virginia, Inc. ("Allied"), changed its corporate name to Cogent Communications of Virginia, Inc. ("Cogent"). By application filed July 26, 2002, Allied requested the cancellation of certificates of public convenience and necessity previously issued to it and reissuance of the certificates in its new name. For good cause shown, the Commission will grant the request.

Accordingly, IT IS ORDERED that:

(1) This matter should be docketed and assigned Case No. PUC-2002-00147.

(2) Certificate No. TT-89A, issued to Allied to provide interexchange telecommunications services, is cancelled and shall be reissued as Certificate No. TT-89B in the name of Cogent Communications of Virginia, Inc.

(3) Certificate No. T-484, issued to Allied to provide local exchange telecommunications services, shall be cancelled and reissued as Certificate No. T-484a in the name of Cogent Communications of Virginia, Inc.

(4) There being nothing further to come before the Commission, this matter is dismissed.

**CASE NO. PUC-2002-00148  
AUGUST 14, 2002**

APPLICATION OF  
CARONET, INC.

For cancellation of certificates of public convenience and necessity

**ORDER CANCELLING CERTIFICATES**

By Order entered February 5, 2001, in Case No. PUC-2001-00016, the State Corporation Commission ("Commission") granted Caronet, Inc. ("Caronet"), Certificate No. T-434a to provide local exchange telecommunications services and Certificate No. TT-64B to provide interexchange telecommunications services in the Commonwealth of Virginia.

By letter application filed July 29, 2002, Caronet has requested the cancellation of its certificates and tariffs, indicating that any Virginia operations would be carried on by a newly certificated entity called Progress Telecom Corporation. For good cause shown, the Commission will grant the request.

Accordingly, IT IS ORDERED THAT:

(1) This matter should be docketed and assigned Case No. PUC-2002-00148.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

- (2) Certificate No. TT-64B shall be cancelled.
- (3) Certificate No. T-434a shall be cancelled.
- (4) Any tariffs on file with the Division of Communications in the name of Caronet, Inc., shall be cancelled.
- (5) There being nothing further to come before the Commission, this matter is dismissed.

**CASE NO. PUC-2002-00152  
AUGUST 14, 2002**

APPLICATION OF  
TELERGY NETWORK SERVICES OF VIRGINIA, INC.

For cancellation of certificates of public convenience and necessity

**ORDER**

By letter application filed August 2, 2002, Telergy Network Services of Virginia, Inc. ("Telergy" or "Company"), advised the State Corporation Commission ("Commission") that its parent and several affiliates had filed for Chapter 11 bankruptcy reorganization on October 26, 2001, but converted that application to a Chapter 7 dissolution proceeding on December 14, 2001. It noted that all customers had "successfully transitioned to other service providers" and that all its assets were sold to either Dominion Telecom, Inc., or Con Ed Communications, Inc., on April 10, 2002. The Company requested cancellation of its certificates of public convenience and necessity. We will grant the request.

Accordingly, IT IS ORDERED THAT:

- (1) This matter should be docketed and assigned Case No. PUC-2002-00152.
- (2) Certificate Nos. TT-94A and No. T-487, issued to Telergy Network Services of Virginia, Inc., are hereby cancelled.
- (3) Any tariffs the Company has on file with the Division of Communications are likewise cancelled.
- (4) This matter is dismissed.

**CASE NO. PUC-2002-00156  
AUGUST 21, 2002**

APPLICATION OF  
LCI INTERNATIONAL OF VIRGINIA, INC.

For cancellation of certificate of public convenience and necessity

**ORDER CANCELLING CERTIFICATE**

By Order dated April 25, 1997, in Case No. PUC-1996-00018, the State Corporation Commission ("Commission") issued certificate of public convenience and necessity ("Certificate") No. T-377, permitting the provision of local exchange telecommunications services, to LCI International of Virginia, Inc. ("LCI" or "Company"). By letter application dated August 7, 2002, LCI advised that it has "merged into its affiliate, Qwest Communications Corporation of Virginia ("QCC/VA"), with QCC/VA being the surviving corporation." The Commission approved the merger in an Order issued August 29, 2001. The Company accordingly requested the cancellation of Certificate No. T-377, as well as its tariffs filed thereunder.

NOW THE COMMISSION, being sufficiently advised, will cancel Certificate No. T-377 issued in the above-referenced case.

Accordingly, IT IS ORDERED that:

- (1) This matter shall be docketed and assigned Case No. PUC-2002-00156.
- (2) Certificate No. T-377, issued to LCI International of Virginia, Inc., is hereby cancelled.
- (3) Any and all tariffs of the Company are hereby cancelled.
- (4) This matter is dismissed.



**CASE NO. PUC-2002-00157  
OCTOBER 4, 2002**

JOINT PETITION OF  
ONFIBER CARRIER SERVICES - VIRGINIA, INC.,  
and  
TELSEON CARRIER SERVICES OF VIRGINIA, INC.,

For approval of the transfer of the assets of Telseon Carrier Services, Inc., to OnFiber Carrier Services, Inc., and request for abandonment of the provision of telecommunications services by Telseon Carrier Services, Inc., in Virginia

**ORDER GRANTING APPROVAL**

On August 15, 2002, OnFiber Carrier Services - Virginia, Inc. ("OnFiber"), and Telseon Carrier Services of Virginia, Inc. ("Telseon") (together, the "Petitioners"), filed a joint petition with the State Corporation Commission ("Commission"). In this joint petition, the Petitioners request approval of the transfer of the assets of Telseon Carrier Services, Inc., to OnFiber Carrier Services, Inc.

OnFiber Communications, Inc. ("OnFiber Communications"), is a privately held corporation with its principal place of business located in Austin, Texas. Through its subsidiaries, OnFiber Communications operates fiber optic networks in major metropolitan areas delivering broadband connectivity services primarily to other carriers and Internet Service Providers through SONET, Ethernet, and Optical Wavelength product offerings.

OnFiber Carrier Services, Inc. ("OnFiber Carrier Services"), is a privately held Delaware corporation also located in Austin, Texas. OnFiber Carrier Services is a wholly owned subsidiary of OnFiber Communications. OnFiber Carrier Services currently holds authorizations to provide telecommunications services in 19 states.

OnFiber is a Virginia corporation incorporated on April 10, 2000. Its principal place of business is located in Austin, Texas. OnFiber is a wholly owned subsidiary of OnFiber Communications. In Virginia, OnFiber is authorized to provide facilities based interexchange telecommunications services pursuant to certificate of public convenience and necessity ("CPCN") No. TT-109A granted on September 19, 2000, in Case No. PUC-2000-00133 (PUC000133). OnFiber is also authorized to provide local exchange telecommunications services pursuant to CPCN No. T-506 granted in Case No. PUC-2000-00133 (PUC000133) that same day.

Telseon, Inc., is a privately held corporation located in Englewood, Colorado. Through its subsidiaries, Telseon, Inc., operates fiber-optic networks in major metropolitan areas, providing an extensive range of broadband and high-speed digital private line services primarily to other carriers and ISPs. Telseon Carrier Services, Inc., currently holds authorizations to provide telecommunications services in 18 states.

Telseon is a privately held corporation located in Englewood, Colorado. Telseon is a wholly owned subsidiary of Telseon, Inc. Telseon is authorized to provide interexchange telecommunications services in Virginia pursuant to CPCN No. TT-160A and authorized to provide local exchange telecommunications services in Virginia pursuant to CPCN No. T-565. Those CPCNs were granted on August 7, 2001, in Case No. PUC-2000-00305 (PUC000305).<sup>1</sup>

The Petitioners seek approval of the transfer of Telseon's telecommunications assets in Virginia to OnFiber. Telseon Carrier Services, Inc., Telseon Carrier Services of Virginia, Inc., and Telseon IP Services, Inc. (collectively, the "Telseon Companies"), together with OnFiber Communications, by letter agreement dated July 25, 2002, agreed to a transaction involving OnFiber Communications' purchase of assets and assumption of certain liabilities of the Telseon Companies. According to the letter agreement, the transaction was consummated on July 31, 2002. At that time, OnFiber Communications paid the creditors of the Telseon Companies the amounts negotiated to satisfy the debt obligations of the Telseon Companies.

Although OnFiber Communications is the actual party to the letter agreement, it is the Virginia assets of Telseon that ultimately will be transferred to OnFiber. OnFiber will continue to provide telecommunications services in Virginia, and, as a certificated interexchange and local exchange telecommunications provider, it will remain subject to the oversight of the Commission. OnFiber Communications will remain a holding company and the parent of OnFiber.

THE COMMISSION, upon consideration of the joint petition and representations of the Petitioners and having been advised by its Staff, is of the opinion and finds that the transaction, as described herein, will neither impair nor jeopardize the provision of adequate service to the public at just and reasonable rates and should, therefore, be approved.

Accordingly, IT IS ORDERED THAT:

- 1) Pursuant to §§ 56-88.1 and 56-90 of the Code of Virginia, approval is hereby granted for the transfer of the telecommunications assets of Telseon to OnFiber as described herein.
- 2) There appearing nothing further to be done in this matter, it is hereby dismissed.

<sup>1</sup> In the joint petition, Telseon requests the Commission to cancel the above-referenced CPCNs and applicable tariffs. This request will be handled in a separate proceeding.

**CASE NO. PUC-2002-00162  
OCTOBER 4, 2002**

APPLICATION OF  
SPHERA OPTICAL NETWORKS (VIRGINIA) N.A., INC.

For cancellation of certificates of public convenience and necessity

**ORDER**

By Order dated February 5, 2001, in Case No. PUC-2000-00256, the State Corporation Commission ("Commission") issued certificates of public convenience and necessity No. T-539, permitting the provision of local exchange telecommunications services, and No. TT-134A, permitting the provision of interexchange telecommunications services, to Sphera Optical Networks (Virginia) N.A., Inc. ("Sphera" or "Company").

By letter application filed on August 12, 2002, with the Commission, the Company requested the cancellation of its certificates of public convenience and necessity. Sphera advised that it has filed for bankruptcy protection due to adverse conditions in the telecommunications industry. The Company does not currently provide telecommunications services to any customers in the Commonwealth of Virginia.

NOW THE COMMISSION, being sufficiently advised, will cancel Certificate Nos. T-539 and TT-134A issued in the above-referenced case.

Accordingly, IT IS THEREFORE ORDERED THAT:

- (1) This matter shall be docketed and assigned Case No. PUC-2002-00162.
- (2) Certificate Nos. T-539 and TT-134A issued to Sphera Optical Networks (Virginia) N.A., Inc., are hereby cancelled.
- (3) This matter is dismissed.

**CASE NO. PUC-2002-00164  
SEPTEMBER 6, 2002**

APPLICATION OF  
AFFINITY NETWORK INCORPORATED

For cancellation of certificate of public convenience and necessity

**ORDER**

By Order dated October 19, 1999, in Case No. PUC-1999-00098, the State Corporation Commission ("Commission") issued certificate of public convenience and necessity No. T-465, permitting the provision of local exchange telecommunications services, to Affinity Network Incorporated ("Affinity" or "Company").

By letter application dated August 9, 2002, the Company requested the cancellation of its certificate of public convenience and necessity and its tariffs. The Company advised that it does not currently provide telecommunications services to any customers in Virginia, nor does it have any further plans to market customers in Virginia for local exchange telecommunications services.

NOW THE COMMISSION, being sufficiently advised, will cancel Certificate No. T-465 issued in the above-referenced case.

Accordingly, IT IS ORDERED that:

- (1) This matter shall be docketed and assigned Case No. PUC-2002-00164.
- (2) Certificate No. T-465, issued to Affinity Network Incorporated, and the Company's tariffs, are hereby cancelled.
- (3) This matter is dismissed.

**CASE NO. PUC-2002-00170  
SEPTEMBER 6, 2002**

APPLICATION OF  
GEMINI NETWORKS VA, INC.

For cancellation of certificates of public convenience and necessity

**ORDER**

By Order dated January 23, 2001, in Case No. PUC-2000-00131, the State Corporation Commission ("Commission") issued certificates of public convenience and necessity No. T-532, permitting the provision of local exchange telecommunications services, and No. TT-127A, permitting the provision of interexchange telecommunications services to Gemini Networks VA, Inc. ("Gemini" or "Company").

By letter application dated August 13, 2002, the Company requested the cancellation of its certificates of public convenience and necessity. Gemini advised that it "has had to reassess its plans to build networks in certain states in the Eastern United States, including the Commonwealth of Virginia." The Company does not currently provide telecommunications services to any customers in Virginia.

NOW THE COMMISSION, being sufficiently advised, will cancel Certificates No. T-532 and TT-127A, issued in the above-referenced case.

Accordingly, IT IS ORDERED that:

- (1) This matter shall be docketed and assigned Case No. PUC-2002-00170.
- (2) Certificate Nos. T-532 and TT-127A, issued to Gemini Networks VA, Inc., are hereby cancelled.
- (3) This matter is dismissed.

**CASE NO. PUC-2002-00171  
OCTOBER 11, 2002**

PETITION OF  
CAVALIER TELEPHONE, LLC

For Arbitration Pursuant to § 252(b) of the Telecommunications Act of 1996 to Establish an Interconnection Agreement with Verizon Virginia Inc.

**ORDER OF DISMISSAL**

On August 14, 2002, Cavalier Telephone, LLC ("Cavalier"), filed with the State Corporation Commission ("Commission") a Petition for arbitration of unresolved issues in its interconnection negotiations ("Arbitration Petition") with Verizon Virginia Inc. ("Verizon Virginia") pursuant to § 252(b) of the Telecommunications Act of 1996<sup>1</sup> and § 5-419-10 *et seq.* of Title 20 of the Virginia Administrative Code. Cavalier requests that the Commission resolve its dispute with Verizon Virginia by: (i) resolving the disputed issues; (ii) affirmatively ordering the parties to submit an interconnection agreement for approval by the Commission in accordance with § 252(e) of the Act; and (iii) retaining jurisdiction until Verizon Virginia has complied with all implementation time frames specified in the arbitrated interconnection agreement and has fully implemented the terms of this agreement.

On September 9, 2002, Verizon Virginia filed its Response, with exhibits, to the Arbitration Petition of Cavalier. Verizon Virginia responded to the nineteen arbitration issues identified by Cavalier and raised six supplemental issues.

On October 4, 2002, Cavalier filed a Response to New Issues Raised by Verizon Virginia, which addressed each of the six supplemental issues raised by Verizon Virginia.

Cavalier brings its Arbitration Petition pursuant to 47 U.S.C. §§ 251 and 252 and the effective rules implementing these provisions of the Act, issued by the Federal Communications Commission ("FCC") in its Local Competition Order.<sup>2</sup> Cavalier also relies upon this Commission's Procedural Rules for Implementing §§ 251 and 252 of the Act (20 VAC 5-419-10 *et seq.*). While 20 VAC 5-400-180 F 6 provides for our "arbitration" of contested interconnection matters,<sup>3</sup> Cavalier submits its Arbitration Petition for consideration according to the Act and not simply under state law. Cavalier recognizes in its Arbitration Petition that the Commission may choose to decline to exercise jurisdiction over this matter and instead refer it to the FCC. Cavalier states that it does not oppose such consideration of the Arbitration Petition by the FCC.

<sup>1</sup> Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56, *codified at* 47 U.S.C. § 151 *et seq.* ("Act").

<sup>2</sup> Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, FCC Docket No. 96-98, First Report and Order, 11 FCC Rcd 15499 (1996) hereinafter the "Local Competition Order."

<sup>3</sup> As discussed in our Order of June 15, 2000, in Case No. PUC-1999-00101, Petition of Cavalier Telephone, LLC, for arbitration of interconnection rates, terms, and conditions, and related relief, the Commission has authority under state law to order interconnection between carriers operating within the Commonwealth, and § 56-38 of the Code of Virginia authorizes us, upon request of the parties, "to effect, by mediation, the adjustment of claims, and the settlement of controversies, between public service companies, and their employees and patrons."

The Commission has declined to waive sovereign immunity under the Eleventh Amendment to the Constitution of the United States. We have avoided waiver of our immunity and explained our reasons in the Commission's Order of Dismissal of the Application of AT&T Communications of Virginia, Inc., et al., For Arbitration with Verizon Virginia, Case No. PUC-2000-00282, issued December 20, 2000 ("AT&T Dismissal Order").<sup>4</sup> We repeat below our holding in the AT&T Dismissal Order in which we declined to exercise jurisdiction.

As stated in our November 22, 2000, Order, until the issue of the Eleventh Amendment immunity from federal appeal under the Act is resolved by the Courts of the United States, we will not act solely under the Act's federally conveyed authority in matters that might arguably implicate a waiver of the Commonwealth's immunity, including the arbitration of rates, terms, and conditions of interconnection agreements between local exchange carriers. (AT&T Dismissal Order, p. 2.)

In Verizon Md. Inc. v. Public Serv. Comm'n of Md., 535 U.S. \_\_\_\_, 70 USLW 4432 (2002) ("Verizon Md. v. PSC of Md."), the Supreme Court held that the federal courts have jurisdiction under 28 USC § 1331 to review state commission orders for compliance with the Act or with an FCC ruling issued thereunder<sup>5</sup> and that suit against individual members of the state commission may proceed under the doctrine of Ex Parte Young, 209 U.S. 123 (1908). However, Verizon Md. v. PSC of Md. did not disclose whether state commissions waive their sovereign immunity by participating in § 252 matters nor whether Congress effectively divested the states of their Eleventh Amendment immunity from suit under § 252 of the Act.<sup>6</sup>

The Commission finds that the Arbitration Petition of Cavalier should be dismissed so that the parties may proceed before the FCC. It shall be the responsibility of the parties to serve copies of all pleadings filed herein on the FCC.

Accordingly, IT IS ORDERED THAT:

(1) This case is hereby dismissed without prejudice, consistent with the findings above. This Commission will not arbitrate the interconnection issues for the reasons set forth in the findings above.

(2) There being nothing further to come before the Commission, this case is dismissed.

<sup>4</sup> On July 17, 2002, the FCC released the first of two orders (its non-pricing order) on AT&T's Arbitration Petition. See Memorandum Opinion and Order by the Chief, Wireline Competition Bureau, CC Docket No. 00-251.

<sup>5</sup> While Verizon Md. v. PSC of Md. was decided on the state commission's enforcement of an interconnection agreement, this decision may suggest federal court jurisdiction under 28 USC § 1331 also applies to a state commission's arbitration of an interconnection agreement as well. The Supreme Court noted in bypassing a determination of whether § 252(e)(6) applied to enforcement actions:

...none of the other provisions of the Act evince any intent to preclude federal review of a commission determination. If anything, they reinforce the conclusion that § 252(e)(6)'s silence on the subject leaves the jurisdictional grant of § 1331 untouched. Section 252(e)(4) provides: "No State court shall have jurisdiction to review the action of a state commission in approving or rejecting an agreement under this section." In sum, nothing in the Act displays any intent to withdraw federal jurisdiction under § 1331; we will not presume that the statute means what it neither says nor fairly implies (footnote omitted).

Verizon Md. v. PSC of Md., 70 USLW 4432 at 4435.

<sup>6</sup> "Whether the Commission waived its immunity is another question we need not decide, because - as the same parties also argue - even absent waiver, Verizon may proceed against the individual commissioners in their official capacities, pursuant to the doctrine of Ex Parte Young, 209 U.S. 123 (1908)." Verizon Md. v. PSC of Md., 122 S.Ct. 1753, 70 USLW 4432 at 4435.

**CASE NO. PUC-2002-00175  
SEPTEMBER 18, 2002**

APPLICATION OF  
VERIZON VIRGINIA INC.

To withdraw its request for exemption from physical collocation at its Dulles Corner central office

**ORDER GRANTING REQUEST**

On June 30, 2000, in Case No. PUC-2000-00043, the State Corporation Commission ("Commission") granted Verizon Virginia Inc. ("Verizon Virginia") an exemption from the requirement to provide physical collocation at its Dulles Corner central office.

On August 21, 2002, Verizon Virginia filed a letter requesting withdrawal of its application for exemption from physical collocation for its Dulles Corner central office. Verizon Virginia stated in its request that the exemption is no longer necessary due to the completion of a building addition.

NOW THE COMMISSION, having considered the request, finds that it should be granted.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

Accordingly, IT IS ORDERED THAT:

(1) Verizon Virginia's request for exemption from physical collocation for its Dulles Corner central office is hereby withdrawn.

(2) There being nothing further to be done herein, this matter shall be dismissed from the Commission's docket of active cases and the papers filed herein placed in the Commission's file for ended causes.

**CASE NO. PUC-2002-00176  
SEPTEMBER 27, 2002**

APPLICATION OF  
VERIZON VIRGINIA INC.

To withdraw its request for exemption from physical collocation at its Centreville and Herndon central offices

**ORDER GRANTING REQUEST**

On March 3, 2000, in Case No. PUC-2000-00061, the State Corporation Commission ("Commission") granted Verizon Virginia Inc. ("Verizon Virginia") an exemption from the requirement to provide physical collocation at its Centreville and Herndon central offices.

On August 21, 2002, Verizon Virginia filed letters requesting withdrawal of its applications for exemption from physical collocation for its Centreville and Herndon central offices. Verizon Virginia stated in its request that the exemptions are no longer necessary due to the completion of a building addition.

NOW THE COMMISSION, having considered the request, finds that it should be granted.

Accordingly, IT IS ORDERED THAT:

(1) Verizon Virginia's request for exemption from physical collocation for its Centreville and Herndon central offices is hereby withdrawn.

(2) There being nothing further to be done herein, this matter shall be dismissed from the Commission's docket of active cases and the papers filed herein placed in the Commission's file for ended causes.

**CASE NO. PUC-2002-00179  
SEPTEMBER 3, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION

Ex Parte: In re amending the certificated service territories of local exchange carriers

**ORDER AMENDING CERTIFICATED SERVICE TERRITORIES**

Section 56-265.4:4 B 1 of the Code of Virginia ("Code"), which became effective July 1, 2002, states that the State Corporation Commission ("Commission") "shall amend the certificated service territory of each local exchange carrier that was previously certificated to provide service in only part of the Commonwealth to permit such carrier's provision of local exchange service throughout the Commonwealth beginning on September 1, 2002, unless that local exchange carrier notifies the Commission prior to September 1, 2002, that it elects to retain its existing certificated service territory."

By correspondence dated on or about August 12, 2002, the Director of the Commission's Division of Communications advised all certificated incumbent and competitive local exchange carriers ("LECs") of the statutory provisions above. Burkes Garden Telephone Company has notified the Commission that it elects to retain its existing certificated service territory.

NOW THE COMMISSION, pursuant to § 56-265.4:4 B 1 of the Code, amends the certificated service territory of each LEC, other than Burkes Garden Telephone Company, that was previously certificated to provide telecommunications services in only part of the Commonwealth to permit such carrier's provision of local exchange telecommunications services throughout the Commonwealth, effective September 1, 2002.

Accordingly, IT IS ORDERED THAT:

(1) The certificated service territory of each local exchange carrier that was previously certificated to provide telecommunications services in only part of the Commonwealth shall be deemed amended, effective September 1, 2002, to permit such carrier's provision of local exchange telecommunications services throughout the Commonwealth. This ordering paragraph shall not apply to Burkes Garden Telephone Company.

(2) A copy of this Order shall be placed with the certificate of each local exchange carrier kept on file in the Commission's Division of Communications.

(3) This matter is dismissed.

**CASE NO. PUC-2002-00194  
NOVEMBER 7, 2002**

APPLICATION OF  
TELSEON CARRIER SERVICES OF VIRGINIA, INC.

For cancellation of certificates of public convenience and necessity

**ORDER**

By Order dated August 7, 2001, in Case No. PUC-2000-00305, the State Corporation Commission ("Commission") granted Telseon Carrier Services of Virginia, Inc. ("Telseon" or the "Company"), Certificate No. T-565 to provide local exchange and Certificate No. TT-160A to provide interexchange telecommunications services in Virginia.

By application dated August 7, 2002, Telseon requested the Commission to cancel its certificates and tariffs.<sup>1</sup>

NOW THE COMMISSION, having considered the matter, is of the opinion that Telseon's certificates should be cancelled.

Accordingly, IT IS ORDERED THAT:

- (1) This matter shall be docketed and assigned Case No. PUC-2002-00194.
- (2) Certificate No. T-565 and Certificate No. TT-160A are hereby cancelled.
- (3) Any existing tariffs of the Company currently on file with the Commission's Division of communications are hereby cancelled.
- (4) This matter is hereby dismissed.

<sup>1</sup> In a joint petition filed with the Commission on August 15, 2002, in Case No. PUC-2002-00157, OnFiber Carrier Services - Virginia, Inc., and Telseon Carrier Services of Virginia, Inc., requested authority to transfer the assets of Telseon Carrier Services, Inc., to OnFiber Carrier Services, Inc. The Commission granted approval for the transfer of such assets by Order dated October 4, 2002.

**CASE NO. PUC-2002-00199  
DECEMBER 16, 2002**

JOINT PETITION OF  
LIGHTYEAR COMMUNICATIONS OF VIRGINIA, INC.,  
LIGHTYEAR COMMUNICATIONS, INC.,  
LIGHTYEAR TELECOMMUNICATIONS, LLC,  
and  
INFOHIGHWAY OF VIRGINIA, INC.,

For approval of a transfer of assets

**ORDER GRANTING APPROVAL**

On October 18, 2002, Lightyear Communications of Virginia, Inc. ("Lightyear of Virginia"), Lightyear Communications, Inc., Lightyear Telecommunications, LLC (collectively referenced as the "Lightyear Companies"), and InfoHighway of Virginia, Inc. ("InfoHighway of Virginia"), completed a joint petition requesting approval of the State Corporation Commission ("Commission"), pursuant to §§ 56-88.1 and 56-90 of the Code of Virginia, for the transfer of Lightyear of Virginia's customer base and the associated accounts receivables to InfoHighway of Virginia.

Lightyear of Virginia, formerly known as UniDial Communications of Virginia, Inc., is a corporation organized under the laws of Virginia. The principal business office of Lightyear of Virginia is located in Louisville, Kentucky. Lightyear of Virginia was granted certificate of public convenience and necessity ("CPCN") No. T-462a to provide local exchange telecommunications services in Virginia on September 22, 2000, in Case No. PUC-2000-00223 (PUC000223).

Lightyear Communications, Inc., and Lightyear Telecommunications, LLC, are providers of resold interexchange telecommunications services in Virginia. Lightyear Communications, Inc., formerly known as Unidial Communications, Inc., is also a corporation organized under the laws of Kentucky. Lightyear Telecommunications, LLC, formerly known as UniDial Telecommunications, LLC, is a Delaware limited liability corporation. The principal business offices of Lightyear Communications, Inc., and Lightyear Telecommunications, LLC, are located in Louisville, Kentucky.

Lightyear Acquisition, Inc. ("Lightyear AM"), a subsidiary of A.R.C. Networks, Inc. d/b/a InfoHighway of Virginia, Inc., was created solely to effectuate the transactions, which are the subject of the above-referenced petition.

InfoHighway of Virginia is a corporation organized under the laws of Virginia. The principal business office of InfoHighway of Virginia is located in Melville, New York. InfoHighway of Virginia was granted CPCN No. T-562 to provide local exchange telecommunications services on June 20, 2001, in Case No. PUC-2001-00079 (PUC010079). InfoHighway of Virginia also provides interexchange telecommunications services on a resale basis. Collectively, InfoHighway of Virginia and the Lightyear Companies are referenced as the "Petitioners."

The Petitioners request approval of a transfer of assets of the Lightyear Companies. The Lightyear Companies entered into an Asset Purchase Agreement ("Agreement") and a Management Agreement on June 14, 2002. The Agreement and sale was approved by the Bankruptcy Court pursuant to an Order issued on August 23, 2002. Under the terms of this Agreement, the Lightyear Companies will complete a multi-step transaction in which the Lightyear Companies and their ultimate parent, Lightyear Holdings, Inc., will transfer to InfoHighway of Virginia and its parent companies a certain portion of its customer base, including customers currently receiving local telecommunications services from Lightyear of Virginia.

The Agreement calls for two transactions. Under the terms of the first transaction, the Lightyear Companies will sell and transfer their accounts receivable as defined in the Agreement to Lightyear AM. Under the terms of the second transaction, the Lightyear Companies will sell and transfer all rights, title, and interest in the Lightyear Companies to Lightyear AM. In exchange, Lightyear AM will pay an amount of up to \$1,900,000, less possible adjustments, plus an amount for the accounts receivable. The Lightyear Companies will then pay all proceeds from the sale to its lenders. Upon Lightyear AM's acquisition of the assets, Lightyear AM will assign all its rights and obligations under the Management and Asset Purchase Agreements with respect to its Virginia customers to InfoHighway of Virginia. As a result, InfoHighway of Virginia will be the entity providing telecommunications services to Lightyear of Virginia's customers.

THE COMMISSION, upon consideration of the joint petition and representations of the Petitioners and having been advised by its Staff, is of the opinion and finds that the transfer of assets of Lightyear of Virginia to InfoHighway of Virginia, as described herein, will neither impair nor jeopardize the provision of adequate service to the public at just and reasonable rates and should, therefore, be approved.

Accordingly, IT IS ORDERED THAT

- 1) Pursuant to §§ 56-88.1 and 56-90 of the Code of Virginia, approval is hereby granted for the transfer of the assets of Lightyear of Virginia to InfoHighway of Virginia as described herein.
- 2) InfoHighway of Virginia shall provide the Division of Communications with any necessary tariff revisions to reflect the provision of service to the transferred customers.
- 3) There appearing nothing further to be done in this matter, it is hereby dismissed.

**CASE NO. PUC-2002-00204  
NOVEMBER 26, 2002**

APPLICATION OF  
ESSEX ACQUISITION CORPORATION

For certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services and for interim operating authority

**ORDER FOR NOTICE AND COMMENT AND  
GRANTING INTERIM OPERATING AUTHORITY**

On November 19, 2002, Essex Acquisition Corporation ("Essex" or "Applicant")<sup>1</sup> completed an application with the State Corporation Commission ("Commission") for certificates of public convenience and necessity ("certificates") to provide local exchange and interexchange telecommunications services throughout the Commonwealth of Virginia. The Applicant requested authority to price its interexchange telecommunications services on a competitive basis pursuant to § 56-481.1 of the Code of Virginia. Essex also requested interim operating authority to provide uninterrupted local exchange telecommunications services to customers of Essex Telecommunications of Virginia, Inc. d/b/a eLEC Communications ("eLEC") pursuant to eLEC's local exchange telecommunications services tariffs on file with the Commission's Division of Communications.<sup>2</sup>

NOW UPON CONSIDERATION of the application, the Commission is of the opinion and finds that Essex's application should be docketed; that the Applicant should give notice to the public of its application; that interested parties should have an opportunity to comment and request a hearing on Essex's application; that the Commission Staff should conduct an investigation into the reasonableness of the application and present its findings in a Staff Report; and that Essex should be granted interim operating authority to provide local exchange telecommunications services.

Accordingly, IT IS ORDERED THAT:

- (1) This case is docketed and assigned Case No. PUC-2002-00204.
- (2) Essex is hereby granted interim operating authority to operate and provide local exchange telecommunications services to existing eLEC customers pursuant to eLEC's local exchange telecommunications services tariffs on file with the Commission's Division of Communications until such time as the Commission renders a final order in this proceeding.

<sup>1</sup> The application initially was filed in the name of Essex Acquisition Co. The Applicant clarified in a letter filed with the State Corporation Commission that its name, as evidenced in its Articles of Incorporation, is Essex Acquisition Corporation.

<sup>2</sup> Essex states that, on September 2, 2002, the Applicant entered into a purchase agreement with eLEC under which eLEC will transfer its assets and customers to Essex. Approval of the transfer by the Commission and final closing is pending in Case No. PUC-2002-00206. eLEC holds Certificate No. T-428 to provide local exchange telecommunications services. Essex requests interim operating authority to ensure that there are no interruptions in service.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

(3) On or before December 23, 2002, the Applicant shall complete publication of the following notice to be published on one (1) occasion as classified advertising in newspapers having general circulation throughout the Applicant's proposed service territory:

NOTICE TO THE PUBLIC OF AN APPLICATION BY ESSEX ACQUISITION CORPORATION  
FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY TO PROVIDE LOCAL  
EXCHANGE AND INTEREXCHANGE TELECOMMUNICATIONS SERVICES THROUGHOUT THE  
COMMONWEALTH OF VIRGINIA  
CASE NO. PUC-2002-00204

On November 19, 2002, Essex Acquisition Corporation ("Essex" or "Applicant") filed an application with the State Corporation Commission ("Commission") for certificates of public convenience and necessity ("certificates") to provide local exchange and interexchange telecommunications services throughout the Commonwealth of Virginia. The Applicant requested authority to price its interexchange telecommunications services on a competitive basis pursuant to § 56-481.1 of the Code of Virginia. Essex also requested interim operating authority to provide uninterrupted local exchange telecommunications services to customers of Essex Telecommunications of Virginia, Inc. d/b/a eLEC Communications ("eLEC") pursuant to eLEC's existing tariffs.

Copies of the application are available for public inspection between the hours of 8:15 a.m. and 5:00 p.m., Monday through Friday, in the Commission's Document Control Center located on the first floor of the Tyler Building, 1300 East Main Street, Richmond, Virginia, or can be ordered from Essex's counsel, Ronald W. Del Sesto, Jr., Swidler Berlin Shereff Friedman, LLP, 3000 K Street, NW, Suite 300, Washington, DC 20007-5116.

Any person desiring to comment on Essex's application for certificates to provide local exchange and interexchange telecommunications services may do so by directing such comments in writing on or before January 16, 2003, to the Clerk of the Commission at the address set forth below and shall serve a copy of the same on or before January 16, 2003, upon Essex's counsel at the address set forth above.

Any person may request a hearing on Essex's application by filing an original and fifteen (15) copies of its request for hearing on or before January 16, 2003, with the Clerk of the Commission at the address set forth below. Requests for hearing must state with specificity why a hearing should be conducted. Persons filing a request for hearing shall serve a copy of their request on or before January 16, 2003, upon Essex's counsel at the address set forth above.

All written communications to the Commission concerning Essex's application should be directed to Joel H. Peck, Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218, and must refer to Case No. PUC-2002-00204.

ESSEX ACQUISITION CORPORATION

(4) On or before December 23, 2002, Applicant shall provide a copy of the notice contained in Ordering Paragraph Three (3) to each local exchange telephone carrier certificated in Virginia and each interexchange carrier certificated in Virginia by personal delivery or first-class mail, postage prepaid, to the customary place of business. Lists of all current local exchange and interexchange carriers in Virginia are attached to this Order as Appendices A and B, respectively.

(5) Any person desiring to comment in writing on Essex's application for a certificate to provide local exchange and interexchange telecommunications services may do so by directing such comments on or before January 16, 2003, to Joel H. Peck, Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218. On or before January 16, 2003, a copy of such comments shall be served on Essex's counsel, Ronald W. Del Sesto, Jr., Swidler Berlin Shereff Friedman, LLP, 3000 K Street, NW, Suite 300, Washington, DC 20007-5116. Comments must refer to Case No. PUC-2002-00204.

(6) On or before January 16, 2003, any person wishing to request a hearing on Essex's application for certificates to provide local exchange and interexchange telecommunications services shall file an original and fifteen (15) copies of its request for hearing in writing with the Clerk of the Commission at the address set forth above. Written requests for hearing shall refer to Case No. PUC-2002-00204 and shall state the following: (i) a precise statement of the interest of the filing party; (ii) a statement of the specific action sought to the extent then known; (iii) a statement of the legal basis for such action; and (iv) a precise statement why a hearing should be conducted in the matter. Copies shall also be served on the Applicant at the address set forth above.

(7) On or before January 21, 2003, the Applicant shall file with the Commission proof of notice and proof of service as ordered herein.

(8) The Commission Staff shall analyze the reasonableness of Essex's application and present its findings in a Staff Report to be filed on or before January 28, 2003.

(9) On or before February 7, 2003, the Applicant shall file with the Clerk of the Commission an original and fifteen (15) copies of any responses to the Staff Report or parties' objections and requests for hearing. A copy of the response shall be delivered to Staff and the other parties by overnight delivery.

(10) The Applicant shall respond to written interrogatories or data requests within seven (7) days after the receipt of the same. Parties shall provide to the Applicant, other additional parties, and Staff any workpapers or documents used in preparation of their requests for hearing promptly upon request. Except as so modified, discovery shall be in accordance with Part IV of the Commission's Rules of Practice and Procedure.



(11) The Applicant shall respond promptly to requests from interested parties for copies of the Application and shall provide one copy of same free of charge to the requesting party.

(12) This matter is continued for further orders of the Commission.

**CASE NO. PUC-2002-00206  
DECEMBER 23, 2002**

APPLICATION OF  
ESSEX ACQUISITION CO.

For approval to transfer assets under the provisions of Chapter 5 of the Code of Virginia

**ORDER GRANTING APPROVAL**

On October 11, 2002, Essex Acquisition Co. ("Essex" or "Applicant") filed an application with the Commission requesting, in part, certificates of public convenience and necessity ("CPCN") to authorize Essex to provide local exchange and interexchange telecommunications services in Virginia. The certificate portion of the application was deemed to be complete on November 15, 2002, and assigned Case No. PUC-2002-00204.

On October 16, 2002, the original application was processed by Staff to consider the Applicant's request for authority under Chapter 5 of the Code of Virginia to acquire the assets of Essex Telecommunications of Virginia, Inc. d/b/a eLEC Communications ("Old Essex"). The Chapter 5 portion of the application was deemed complete on November 8, 2002 and assigned Case No. PUC-2002-00206.

Essex is a direct subsidiary of BiznessOnline.com, Inc., which is a publicly-traded Delaware corporation headquartered in New Jersey. Essex intends to assume assets, operations and customers of Old Essex, which was granted a certificate of public convenience and necessity to provide local exchange telecommunications service in Case No. PUC-1998-00158, entered January 13, 1999.

On September 2, 2002, Essex and Old Essex entered into a purchase agreement whereby Old Essex will transfer its assets and local customers within Virginia to Essex following approval of Essex's application for a CPCN, in Case No. PUC-2002-00204. In exchange, Essex will assume certain liabilities of Old Essex and manage Old Essex pursuant to an interim consulting agreement and funding agreement until closing of the purchase agreement occurs. Under terms of the agreement, closing of the purchase agreement must be completed by December 31, 2002.

Essex will provide all services currently offered by Old Essex to its existing customers and seeks additional authority, in Case No. PUC-2002-00204, to provide intrastate interexchange services.

The Applicant states that failure to approve the application would harm the public interest as it will result in the inability of customers to continue to receive services now provided by Old Essex. It would also result in the diminution of competition in Virginia since Old Essex's current financial position has impeded its ability to compete aggressively in the telecommunications market.

THE COMMISSION, upon consideration of the application and representations of the Applicant and having been advised by its Staff, is of the opinion and finds that the transaction, as described herein, involving the transfer of assets from Old Essex to Essex will neither impair nor jeopardize the provision of adequate service to the public at just and reasonable rates and should, therefore, be approved.

Accordingly, IT IS ORDERED THAT:

- 1) Pursuant to §§ 56-88.1 and 56-90 of the Code of Virginia, approval is hereby granted for the transfer of assets of Old Essex to Essex, as described and under the conditions set forth herein.
- 2) There appearing nothing further to be done in this matter, it is hereby dismissed.

**CASE NO. PUC-2002-00209  
DECEMBER 23, 2002**

PETITION OF  
360NETWORKS (USA) OF VIRGINIA INC.

For approval of an indirect change of control

**ORDER GRANTING APPROVAL**

On October 31, 2002, 360networks (USA) of Virginia inc. ("360 of Virginia" or "Petitioner") completed a petition filed with the State Corporation Commission ("Commission") on October 23, 2002, requesting approval, pursuant to § 56-88.1 of the Code of Virginia, for an indirect change of control of the Petitioner.

360 of Virginia is a Virginia public service corporation with its principal place of business located in Broomfield, Colorado. 360 of Virginia holds certificate of public convenience and necessity ("CPCN") No. T-577 to provide local exchange telecommunications services in Virginia, which was granted on May 18, 2001. 360 of Virginia also holds CPCN No. TT-91B to provide interexchange telecommunications services in Virginia, which was

granted on November 2, 2000. Currently, 360 of Virginia provides telecommunications services to other carriers and service providers. The Petitioner does not provide any telecommunications services to end users at this time.

360 of Virginia is a wholly owned subsidiary of 360networks (USA) inc., which is a wholly owned subsidiary of 360 networks holdings (USA) inc. 360networks (USA) inc. and 360networks holdings (USA) inc. are both Nevada corporations. 360networks holdings (USA) inc. is a majority-owned subsidiary of 360networks Corporation ("360 Corp."), which is a corporation organized under the federal laws of Canada. 360 Corp. is a wholly owned subsidiary of 360networks, inc. ("360networks"), a Nova Scotia, Canada corporation.

The Petitioner seeks approval of an indirect change of control of 360 of Virginia from 360networks to 360 Corp. On June 28, 2001, 360networks and certain of its subsidiaries commenced bankruptcy proceedings in the Supreme Court of British Columbia, Canada ("Canadian Court"). On that same day, certain of 360networks' U.S. subsidiaries, including the Petitioner, began bankruptcy proceedings in the United States Bankruptcy Court for the Southern District of New York ("US. Bankruptcy Court"), under Chapter 11 of the United States Bankruptcy Code. The US. Bankruptcy Court has approved the First Amended Joint Plan of Reorganization, and the Canadian Court has approved the Consolidated Plan of Compromise or Arrangement. Collectively, the First Amended Joint Plan of Reorganization and the Consolidated Plan of Compromise or Arrangement are referenced as the "Plans."

Under the terms of these Plans, 360 Corp. will issue new shares to multiple groups of lenders. As a result, 360networks will no longer control 360 Corp., and 360 Corp. will become the new parent company of the reorganized 360 group of companies, including 360 of Virginia.

360networks currently has three classes of shares: subordinate voting series, multiple voting series, and preferred shares. As of July 3, 2002, Worldwide Fiber Holdings Ltd. was the only entity to hold 20% or more of the multiple voting shares of 360networks. Ledcor Limited Partnership was the only entity that holds 20% or more of the subordinate voting shares of 360networks. Both Worldwide Fiber Holdings Ltd. and Ledcor Limited Partnership are wholly owned subsidiaries of Ledcor Holdings Inc.

Pursuant to the Plans, 360 Corp. will issue shares to the Agent for the Senior Lenders for nominal consideration. These shares will then be consolidated on a basis that results in 360networks receiving only a fractional interest in 360 Corp. This fractional share will then be purchased for cash upon implementation of the Plans.

Under the terms of the Plans, 360 Corp. will also issue and allot shares from its treasury stock and distribute these shares to lenders, creditors, and employees. Each of the Senior Lenders, consisting of approximately 60 institutions, will receive shares that collectively total approximately 80.5% of the outstanding shares. Each of the unsecured U.S. and Canadian creditors will receive shares totaling approximately 12% of the outstanding shares. Certain employees will receive stock grants totaling approximately 7.5% of the outstanding shares. In the future, approximately 7.5% of additional stock will be reserved for allocation of stock options to all employees and outside directors, which would dilute the existing percentages.

As a result of the transactions called for in the Plans, the interests of Ledcor Holdings, Inc., the entity holding ultimate indirect control of the Petitioner, will be extinguished, and shares of 360 Corp. held by 360networks will be consolidated and purchased for cash. Upon completion of the transactions called for in the Plans, 360networks will no longer control 360 Corp., and 360 Corp. will become the ultimate parent of 360 of Virginia.

THE COMMISSION, upon consideration of the joint petition and representations of the Petitioners and having been advised by its Staff, is of the opinion and finds that the transfer of control of 360 of Virginia from 360networks to 360 Corp., as described herein, will neither impair nor jeopardize the provision of adequate service to the public at just and reasonable rates and should, therefore, be approved.

Accordingly, IT IS ORDERED THAT:

- 1) Pursuant to §§ 56-88.1 and 56-90 of the Code of Virginia, approval is hereby granted for the transfer of control of 360 of Virginia from 360networks to 360 Corp. as described herein.
- 2) There appearing nothing further to be done in this matter, it is hereby dismissed.

**CASE NO. PUC-2002-00214  
DECEMBER 6, 2002**

APPLICATION OF  
ACC TELECOMMUNICATIONS OF VIRGINIA, LLC

To discontinue local exchange and interexchange telecommunications services in certain areas of Virginia

**ORDER PERMITTING PARTIAL DISCONTINUANCE OF SERVICES**

On November 12, 2002, ACC Telecommunications of Virginia, LLC ("ACC" or the "Company"),<sup>1</sup> filed an application with the State Corporation Commission ("Commission") requesting Commission approval to discontinue its provision of telecommunications services to customers in Virginia except for the Charlottesville and Richmond metropolitan areas. The Company's application specifically requests approval to discontinue its facilities-based and resale services to exchanges in and around Roanoke, Salem, Martinsville, and Blacksburg, Virginia. ACC states that it currently serves approximately 1,102 customers in the areas affected by the proposed discontinuance. In its application, ACC states that it has made a business decision to discontinue service in non-cash flow positive markets.<sup>2</sup>

<sup>1</sup> The application states that ACC is now ACC Telecommunications of Virginia, LLC, Debtor-in-Possession pursuant to a *pro forma* assignment triggered by its parent company's June 25, 2002, petition for relief under Chapter 11 of Title 11 of the United States Code. See Adelphia Communications Corporation, et al., Case No. 02-41729 (REG) (Bankr. S.D.N.Y., June 25, 2002).

<sup>2</sup> The application states that the Company will continue to provide telecommunications services in the Charlottesville and Richmond areas of Virginia.

The Company proposes to discontinue telecommunications services to Roanoke, Salem, Martinsville, and Blacksburg on or before November 30, 2002, for customers sent notice on October 30, 2002, and December 6, 2002, for customers sent notice on November 6, 2002. Customers were provided notice of the discontinuance via first-class mail on October 30, 2002, and November 6, 2002.

The Commission's primary concern with authorizing any discontinuance of telecommunications services is that adequate notice to the customers be provided. The Commission's rule regarding partial discontinuance, 20 VAC 5-423-30 (Requirements for Partial Discontinuance), requires that an application include a description of the customer notification efforts and that customers be provided at least 30 days' written notice of a proposed partial discontinuance of telecommunications services. ACC's customers were provided 30 days' notice of the pending discontinuance of telecommunications services.

NOW THE COMMISSION, being sufficiently advised, will grant the requested partial discontinuance of local exchange and interexchange telecommunications services.

Accordingly, IT IS ORDERED THAT:

- (1) This matter is docketed and assigned Case No. PUC-2002-00214.
- (2) On or before December 5, 2002, ACC shall report to the Commission's Division of Communications the number of any remaining customers in and around Roanoke, Salem, Martinsville, and Blacksburg, Virginia, affected by the proposed discontinuance.
- (3) ACC is hereby granted authority to discontinue its provision of local exchange and interexchange telecommunications services to customers in and around Roanoke, Salem, Martinsville, and Blacksburg, Virginia, effective December 6, 2002.
- (4) ACC shall provide proposed revised tariffs to the Division of Communications that reflect ACC's revised service area within thirty (30) days of the date of this Order.
- (5) There being nothing further to come before the Commission in this matter, this case shall be closed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. PUC-2002-00215  
DECEMBER 19, 2002**

JOINT PETITION OF  
LOOKING GLASS NETWORKS, INC.  
and  
LIGHTWAVE COMMUNICATIONS, LLC

For approval to transfer assets

**ORDER GRANTING APPROVAL**

On November 12, 2002, Looking Glass Networks, Inc. ("Looking Glass"), and LightWave Communications, LLC ("LightWave," together with Looking Glass, the "Petitioners"), filed a joint petition with the State Corporation Commission ("Commission") requesting approval, pursuant to § 56-88.1 of the Code of Virginia, for Looking Glass to acquire all of LightWave's assets, including those held in Virginia and its wholesale customer accounts and contracts.

Looking Glass is a privately held Delaware corporation. Its principal place of business is located in Chicago, Illinois. Looking Glass is a facilities-based provider of metropolitan data transport services for carrier and enterprise customers. Looking Glass builds, owns, and operates metropolitan fiber optic networks providing data transport services to primary carrier hotels, incumbent local exchange carrier central offices, key enterprise buildings, and other data aggregation facilities located in large U.S. metro areas, including Northern Virginia.

Looking Glass is a wholly owned subsidiary of Looking Glass Networks Holding Co., Inc., which is a wholly owned subsidiary of Looking Glass Networks, LLC ("Looking Glass LLC"). Looking Glass LLC is a privately held limited liability company whose principal business is data transport services over its own high capacity optical networks.

In Virginia, Looking Glass provides telecommunications services through its wholly owned subsidiary, Looking Glass Networks of Virginia, Inc. ("LGN-VA"). LGN-VA holds a certificate of public convenience and necessity ("CPCN") No. TT-122A to provide facilities-based interexchange telecommunications services and CPCN No. T-526 to provide local exchange telecommunications services. The Virginia CPCNs were granted in Case No. PUC-2000-00175 (PUC000175) on January 4, 2001.

LightWave is a privately held Delaware limited liability company with its principal place of business located in Laurel, Maryland. LightWave is a wholly owned subsidiary of LightWave Communications, Inc. ("LightWave Communications"), a privately held Delaware corporation. In Virginia, LightWave holds CPCN No. TT-136A to provide facilities-based interexchange telecommunications services and CPCN No. T-543 to provide local exchange telecommunications services. The Virginia CPCNs were granted in Case No. PUC-2000-00274 (PUC000274) on March 1, 2001.

LightWave is a facilities-based provider of metro optical access services, offering interconnection between carrier hotels, data centers, and Verizon central offices within the Washington, D.C., to New York City corridor. LightWave currently provides private line intraLATA services to telecommunications service providers and currently has 24 customers in Virginia. LightWave does not serve end users; its customers are other carriers and service providers.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

The Petitioners request approval of a transaction involving the transfer of all of LightWave's assets, including its assets held in Virginia and its wholesale customer accounts and contracts to Looking Glass. LightWave is refocusing its business plan and, as a part of that process, desires to dispose of its assets. LightWave is transferring its assets and customer base; however, LightWave will retain its Virginia CPCNs. Looking Glass has also requested authority to operate under the tariffs of LightWave on an interim basis.

THE COMMISSION, upon consideration of the joint petition and representations of the Petitioners and having been advised by its Staff, is of the opinion and finds that the transfer of LightWave's assets, including those held in Virginia, to Looking Glass, as described herein, will neither impair nor jeopardize the provision of adequate service to the public at just and reasonable rates and should, therefore, be approved.

Accordingly, IT IS ORDERED THAT:

- 1) Pursuant to §§ 56-88.1 and 56-90 of the Code of Virginia, approval is hereby granted for the transfer of the assets of LightWave, including those held in Virginia, to Looking Glass.
- 2) LGN-VA is hereby granted authority to operate and provide interexchange telecommunications services on an interim basis to the existing LightWave customers pursuant to LightWave's interexchange telecommunications services tariffs on file with the Commission's Division of Communications.
- 3) LGN-VA shall provide tariffs in its name to the Division of Communications that conform to all applicable Commission rules and regulations within 60 days of the date of this Order.
- 4) There appearing nothing further to be done in this matter, it is hereby dismissed.

**CASE NO. PUC-2002-00217  
DECEMBER 10, 2002**

APPLICATION OF  
VERIZON VIRGINIA INC.  
and  
VERIZON SOUTH INC.

For amended certificates under the Utility Facilities Act, Chapter 10.1 of Title 56

**ORDER GRANTING AMENDED CERTIFICATES**

On November 8, 2002, Verizon Virginia Inc. ("Verizon Virginia") and Verizon South Inc. ("Verizon South") (collectively, the "Companies") submitted to the Division of Communications of the State Corporation Commission ("Commission") a letter requesting that amended certificates of public convenience and necessity be issued to the Companies for areas served in Caroline County.

According to the letter, Verizon Virginia's Certificate No. T-182c and Verizon South's Certificate No. T-380b should be revised to reflect the correct rendering of service between the Companies in Caroline County near the community of Corbin. Maps reflecting the changes were submitted with the letter. The letter and maps were filed with the Clerk of the Commission on November 13, 2002.

NOW UPON CONSIDERATION of the matter, the Commission finds that the proposed change in the boundary between Verizon Virginia and Verizon South will demarcate properly what has been in practice the operational service territory boundary between the Companies in Caroline County and that no existing customers will be affected. The Commission finds that the public interest will be served by the proposed boundary change, and it should be approved.

Accordingly, IT IS ORDERED THAT:

- (1) An amended certificate of public convenience and necessity shall be issued to Verizon Virginia Inc. authorizing furnishing telephone service in Caroline County, which shall be numbered as Certificate No. T-182d. The certificated territory shall be outlined in red on the map of Caroline County to be attached to the amended Certificate No. T-182d, which shall cancel and replace Certificate No. T-182c issued on August 4, 2000.
- (2) An amended certificate of public convenience and necessity shall be issued to Verizon South Inc. authorizing furnishing telephone service in Caroline County, which shall be numbered as Certificate No. T-308c. The certificated territory shall be outlined in red on the map of Caroline County to be attached to the amended Certificate No. T-308c, which shall cancel and replace Certificate No. T-308b issued on August 4, 2000.

**The Commission issued 83 orders in 2002 approving interconnection agreements or amendments to agreements between telecommunications companies in the Commonwealth. The full text of these orders can be found on WESTLAW and on the Commission's website <http://www.state.va.us/scc>.**

Case No. PUC-1996-00118, Application of Verizon South Inc. and Cox Virginia Telcom, Inc., Order Approving Amendments dated November 8, 2002.

Case No. PUC-1997-00022, Application of Verizon Virginia Inc. and Cellco Partnership, Washington DC SMSA Limited Partnership, Southern and Central Wireless LLC, and Verizon Wireless Personal Communications L.P. d/b/a Verizon Wireless, Order Approving Amendments dated November 14, 2002.

Case No. PUC-1997-00051, Application of Verizon Virginia Inc. and American PCS Communications, L.L.C. d/b/a APC, Order Approving Amendment dated October 23, 2002.

Case No. PUC-1998-00131, Application of Verizon South Inc. and NTELOS Wireless Inc., Order Approving Amendment dated August 2, 2002.

Case No. PUC-1998-00186, Application of Verizon South Inc. and Nextel Communications of the Mid-Atlantic Inc., Order Approving Amendment dated April 3, 2002.

Case No. PUC-1999-00020, Application of Verizon South Inc. and Triton PCS Operating Company, L.L.C., Order Approving Amendment dated August 12, 2002.

Case No. PUC-1999-00076, Application of Verizon South Inc. and Sprintcom, Inc. d/b/a Sprint PCS, Order Approving Agreement dated July 10, 2002.

Case No. PUC-1999-00154, Application of Verizon Virginia Inc. and ALLTEL Communications, Inc., Order Approving Amendment dated September 25, 2002.

Case No. PUC-1999-00204, Application of Verizon South Inc. and AT&T Wireless Services, Inc., Order Approving Amendments dated February 14, 2002.

Case No. PUC-1999-00204, Application of Verizon South Inc. and AT&T Wireless Services, Inc., Order Approving Amendment dated July 10, 2002.

Case No. PUC-2000-00214, Application of Verizon South Inc. and MFN of VA, L.L.C., Order Approving Amendment dated May 2, 2002.

Case No. PUC-2000-00227, Application of Verizon Virginia Inc. and Essex Telecommunications of Virginia, Inc., Order Approving Amendment dated October 28, 2002.

Case No. PUC-2000-00258, Application of Verizon South Inc. and NPCR, Inc. d/b/a Nextel Partners, Order Approving Amendment dated April 5, 2002.

Case No. PUC-2000-00318, Application of Verizon Virginia Inc. and Network Access Solutions, LLC, Order Approving Amendment dated December 31, 2002.

Case No. PUC-2001-00015, Application of Verizon Virginia Inc. and ATX Telecommunications Services of Virginia, LC, Order Approving Amendment dated October 10, 2002.

Case No. PUC-2001-00029, Application of Verizon Virginia Inc. and Looking Glass Networks of Virginia, Inc., Order Approving Amendment dated November 13, 2002.

Case No. PUC-2001-00050, Application of Verizon Virginia Inc. and AT&T Wireless Services, Inc., Order Approving Amendment dated February 6, 2002.

Case No. PUC-2001-00050, Application of Verizon Virginia Inc. and AT&T Wireless Services, Inc., Order Approving Amendment dated September 6, 2002.

Case No. PUC-2001-00105, Application of Verizon South Inc. and Telephone Company of Central Florida, Inc., Order Approving Amendment dated September 17, 2002.

Case No. PUC-2001-00158, Application of Verizon South Inc. and 1-800-Reconex, Inc., Order Approving Amendment dated June 26, 2002.

Case No. PUC-2001-00223, Application of Verizon Virginia Inc. and DSL.net Communications VA, Inc., Order Approving Agreement dated January 8, 2002.

Case No. PUC-2001-00225, Application of Verizon Virginia Inc. and 1-800-RECONEX, Inc., Order Approving Amendment dated September 13, 2002.

Case No. PUC-2001-00231, Application of Verizon South Inc. and Preferred Carrier Services of Virginia, Inc., Order Approving Agreement dated January 8, 2002.

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- Case No. PUC-2001-00233, Application of Verizon Virginia Inc. and Cyris, LLC, Order Approving Amendment dated February 6, 2002.
- Case No. PUC-2001-00235, Application of Verizon Virginia Inc. and Z-Tel Communications of Virginia, Inc., Order Approving Agreement dated January 10, 2002.
- Case No. PUC-2001-00261, Application of Verizon Virginia Inc. and MountaiNet Telephone Company, Order Approving Agreement dated January 21, 2002.
- Case No. PUC-2002-00020, Application of Verizon South Inc. and VoiceStream Wireless Corporation, Order Approving Agreement dated March 20, 2002.
- Case No. PUC-2002-00022, Joint Application of Central Telephone Company of Virginia and United Telephone-Southeast, Inc., and NPCR, Inc. d/b/a Nextel Partners, Order Approving Agreement dated April 5, 2002.
- Case No. PUC-2002-00024, Joint Application of United Telephone-Southeast, Inc. and Central Telephone Company of Virginia and Caronet, Inc., Order Approving Agreement dated April 3, 2002.
- Case No. PUC-2002-00030, Application of United Telephone-Southeast, Inc. and Central Telephone Company of Virginia and Digital Telecommunications, Inc. d/b/a DTI, Order Approving Agreement dated April 26, 2002.
- Case No. PUC-2002-00031, Application of United Telephone-Southeast, Inc. and Central Telephone Company of Virginia and NOW Communications, Inc., Order Approving Agreement dated May 1, 2002.
- Case No. PUC-2002-00034, Application of United Telephone-Southeast, Inc., Central Telephone Company of Virginia and Premiere Network Services, Inc., Order Approving Agreement dated May 16, 2002.
- Case No. PUC-2002-00035, Application of Verizon Virginia Inc. and VIC-RMTS-DC, L.L.C., d/b/a Verizon Avenue, Order Approving Supplemental Agreement dated May 22, 2002.
- Case No. PUC-2002-00036, Application of United Telephone-South, Inc. and Central Telephone Company of Virginia and Budget Phone of Virginia, Inc., Order Approving Agreement dated April 2, 2002.
- Case No. PUC-2002-00042, Application of Shenandoah Company and NPCR d/b/a Nextel Partners, Order Approving Agreement dated April 3, 2002.
- Case No. PUC-2002-00045, Application of Verizon South Inc. and ALLTEL Communications, Inc., Order Approving Agreement and Amendment dated May 16, 2002.
- Case No. PUC-2002-00049, Application of Verizon South Inc. and Allegiance Telecom of Virginia, Inc., Order Approving Supplement dated May 22, 2002.
- Case No. PUC-2002-00072, Application of Peoples Mutual Telephone Company and Celco Partnership d/b/a Verizon Wireless and Danville Cellular Telephone Company Limited Partnership d/b/a Verizon Wireless, Order Approving Agreement dated May 16, 2002.
- Case No. PUC-2002-00075, Application of Verizon South Inc. and Budget Phone of Virginia, Inc., Order Approving Agreement dated April 26, 2002.
- Case No. PUC-2002-00076, Application of Verizon South Inc. and SBC Telecom, Inc., Order Approving Agreement dated April 26, 2002.
- Case No. PUC-2002-00077, Application of Verizon South Inc. and Chesapeake Telecommunications Corporation, Order Approving Agreement dated May 9, 2002.
- Case No. PUC-2002-00082, Application of Verizon Virginia Inc. and VarTec Telecom of Virginia, Inc., Order Approving Agreement dated June 26, 2002.
- Case No. PUC-2002-00090, Application of Verizon South Inc. and NationNet Communication Corporation, Order Approving Agreement dated June 19, 2002.
- Case No. PUC-2002-00096, Application of Central Telephone Company of Virginia and United Telephone-Southeast, Inc. and Winstar of Virginia, L.L.C., Order Approving Agreement dated July 11, 2002.
- Case No. PUC-2002-00098, Application of Verizon Virginia Inc. and SBC Telecom, Inc., Order Approving Agreement dated July 11, 2002.
- Case No. PUC-2002-00099, Joint Application of Central Telephone Company of Virginia and United Telephone-Southeast, Inc. and Metrocall, Inc., Order Approving Agreement dated June 19, 2002.
- Case No. PUC-2002-00100, Application of United Telephone-Southeast, Inc. and Central Telephone Company of Virginia and FRE Communications, Inc., Order Approving Agreement dated June 19, 2002.

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Case No. PUC-2002-00107, Application of United Telephone-Southeast, Inc., and Central Telephone Company of Virginia and MountaiNet Telephone Company, Inc., Order Approving Agreement dated August 6, 2002.

Case No. PUC-2002-00108, Application of United Telephone-Southeast, Inc. and Central Telephone Company of Virginia and Phone-Link, Inc., Order Approving Agreement dated June 26, 2002.

Case No. PUC-2002-00113, Joint Application of NTELOS Telephone Inc. and Virginia PCS Alliance, L.C., Order Approving Agreement dated July 26, 2002.

Case No. PUC-2002-00114, Application of NTELOS Telephone, Inc. and Virginia Cellular LLC d/b/a Cellular One, Order Approving Agreement dated June 19, 2002.

Case No. PUC-2002-00116, Application of Verizon South Inc. and OneStar Communications, LLC, Order Approving Agreement dated August 2, 2002.

Case No. PUC-2002-00117, Application of Verizon South Inc. and New Century Telecom, Inc. d/b/a CLM Telecom, LLC, Order Approving Agreement dated August 2, 2002.

Case No. PUC-2002-00118, Application of United Telephone-Southeast, Inc. and Central Telephone Company of Virginia and ICG Telecom Group of Virginia, Inc., Order Approving Agreement dated July 10, 2002.

Case No. PUC-2002-00120, Application of United Telephone-Southeast, Inc. and Central Telephone Company of Virginia and Level 3 Communications, LLC, Order Approving Agreement dated August 14, 2002.

Case No. PUC-2002-00132, Application of United Telephone-Southeast, Inc. and Central Telephone Company of Virginia and TCG Virginia, Inc., Order Approving Agreement dated August 2, 2002.

Case No. PUC-2002-00133, Application of Verizon Virginia Inc. and Flatel, Inc., Order Approving Agreement dated August 8, 2002.

Case No. PUC-2002-00134, Application of Verizon Virginia Inc. and Claricom Networks, Inc., Order Approving Agreement dated August 21, 2002.

Case No. PUC-2002-00135, Application of Central Telephone Company of Virginia and United Telephone-Southeast, Inc. and AT&T Communications of Virginia, Inc., Order Approving Agreement dated August 6, 2002.

Case No. PUC-2002-00136, Application of Central Telephone Company of Virginia and United Telephone-Southeast, Inc. and DSLnet Communications Virginia, Inc., Order Approving Agreement dated August 6, 2002.

Case No. PUC-2002-00137, Application of Verizon Virginia Inc. and Excel Telecommunications of Virginia, Inc., Order Approving Agreement dated August 14, 2002.

Case No. PUC-2002-00144, Application of Verizon Virginia Inc. and New Century Telecom, Inc. d/b/a CLM Telecom, LLC, Order Approving Agreement dated August 21, 2002.

Case No. PUC-2002-00150, Application of United Telephone-Southeast, Inc. and Central Telephone Company of Virginia and NTELOS Network, Inc., Order Approving Agreement dated September 13, 2002.

Case No. PUC-2002-00155, Application of Citizens Telephone Cooperative and Sprint Spectrum L.P., Order Approving Agreement dated October 25, 2002.

Case No. PUC-2002-00159, Application of Verizon Virginia Inc. and CTC Communications of Virginia, Inc., Order Approving Agreement dated September 6, 2002.

Case No. PUC-2002-00160, Application of Verizon Virginia Inc. and Budget Phone of Virginia, Inc., Order Approving Agreement dated October 3, 2002.

Case No. PUC-2002-00161, Application of Verizon Virginia and IG2, Inc. Order Approving Agreement dated October 28, 2002.

Case No. PUC-2002-00163, Application of Untied Telephone-Southeast, Inc. and Central Telephone Company of Virginia and Untied States Cellular, Inc., Order Approving Agreement and Amendment dated October 9, 2002.

Case No. PUC-2002-00165, Application of Verizon Virginia Inc. and Egix Network Services of Virginia, Inc., Order Approving Agreement dated September 25, 2002.

Case No. PUC-2002-00166, Application of Verizon Virginia Inc. and OneStar Communications, LLC, Order Approving Agreement dated October 8, 2002.

Case No. PUC-2002-00167, Application of Verizon Virginia Inc. and NOS communications, Inc., Order Approving Agreement dated October 3, 2002.

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Case No. PUC-2002-00168, Application of Verizon South Inc. and CTC Communications of Virginia, Inc., Order Approving Agreement dated October 28, 2002.

Case No. PUC-2002-00169, Application of Verizon South Inc. and Excel Telecommunications of Virginia, Inc., Order Approving Agreement dated September 24, 2002.

Case No. PUC-2002-00172, Application of Cellco Partnership d/b/a Verizon Wireless, Order Approving Agreement dated October 28, 2002.

Case No. PUC-2002-00173, Application of Verizon South Inc. and VIC-RMTS-DC, L.L.C. d/b/a Verizon Avenue, Order Approving Agreement dated September 10, 2002.

Case No. PUC-2002-00174, Application of Verizon South Inc. and NOW Communications of Virginia, Inc., Order Approving Agreement dated September 25, 2002.

Case No. PUC-2002-00183, Application of Shenandoah Telephone Company and CFW Communications, Inc., Order Approving Agreement dated October 28, 2002.

Case No. PUC-2002-00184, Application of United Telephone-Southeast, Inc. and Central Telephone Company of Virginia and MountaiNet Telephone Company, Order Approving Agreement dated October 8, 2002.

Case No. PUC-2002-00186, Application of United Telephone-Southeast, Inc. and Central Telephone Company of Virginia and Comm South Companies of Virginia, Inc., Order Approving Agreement dated October 3, 2002.

Case No. PUC-2002-00188, Application of Verizon Virginia Inc. and Michael Pitts d/b/a Economic computer Systems, Inc., Order Approving Agreement dated October 8, 2002.

Case No. PUC-2002-00190, Application of Shenandoah Telephone Company and Triton PCS Operating Company, L.L.C., Order Approving Agreement dated October 28, 2002.

Case No. PUC-2002-00195, Application of Verizon South Inc. and LightWave Communications, LLC, Order Approving Agreement, dated November 8, 2002.

Case No. PUC-2002-00200, Application of United Telephone-Southeast, Inc. and Central Telephone Company of Virginia and New Century Telecom, Inc. d/b/a CLM Telcom, LLC, Order Approving Agreement dated November 8, 2002.



## DIVISION OF ENERGY REGULATION

**CASE NOS. PUE-1989-00048, PUE-1990-00037, PUE-1991-00032,  
PUE-1992-00036, PUE-1993-00041, PUE-1994-00033, PUE-1995-00032,  
PUE-1996-00065, PUE-1997-00447, PUE-1998-00324, and PUE-1999-00344  
APRIL 16, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

Ex Parte: In the matter concerning certain fuel factor cases of Delmarva Power & Light Company

### ORDER CLOSING FUEL FACTOR CASES

The purpose of this Order is to close certain fuel factor cases related to Delmarva Power & Light Company ("Delmarva" or "Company") that remain open on the Commission's docket. We are advised by the Commission Staff ("Staff") that all necessary audits and reviews concerning these cases have been completed, and that these cases can now be closed.

A backdrop for this action is our prior Order of June 29, 2000, in Case Nos. PUE-2000-00086 and PUA-2000-00032 ("June 29, 2000, Order"), and a March 1, 2001, Order resetting the Company's fuel factor effective January 1, 2001, in Case No. PUE-2000-00744.

The June 29, 2000, Order was entered in connection with Delmarva's February 4, 2000, application under § 56-590 B of the Virginia Electric Utility Restructuring Act ("the Act")<sup>1</sup> to functionally separate its generation activities from its transmission and distribution activities through, *inter alia*, a three-phase divestiture of all of its generation units.<sup>2</sup> The Company also requested approvals under Chapters 4 (§ 56-76 *et seq.*) and 5 (§ 56-88 *et seq.*) of Title 56 of the Code of Virginia to (i) transfer certain generating facilities and related assets to certain affiliates, and for approval of certain transactions with these affiliates, and (ii) sell its interests in other certain generation plants and facilities to third parties. Additional determinations were sought by the Company from this Commission with respect to the application of the federal Public Utility Holding Company Act to certain proposed transfers of generation assets to exempt wholesale generators.

Pertinent to the Company's fuel cases, the June 29, 2000, Order also (i) required that Delmarva's fuel factor be reset not later than January 1, 2001, at a specified level, to remain frozen at that level without any further deferral of fuel costs until January 1, 2004, (ii) further required that Delmarva's fuel factor be modified on and after January 1, 2004, in accordance with a fuel index procedure, and (iii) authorized Delmarva to recover a negotiated deferred fuel balance of \$892,921 over 24 months, all as had been proposed in a Memorandum of Agreement ("MOA") between the Company and Staff.<sup>3</sup> We required, however, that the Company make a subsequent application, pursuant to § 56-249.6 of the Code of Virginia, with respect to resetting the Company's fuel factor.

Accordingly, Delmarva filed the required application, thereafter docketed and assigned Case No. PUE-2000-00744 in the Commission's December 22, 2000, Order Establishing Fuel Factor Proceeding. Subsequently, on March 1, 2001, this Commission entered an Order approving the continuation of the interim fuel factor previously established in the Commission's December 22, 2000, Order, and made effective January 1, 2001. Consequently, effective January 1, 2001, and for the duration of the Company's capped rates under § 56-582 of the Virginia Electric Utility Restructuring Act, the Company has ceased deferred accounting of its fuel expense recovery.

The status of the Company's fuel factor, thus detailed, prompts our review of the Company's fuel factor cases currently pending on the Commission's docket, to determine whether they can be concluded and closed. These 11 cases (PUE-1989-00048, PUE-1990-00037, PUE-1991-00032, PUE-1992-00036, PUE-1993-00041, PUE-1994-00033, PUE-1995-00032, PUE-1996-00065, PUE-1997-00447, PUE-1998-00324, and PUE-1999-00344) are subject to final review and audits of their fuel cost information. Having been advised by the Staff that all necessary audits and reviews concerning these cases have been completed, we will order them closed on our own motion. We are further advised by the Staff that the Company has no objection to the entry of a Commission order closing these cases.

Accordingly, IT IS THEREFORE ORDERED THAT:

(1) Pending fuel factor cases PUE-1989-00048, PUE-1990-00037, PUE-1991-00032, PUE-1992-00036, PUE-1993-00041, PUE-1994-00033, PUE-1995-00032, PUE-1996-00065, PUE-1997-00447, PUE-1998-00324, and PUE-1999-00344 are hereby closed.

(2) Closing the above-referenced cases shall not be deemed to alter or eliminate the Staff's authority to verify calendar year 1999 fuel expenses pursuant to the MOA in Case No. PUE-2000-00744.

<sup>1</sup> Chapter 23 (§ 56-576 *et seq.*) of Title 56 of the Code of Virginia.

<sup>2</sup> A further Commission Order concerning the Company's functional separation required under the Restructuring Act was entered on December 21, 2001, also in Case No. PUE-2000-00086. That order addressed, in the main, the Company's proposed plan for unbundling its rates into their separate components, as required under the Restructuring Act.

<sup>3</sup> Pertinent to our order today, the MOA states on page 9, "...Staff shall audit Delmarva's books and records to the extent Staff deems appropriate to verify actual fuel costs for calendar year 1999." Consequently, while this order closes Delmarva's 1998 and 1999 fuel cases (Case Nos. PUE-1998-00324 and PUE-1999-00344, both operative in calendar year 1999—the former until July 1, 1999; the latter, thereafter) for audit and review purposes, the Staff remains authorized to verify calendar year 1999 fuel expenses in connection with implementing the MOA's fuel indexing procedure.

(3) There being nothing further to come before the Commission, these matters are dismissed from the docket, and the record developed herein shall be placed in the file for ended cases.

**CASE NO. PUE-1995-00090  
APRIL 29, 2002**

APPLICATION OF  
APPALACHIAN POWER COMPANY d/b/a AMERICAN ELECTRIC POWER-VIRGINIA

1995 and 1996 Annual Informational Filings

**FINAL ORDER**

On November 15, 1996, Appalachian Power Company d/b/a American Electric Power Virginia ("AEP-VA" or the "Company") submitted to the State Corporation Commission ("Commission") its Annual Information Filings ("AIFs") for the test years ending June 30, 1995, and June 30, 1996. The Commission had granted AEP-VA's request to consolidate the 1995 AIF with the 1996 AIF.

On March 24, 1997, the Staff filed its report on the AIFs. The Staff Report provided financial highlights, reported on capital structure, cost of capital, and rate of return, and reviewed the operational performance of the Company. It concluded that AEP-VA showed improvement over the two test periods reviewed.

No comments on the Staff Report were filed.

NOW, UPON CONSIDERATION of the Company's application and the Staff Report, the Commission is of the opinion of and finds that no further action in this matter is warranted and that the case should be closed.

Accordingly, IT IS ORDERED THAT this case be, and hereby is, DISMISSED from the docket of active proceedings, and the papers filed herein made a part of the Commission's files for ended causes.

**CASE NO. PUE960056  
MARCH 29, 2002**

APPLICATION OF  
UNITED CITIES GAS COMPANY

For an Annual Informational Filing

**DISMISSAL ORDER**

On August 11, 1997, United Cities Gas Company ("United Cities" or "Company") filed an abbreviated Annual Informational Filing ("AIF"), consisting of Schedules 1 through 11 for the test year ended December 31, 1995, with the State Corporation Commission ("Commission"). On September 11, 1997, United Cities filed its AIF for the test year ended December 31, 1996. These two AIFs were consolidated for purposes of the Staff's analysis in Case No. PUE960056.

On February 11, 1998, the Staff filed its report, reviewing these two AIFs. United Cities, by counsel, filed its exceptions to the Staff Report on March 3, 1998.

On April 24, 1998, the Staff, by counsel, filed its Reply Comments in which, among other things, the Staff revised its rate of return statement for the Company. As revised, the Staff's rate of return statement calculated the Company's return on equity to be 8.51%, a return below the Company's authorized return on equity range of 10.5% to 11.5%.

On March 26, 2002, the Staff filed a "Motion to Dismiss", wherein the Staff noted that no further action needed to be taken on the AIF. Staff advised that Staff counsel had contacted counsel for the Company, the only party in this matter, and was authorized to state that the Company did not oppose the Staff's request to dismiss the proceeding.

NOW, UPON CONSIDERATION of the Company's application, the pleadings filed herein, and the Staff's March 26, 2002, Motion, the Commission is of the opinion and finds that the Staff's Motion should be granted; and that the captioned matter should be dismissed from the Commission's docket of active proceedings.

Accordingly, IT IS ORDERED THAT the Staff's March 26, 2002, Motion to Dismiss is granted; and the captioned matter shall be dismissed from the Commission's docket of active proceedings.

**CASE NO. PUE-1996-00079  
MAY 1, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION

v.

OLD DOMINION ELECTRIC COOPERATIVE

**ORDER GRANTING LEAVE  
TO FILE REPORT AND  
DISMISSING PROCEEDING**

On May 23, 1996, the State Corporation Commission ("Commission") entered an Order directing Old Dominion Electric Cooperative ("ODEC" or "Old Dominion") to file special reports, pursuant to §§ 56-35 and -36 of the Code of Virginia, describing in detail ODEC's participation in a generating project to provide electricity in the Republic of Ecuador ("Ecuador Project") as well as the status of other current or potential projects and investments. The Commission further directed ODEC to file its reports with the Clerk of the Commission on a bi-monthly basis at a minimum, or more frequently, if such reports were necessary to keep the Commission apprised of ODEC's pending and future projects.

In its June 9, 1997 Order Amending Reporting Schedule, the Commission granted ODEC's request to file its reports every six months. Consistent with the June 9, 1997 Order Amending Reporting Schedule, ODEC's nineteenth periodic report on the status of the Ecuador Project was due to be filed on April 15, 2002.

On April 24, 2002, ODEC filed a "Motion for Leave to File Out of Time", together with the "Nineteenth Report in Response to Order Directing Old Dominion Electric Cooperative to File Reports" (nineteenth report). ODEC also filed a "Motion to Dismiss" the captioned proceeding.

In support of its "Motion for Leave to File Out of Time", ODEC asserted that it had submitted its nineteenth report in the matter contemporaneously with its Motion, and alleged that no one would be prejudiced or disadvantaged by Old Dominion's report being received out of time. ODEC's nineteenth report noted, among other things, that CSC Services, Inc. ("CSC"), a corporation owned in part by ODEC and various member cooperatives of ODEC, had wound up its involvement in the affairs of various project-related entities.

In its Motion to Dismiss, ODEC, by counsel, alleged that CSC had completed the sale of its interest in all Ecuador Project related entities to other project participants, that CSC had substantially completed its wind-up, and that shareholders of CSC were working to terminate CSC's corporate existence. ODEC contended that the Ecuador Project had long since been terminated and that there was no further activity to report. ODEC, therefore, requested the Commission to dismiss the matter, terminate Dominion's obligation to file status reports, and close the docket.

NOW, UPON consideration of ODEC's "Motion for Leave to File Out of Time", Old Dominion's nineteenth report, and the Motion to Dismiss, the Commission is of the opinion and finds that ODEC's Motion for Leave to File Out of Time should be granted; that ODEC's nineteenth report should be received; and that ODEC's Motion to Dismiss should be granted insofar as it requests the termination of this proceeding and dismissal of this case. We will, however, instruct ODEC to file a final report verifying the windup of CSC and the termination of CSC's corporate existence with the Commission's Division of Economics and Finance. With the exception of this final report, ODEC shall be relieved of its obligation to file any future reports in this proceeding.

Accordingly, IT IS ORDERED THAT:

(1) ODEC's Motion for Leave to File Out of Time is hereby granted and its nineteenth periodic report on the status of the Ecuador Project shall be received and filed in this matter.

(2) ODEC shall file a final report with the Division of Economics and Finance verifying that the activities of CSC have been concluded and that CSC's corporate existence has been terminated.

(3) This matter shall be dismissed from the Commission's docket of active proceedings, and the papers filed herein shall be made a part of the Commission's file for ended causes.

**CASE NO. PUE990003  
MARCH 29, 2002**

APPLICATION OF  
POWELL VALLEY NATURAL GAS DISTRIBUTION COMPANY, INC.

For a certificate of public convenience and necessity to provide natural gas service pursuant to Va. Code § 56-265.3

**ORDER GRANTING MOTION TO WITHDRAW APPLICATION**

On January 7, 1999, Powell Valley Natural Gas Distribution Company, Inc. ("PV" or "Company"), filed an application with the State Corporation Commission ("Commission") seeking a certificate of public convenience and necessity to provide natural gas service.

On March 17, 1999, Equitable Production Company ("Equitable"), by counsel, requested that it be placed on the service list for all matters filed by PV in this docket. Equitable did not take a position on the Company's application.

On March 27, 2002, PV, by counsel, filed a Motion for leave to withdraw its January 7, 1999, application without prejudice. The Company explained in its Motion that as a consequence of a variety of economic and other factors, it had deferred action on its application. According to the

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Company, on March 25, 2002, PV decided not to pursue certification as a natural gas provider. It therefore requested leave to withdraw its application without prejudice and asked the Commission to dismiss the captioned case from the docket of active proceedings.

NOW, UPON consideration of the Company's Motion, the Commission is of the opinion and finds that the March 27, 2002, Motion should be granted; that the Company should be permitted to withdraw its application without prejudice; and that this matter should be dismissed from the Commission's docket of active proceedings.

Accordingly, IT IS ORDERED THAT:

- (1) PV's March 27, 2002, Motion is hereby granted.
- (2) The Company shall be permitted to withdraw its application without prejudice.
- (3) This matter is hereby dismissed from the Commission's docket of active proceedings, and the papers filed herein shall be placed in the Commission's file for ended causes.

**CASE NOS. PUE-1999-00175, PUE-2000-00173, and PUE-2001-00170  
NOVEMBER 15, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*,  
STATE CORPORATION COMMISSION

Appalachian Power Company 1998 Annual Informational Filing

APPLICATION OF  
APPALACHIAN POWER COMPANY

For Extension of Time to File Annual Informational Filing and Earnings Test

APPLICATION OF  
APPALACHIAN POWER COMPANY

For Extension of Time to File Annual Informational Filing and Earnings Test

**ORDER CLOSING CASES**

On March 27, 2002, the Staff of the State Corporation Commission ("Commission") filed a motion to close the above-captioned cases. In support of its motion, the Staff stated that in Case No. PUE-2001-00170, it filed its Report on Appalachian Power Company d/b/a American Electric Power's ("Appalachian" or the "Company") annual informational filing ("AIF") for the calendar year 2000, which summarizes the Staff's evaluation of the Company's three-year alternative regulatory plan ("Plan"). In the Report filed on January 28, 2002, the Staff concluded that, on a net cumulative basis over the three-year period of the Plan, the Company earned less than the established 10.85% benchmark return on equity. The Staff found that the net cumulative underearnings after the 1998, 1999, and 2000 Plan years totaled \$7,005,159. Therefore, because no cumulative overearnings existed as of the Plan's conclusion in 2000, the Staff found that no refund was warranted per the provisions of the Plan.

In Appalachian's response to the Report, filed on March 1, 2002, the Company stated that it agrees with the Staff's conclusion, but disagrees with the size of the underearnings described by the Staff. In its response, Appalachian stated that it does not object, however, to a recommendation to close the above-captioned cases, which have remained pending before the Commission, so that they could be evaluated together for purposes of the Plan.

In its motion, the Staff states that the Staff and Company agree that, overall, the Company earned below the established 10.85% benchmark return on equity during the Plan. The Staff recommended that the Commission close Case Nos. PUE-1999-00175, PUE-2000-00173, and PUE-2001-00170, since those cases remained open only to evaluate the earnings for purposes of the Plan.

Because there appears to be no further action required by the Commission in these cases, we find that this docket should be closed.

Accordingly, IT IS ORDERED THAT these cases be, and hereby are, DISMISSED from the Commission's docket of active cases.

**CASE NO. PUE990352  
MARCH 22, 2002**

APPLICATION OF  
APPALACHIAN POWER COMPANY d/b/a AMERICAN ELECTRIC POWER-VIRGINIA

For approval of tariff riders

**ORDER DISMISSING CASE**

On June 9, 2000, Appalachian Power Company d/b/a American Electric Power-Virginia ("Company") filed with the State Corporation Commission ("Commission") a motion requesting a one-year extension of two temporary tariff riders originally approved by order of the Commission

entered June 24, 1999. The Commission granted the motion by order dated June 15, 2000. The Company has sought no further extension of these and advises that the temporary curtailable services established by the tariffs are no longer being offered.

Accordingly, IT IS HEREBY ORDERED THAT this matter shall be, and it hereby is, DISMISSED.

**CASE NO. PUE-1999-00436  
OCTOBER 25, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION  
v.  
COLUMBIA GAS OF VIRGINIA, INC.,  
Defendant

**AMENDING ORDER**

On April 20, 2000, the State Corporation Commission ("Commission") entered an Order of Settlement that, among other things, directed Columbia Gas of Virginia, Inc. ("Columbia" or the "Company") to file certain reports identified in Undertaking Paragraph (2), found on pages 6 through 9, and required by Ordering Paragraph (5) on page 10 of the April 20, 2000, Order with the Director of the Division of Energy Regulation. On August 31, 2000, the Commission entered an Order, granting Columbia's Motion to extend the time for the completion of the independent audit and report on the Company's management, policies and procedures, operation, maintenance, and facilities of its cathodic protection corrosion control program. On August 27, 2001, the Commission again revised its Order of Settlement, granting Columbia's request for an extension of time to correct any deficiencies noted in its consultant's final report, and extending the date by which Columbia must file an affidavit certifying that the Company had corrected any deficiencies noted in the consultant's report required by Paragraph 2(c) of pages 7-8 of the Order of Settlement. The date for Columbia to report on its actions and expenditures related to the Customer Owned Service Lines was also extended. In each of these Orders, the unamended provisions and directives of the April 20, 2000, Order of Settlement remained in effect.

On July 1, 2002, the Commission created the Division of Utility and Railroad Safety ("Division") out of the Commission's Division of Railroad Regulation and a portion of the Division of Energy Regulation. This new Division, together with its Director, assumed the responsibility for, among other things, the administration and enforcement of the Commission's pipeline safety regulations.

On October 8, 2002, the Division, by counsel, filed a Motion wherein it requested that the Commission further amend the April 20, 2000, Order of Settlement to provide that the reports and information required by that Order be directed to the Director of the Division of Utility and Railroad Safety rather than the Director of the Division of Energy Regulation. The Division asked that the other directives and provisions of the April 20, 2000, Order remain in effect. Staff counsel advised that counsel for Columbia had been contacted, and that Staff was authorized to state that the Company did not oppose the Staff's Motion. There are no other participants in the captioned matter.

NOW, UPON CONSIDERATION of the foregoing, the Commission is of the opinion and finds that good cause having been shown, the Staff's October 8, 2002, Motion should be granted; that the April 20, 2000, Order of Settlement should be further amended to provide that the reports and information required therein should be directed to the Director of the Division of Utility and Railroad Safety; that the provisions and directives of the April 20, 2000, Order as they have been further amended, should remain in effect; and that this matter should be continued, pending further order of the Commission.

Accordingly, IT IS ORDERED THAT:

- (1) The October 8, 2002, "Motion of the Staff to Amend the April 20, 2000, Order of Settlement" is hereby granted.
- (2) The Company shall file the reports and information required by the April 20, 2000, Order of Settlement with the Director of the Division of Utility and Railroad Safety.
- (3) The other provisions and directives of the April 20, 2000, Order of Settlement, as they have been further amended, shall remain in effect.
- (4) This matter shall be continued, pending further order of the Commission.

**CASE NO. PUE-1999-00532  
DECEMBER 17, 2002**

APPLICATION OF  
SYDNOR HYDRODYNAMICS, INC.  
and  
AQUASOURCE UTILITY-VIRGINIA, INC.

For certificates of public convenience and necessity for the Lake Shawnee System

**ORDER ADOPTING, IN PART, STAFF'S  
RECOMMENDATIONS AND DISMISSING PROCEEDING**

On November 9, 1999, Sydnor Hydrodynamics, Inc. ("Sydnor"), and AquaSource Utility-Virginia, Inc. ("AquaSource Virginia" or the "Company") (collectively, "Applicants"), filed an application requesting authority to transfer the assets of the Lake Shawnee System from Sydnor to AquaSource Virginia pursuant to §§ 56-89 and 56-90 of the Code of Virginia ("Code"). The Applicants also requested certificates of public convenience and necessity ("certificate") pursuant to § 56-265.2 and § 56-265.3 of the Code.

On January 31, 2000, the State Corporation Commission ("Commission") issued an order for notice and hearing and directed AquaSource Virginia to submit certain financial information to the Commission's Division of Public Utility Accounting on or before April 1, 2001.<sup>1</sup>

On April 25, 2000, the Commission issued an order approving the above-referenced transfer of assets, the requested certificates, and the Company's proposed rates, charges, and rules and regulations of service, subject to certain modifications recommended by Staff. In that Order, the Commission continued the case generally so that an accounting audit could be conducted after Staff had a full year's worth of financial data for the Company's operations.

Staff filed its Report on September 30, 2002, detailing its analysis of the Company's books and records.

Staff's rate of return statement, after adjustments, reflected operating revenues of \$26,176 for the nine months ending December 31, 2000, with an operating loss of (\$8,278), resulting in a -67.48% return on rate base. For the year ending December 31, 2001, Staff found operating revenues of \$31,761, with an operating loss of (\$1,096), resulting in a return on rate base of -6.39%. Based on its review, Staff found that the Company's current rates for the Lake Shawnee System are not excessive.

In its Report, Staff recommended that:

- (1) The Company maintain its books and records for the Lake Shawnee System in accordance with the USOA for Class "C" Water Utilities;
- (2) The Company make booking entries to plant, accumulated depreciation, contributions in aid of construction ("CIAC") and accumulated CIAC to reflect Staff's adjusted balances as of December 31, 2001; and
- (3) The Company write off the acquisition adjustment currently included in its cost of service.

Staff also recommended that the Commission enter an order permitting the Company to continue to charge the current rates for the Lake Shawnee System and dismissing the proceeding.

In a letter dated November 21, 2002, counsel for AquaSource Virginia stated that the Company objects to Staff's recommendation No. 2 with respect to the booking of CIAC. The Company did not object to implementing Staff's recommendations Nos. 1 and 3. The Company noted, however, that such implementation does not constitute an agreement by the Company that negative returns are reasonable or that any future write-off of acquisition amounts is appropriate.

In a letter dated December 10, 2002, the Company clarified its response to Staff's recommendation No. 2. The Company stated that, while it maintains its objection to making the above-referenced booking entries, it does not object to deferring the matter for a decision in a future case with the understanding that the Company is not required to change its CIAC booking in the interim.

NOW THE COMMISSION, having considered Staff's Report and the Company's Response, is of the opinion that Staff's recommendation Nos. 1 and 3 are reasonable and should be adopted. We will adopt Staff's recommendation No. 2 with the exception of the booking entries to CIAC. We will defer consideration of the booking of such entries until a future proceeding as requested by the Company. We will permit the Company to continue to charge its current rates for the Lake Shawnee system and dismiss this proceeding.

Accordingly, IT IS ORDERED THAT:

- (1) The Company may continue to charge its current rates for the Lake Shawnee System.
- (2) The Company shall implement Staff's booking recommendations with the exception of Staff's recommendation No. 2 with respect to the booking of CIAC.
- (3) Consideration of the booking of CIAC shall be deferred to a future proceeding.
- (4) There being nothing further to be done in this matter, it is hereby dismissed from the Commission's docket of active cases.

<sup>1</sup> Such data would provide financial information for the Company's operations commencing January 1, 2000.

**CASE NO. PUE-1999-00814  
APRIL 16, 2002**

JOINT APPLICATIONS OF  
GROUNDHOG MTN. PROPERTY OWNERS, INC.  
and  
GROUNDHOG MTN. WATER & SEWER COMPANY, INC.

For authority to acquire and to dispose of utility assets pursuant to the Transfers Act and for certificates of public convenience and necessity pursuant to §§ 56-265.2 and 56-265.3

**FINAL ORDER**

On December 12, 2000, Groundhog Mtn. Property Owners, Inc. ("GMPO"), and Groundhog Mtn. Water & Sewer Company, Inc. ("GMW&S") (collectively, "Applicants"), completed their Application, which initially was filed on December 13, 1999, and subsequently amended on March 14, 2000. Pursuant to the Utility Transfers Act, Chapter 5 of Title 56 of the Code of Virginia ("Code"), Applicants request authority for GMPO to dispose of, and for GMW&S to acquire, GMPO's water and sewer facility assets pursuant to a license agreement between the parties. The Applicants also request, pursuant to §§ 56-265.2 and 56-265.3 of the Code, certificates of public convenience and necessity for GMW&S to acquire the above-referenced assets and to provide water and sewer service to its requested service territories. Finally, the Applicants request approval of GMW&S's proposed rates, rules, and regulations of service.

On January 9, 2001, the Commission issued an Order docketing this case, directing publication of notice of the Application, and providing interested persons an opportunity to comment on the Application and request a hearing. On March 19, 2001, Doe Run Properties, LLC ("DRP"), and The Doe Run at Groundhog Mountain, Inc. ("DRAGM") (collectively, "Protestants"), filed comments, objections, and requests for hearing. DRAGM is a tenant of DRP and is the operator of The Doe Run Lodge ("Lodge"). On April 2, 2001, the Applicants filed a response, which addressed each of the objections raised by the Protestants.

On April 11, 2001, the Commission entered an Order for Notice and Hearing, in which it appointed a Hearing Examiner to hear the case, scheduled a public hearing, established a procedural schedule for prefilng testimony and exhibits, and required the Applicants to provide notice of the public hearing. By rulings entered on April 18 and May 8, 2001, the Hearing Examiner granted Applicants' request to conduct the hearing in the City of Roanoke, Virginia, and directed the Applicants to modify the notice set forth in the Commission's Order for Notice and Hearing to reflect the change in the location of the public hearing.

On July 17, 2001, the public hearing was convened at the Roanoke City Council Chamber. Wilburn C. Dibling, Jr., Esquire, appeared as counsel for the Applicants. Lisa S. Goodwin, Esquire, appeared as counsel for the Protestants. Marta B. Curtis, Esquire, appeared as counsel for the Commission's Divisions of Energy Regulation and Public Utility Accounting. One public witness testified at the hearing.

On January 9, 2002, the Examiner issued the Report of Michael D. Thomas, Hearing Examiner, and on January 10 and 11, 2002, the Examiner issued supplemental reports (collectively, "Hearing Examiner's Report"). On January 29, 2002, Applicants filed comments in support of the Hearing Examiner's Report. On January 30, 2002, Protestants filed objections to the Hearing Examiner's Report.

NOW THE COMMISSION, having considered the record, the pleadings, the Hearing Examiner's Report, the comments and objections filed in response thereto, and the applicable law, is of the opinion and finds as follows.

We approve the transfer of water and sewer utility assets from GMPO to GMW&S pursuant to the terms of the license agreement dated December 4, 2000, in accordance with the Utility Transfers Act. We find that such transfer will not jeopardize or impair the provision of adequate service to the public at just and reasonable rates. We also find, pursuant to § 56-265.2 of the Code, that the public convenience and necessity requires us to issue GMW&S a certificate to acquire the water and sewer utility facilities from GMPO.

We find that it is in the public interest for GMW&S to provide sewer service in its requested territory and grant GMW&S a certificate of public convenience and necessity, pursuant to § 56-265.3 of the Code, to operate a sewer utility in the service territory it has requested. We also find that it is in the public interest for GMW&S to provide water service in its requested territory. We grant GMW&S a certificate of public convenience and necessity, pursuant to § 56-265.3, to operate a water utility in the service territory it has requested, conditioned upon GMW&S receiving an operating permit from the Virginia Department of Health for its new well and storage tank within six months from the date of this order. Finally, we adopt the rates, rules, and regulations of water and sewer service recommended by the Hearing Examiner, which do not appear unjust and unreasonable.

The Hearing Examiner's Report thoroughly sets forth the evidence and the issues in this case. We will not review here every recommendation, rationale, and objection. We agree with the Examiner's recommended results. We also will comment on certain objections raised by the Protestants.

Protestants object to the Examiner's treatment of the 1999 special assessment, arguing that GMW&S's revenue requirement should not be based on that assessment. Protestants' objection is not well founded. It is clear from the record in this case that GMW&S's revenue requirement is not based on the 1999 special assessment. The 1999 special assessment is treated as a deduction from rate base. The recommended revenue requirement, however, does not include a component for a return on rate base. As a result, the rate base treatment of the special assessment does not alter the revenue requirement. Moreover, if the revenue requirement in this case included a component for return on rate base, then the 1999 special assessment would *reduce* the revenue requirement by lowering rate base. In any respect, the 1999 special assessment does not impact the recommended revenue requirement in this proceeding.

Protestants also assert that the Hearing Examiner erred by not applying an abandonment analysis in this case. In this regard, we have analyzed whether it is in the public interest for the Applicants to exclude Protestants from the requested water service territory and to cease water service to the Protestants. We find that: (1) the Applicants have no legal right to use Protestants' water facilities; (2) the Applicants do not own or control water facilities necessary to provide water service to the Protestants; (3) under Applicants' proposal, GMPO's homeowners will have complete control over their water system; (4) GMPO and the Lodge have diametrically opposed views on the proper rate design for water service; (5) Protestants will suffer no financial hardship or lack of water supply by being excluded from Applicants' service territory; and (6) Protestants will not be prejudiced by Applicants' request.

We conclude that the proposed territory, which effectuates a discontinuance of service to the Protestants, is in the public interest. Accordingly, we find that it is in the public interest for GMPO to abandon its prior water service to the Protestants. Moreover, an abandonment analysis as requested by the Protestants reaches the same result. Protestants contend that – under a separate abandonment analysis – the Commission should reject Applicants' requested territory due to Protestants' financial hardship and inadequate water supply. As noted above, however, we agree with the Examiner's finding that Protestants will suffer no financial hardship or lack of water supply as a result of being excluded from the Applicants' service territory.

Finally, we disagree with the Protestants' assertion that § 56-234 of the Code requires the Applicants to include the Protestants within the certificated territory. Section 56-234 does not require this Commission to expand existing, or proposed, public utility territories to encompass customers outside such territories.

Accordingly, IT IS ORDERED THAT:

(1) Pursuant to §§ 56-89 and 56-90 of the Code of Virginia, GMPO is hereby granted authority to transfer water and sewer utility assets to GMW&S pursuant to the terms of the license agreement dated December 4, 2000.

(2) GMW&S is hereby authorized to acquire from GMPO water and sewer utility facilities pursuant to the terms of the license agreement dated December 4, 2000.

(3) Applicants shall submit a Report of Action to the Commission's Director of Public Utility Accounting no later than thirty (30) days, subject to extension by the Director of Public Utility Accounting, after the transfer of the utility assets from GMPO to GMW&S, notifying the Commission that such transfer has taken place.

(4) GMW&S is hereby issued Certificate No. W-300 to provide sewer service in its requested service territory.

(5) GMW&S is hereby issued Certificate No. S-86 to provide water service in its requested service territory, conditioned upon GMW&S receiving an operating permit from the Virginia Department of Health for its new well and storage tank within six months from the date of this order.

(6) GMW&S shall submit written notification to the Commission's Division of Energy Regulation no later than thirty (30) days after receiving an operating permit from the Virginia Department of Health for its new well and storage tank.

(7) The rates, rules, and regulations for the provision of water and sewer services recommended by the Hearing Examiner are hereby approved. The water rates approved herein currently are in effect. The sewer rate and escrow accounting approved herein shall be effective as of GMW&S's first billing cycle following the date of this order.

(8) GMW&S shall within sixty (60) days from the date of this Order submit to the Commission's Division of Energy Regulation a tariff incorporating the rates, rules, and regulations approved herein.

(9) The book and record keeping requirements recommended by the Hearing Examiner, including the establishment of an escrow account, are hereby adopted.

(10) This matter is hereby dismissed.

**CASE NO. PUE-1999-00814  
APRIL 25, 2002**

JOINT APPLICATIONS OF  
GROUNDHOG MTN. PROPERTY OWNERS, INC.  
and  
GROUNDHOG MTN. WATER & SEWER COMPANY, INC.

For authority to acquire and to dispose of utility assets pursuant to the Transfers Act and for certificates of public convenience and necessity pursuant to §§ 56-265.2 and 56-265.3

**AMENDING ORDER**

On April 16, 2002, the Commission entered a Final Order in the above-captioned proceeding. Ordering Paragraphs (4) and (5) inadvertently transposed the certificate numbers contained therein.

Accordingly, IT IS ORDERED THAT:

(1) Ordering Paragraph (4) is hereby amended to reference Certificate No. S-86 as the certificate for the provision of sewer service.

(2) Ordering Paragraph (5) is hereby amended to reference Certificate No. W-300 as the certificate for the provision of water service.



**CASE NO. PUE000089  
MARCH 12, 2002**

APPLICATION OF  
OLD DOMINION ELECTRIC COOPERATIVE

For Partial Waiver from Commission Rules Governing Bidding Programs to Purchase Electricity

**ORDER DISMISSING CASE**

On January 31, 2000, the Old Dominion Electric Cooperative ("ODEC") submitted a letter to the State Corporation Commission ("Commission") requesting a partial waiver of the reporting requirements of the Commission's Rules Governing the Use of Bidding Programs to Purchase Electricity from Other Power Suppliers ("Bidding Rules"), codified at 20 VAC 5-301-10 et seq. The letter requested additional time in which to submit the summary report of bid proposals it had received pursuant to a Request for Power Supply Proposals, issued September 1, 1999.

On February 17, 2000, the Commission issued an Order that docketed the matter and extended the time for ODEC to submit its report summarizing the results of the bid program. The report required by the Rules was submitted to the Commission's Division of Energy Regulation on March 31, 2000, and supplemented on or about August 17, 2000.

It appearing to the Commission that there is nothing more to be done, this matter shall be, and is, DISMISSED.

**CASE NO. PUE-2000-00169  
JULY 9, 2002**

APPLICATION OF  
NORTHERN NECK WATER, INC.

For a certificate of public convenience and necessity and for authority to acquire certain water utility assets

**DISMISSAL ORDER**

By order dated August 28, 2000, the Commission directed its Staff to conduct an audit of Northern Neck Water, Inc.'s ("Northern Neck" or the "Company") books and records and to file a Report detailing the results of its investigation on or before June 29, 2001.<sup>1</sup> The date for the filing of that Report was subsequently extended from June 29, 2001, to September 28, 2001, pursuant to Commission Orders dated June 20, 2001, and August 27, 2001.

Staff filed its Report on September 28, 2001, wherein it detailed the results of its audit of the Company's books and records for the test year ending December 31, 2000. As a result of that audit, Staff found that the Company had operating revenues of \$103,240, total operating expenses of \$91,925, and operating income of \$11,315. Staff concluded, based on those findings, that the Company's authorized rates are not excessive. Staff also recommended that the Company implement certain booking and record-keeping recommendations detailed therein.

NOW THE COMMISSION, having considered the above-referenced Report, is of the opinion and finds that the Company should implement the record-keeping and booking recommendations detailed in Staff's Report and that this matter should be dismissed from our docket of active cases.

Accordingly, IT IS ORDERED THAT:

- (1) Northern Neck shall forthwith implement the record-keeping and booking recommendations detailed in the above-referenced Staff's Report.
- (2) This matter is hereby dismissed from the Commission's docket of active cases.

<sup>1</sup> In that Order, the Commission also granted Northern Neck authority to acquire from Potomac Supply Corporation the existing assets of the Sandy Point, Springfield Beach, and General Parker water systems, and to acquire from Everett L. Goddard, Inc., the existing assets of the Bells Cove water system. In addition, the Commission granted Northern Neck a certificate of public convenience and necessity to provide water service to the above-referenced subdivisions and approved the Company's proposed rates, charges, fees, and rules and regulations of service, subject to the modification recommended by its Staff.

**CASE NO. PUE000345  
JANUARY 15, 2002**

APPLICATION OF  
OLD DOMINION ELECTRIC COOPERATIVE d/b/a COOPERATIVE ENERGY

For a license to conduct business as a competitive service provider in electric and natural gas retail access pilot programs

**DISMISSAL ORDER**

On July 10, 2000, Old Dominion Electric Cooperative d/b/a Cooperative Energy ("ODEC" or "the Company") completed an application with the State Corporation Commission ("Commission") for licensure to conduct business as an electric competitive service provider throughout the Commonwealth

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

of Virginia in conjunction with any electric retail access pilot program approved by the Commission. ODEC subsequently amended its application on August 4, 2000, to seek also licensure as a competitive service provider in natural gas retail access pilot programs. ODEC's amended application to provide natural gas service was completed by a supplemental filing on September 13, 2000.

By Order dated October 27, 2000, ODEC was granted License No. PG-9 to provide competitive natural gas service within the Washington Gas Light Company ("WGL") and Columbia Gas of Virginia, Inc. ("CGV") retail access pilots.<sup>1</sup> In granting the natural gas license, the Commission stated in its Order that the license would expire upon termination of the pilot programs unless otherwise ordered by the Commission.

On June 19, 2001, the Commission entered its Final Order in Case No. PUE010013, adopting its Rules Governing Retail Access to Competitive Energy Services ("Retail Access Rules"), 20 VAC 5-312-10, *et seq.* This Order provided that each competitive service provider that wished to convert its pilot license to a permanent license to participate in retail access must submit a request to do so in writing to the Commission on or before August 31, 2001. We directed that: (i) each such request must include an attestation that the information provided and updated in its application for a pilot license is true and correct; (ii) the Company must attest that it will abide by all applicable regulations of the Commission, as required by 20 VAC 5-312-40 B; and (iii) the Company must include any changes to information previously provided to the Commission, as required by 20 VAC 5-312-20 R.

To date, ODEC has not filed a request to convert its natural gas pilot license to a permanent license. Moreover, ODEC has not yet submitted information to the Commission indicating that it has established an affiliate for the purpose of participating as an electric competitive service provider as required by our September 20, 2000, Order. By letter dated October 10, 2001, Counsel for ODEC notified our Staff that ODEC at that time had elected not to participate in electric or natural gas markets. ODEC's counsel further stated that ODEC will let its retail natural gas license lapse and currently had no plans to renew its efforts to obtain a retail electric license.

NOW UPON CONSIDERATION of ODEC's failure to request to convert its pilot license to a permanent license, the Commission is of the opinion and finds that ODEC's pilot license has expired, and this matter should be closed. Accordingly,

IT IS ORDERED THAT:

(1) ODEC's License No. PG-9 to provide competitive natural gas services to customers in conjunction with the WGL and CGV retail access pilots has expired. As a result, ODEC is no longer authorized to act as a competitive service provider in Virginia but may reapply for licensure at any time.

(2) This case is hereby dismissed.

<sup>1</sup> By Order dated September 20, 2000, the Commission found, based upon pleadings and oral arguments from our Staff and ODEC, that § 56-587 D of the Code of Virginia requires ODEC to form an affiliate or subsidiary if it desires to participate as a competitive service provider in electric retail access pilot programs.

**CASE NO. PUE-2000-00346  
APRIL 12, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION

Ex Parte: In the matter concerning a draft plan for retail electric metering and billing services

**ORDER CLOSING CASE**

On July 12, 2000, the State Corporation Commission ("Commission") issued an Order Prescribing Notice and Inviting Comments in this proceeding. This Order contained discussion draft plans and questions pertaining to competitive billing and metering services that interested parties were requested to respond to in order to assist in the development of a recommendation and draft plan to be submitted to the Legislative Transition Task Force ("LTTF"). Interested parties were also provided the opportunity to request that the Commission hold a hearing.

The Commission received both comments and requests for hearing. A hearing was held on November 1 and 2, 2000. Following that hearing, the Commission developed its report and submitted it to the LTTF. Therefore, the Commission finds that this case should be closed.

Accordingly, IT IS ORDERED THAT this case be, and hereby is, DISMISSED from the docket of active cases.

**CASE NO. PUE-2000-00349  
AUGUST 6, 2002**

APPLICATION OF  
DOMINION ENERGY DIRECT SALES, INC.

For a license to conduct business as a competitive service provider in electric and natural gas retail access pilot programs

**DISMISSAL ORDER**

On August 1, 2000, Dominion Energy Direct Sales, Inc. ("DEDSI" or "the Company"), completed an application, docketed as Case No. PUE-2000-00349, with the State Corporation Commission ("Commission") for licensure to conduct business as a competitive service provider. The Company proposed to provide competitive electric service in the retail access pilot programs of Virginia Electric and Power Company ("Virginia Power"),

Appalachian Power Company d/b/a American Electric Power-Virginia ("AEP-VA"), and Rappahannock Electric Cooperative ("REC"), and in the natural gas retail access pilot programs of Columbia Gas of Virginia, Inc., ("CGV"), and Washington Gas Light Company ("WGL")

By Order dated September 7, 2000, DEDSI was granted License No. PE-5 to provide competitive electric service to commercial and industrial customers within the Virginia Power, AEP-VA, and REC retail access pilots; and was granted License No. PG-3 to provide competitive natural gas service to commercial and industrial customers within the CGV and WGL retail access pilots. In granting these licenses, the Commission stated in its Order that these licenses would expire upon termination of the pilot programs unless otherwise ordered by the Commission.

On June 19, 2001, the Commission entered its Final Order in Case No. PUE010013, adopting its Rules Governing Retail Access to Competitive Energy Services ("Retail Access Rules"), 20 VAC 5-312-10, et seq.<sup>1</sup> This Order provided that each competitive service provider that wished to convert its pilot license to a permanent license to participate in retail access must submit a request to do so in writing to the Commission on or before August 31, 2001. We directed that: (i) each such request must include an attestation that the information provided and updated in its application for a pilot license is true and correct; (ii) the company must attest that it will abide by all applicable regulations of the Commission, as required by 20 VAC 5-312-40 B; and (iii) the company must include any changes to information previously provided to the Commission, as required by 20 VAC 5-312-20 R.

In a letter filed on August 31, 2001, DEDSI stated that it did not wish to convert either of its pilot licenses to permanent licenses. DEDSI did, however, request a waiver of the requirement for the Company to convert its electric pilot license, License No. PE-5, to a permanent license. DEDSI wished to continue its electric pilot license until May 31, 2002, in order to fulfill its contractual obligations to its customers.

Pursuant to Ordering paragraph (3) of its Order Granting Waiver dated September 13, 2001, the Commission granted the Company's request and required, among other things, that if the Company did not acquire new customers or serve any additional locations of its then-current customers, the Company would have until July 15, 2002 to file with the Commission "notification that it has completed and terminated its service obligations to its current customers."

By letter dated June 25, 2002, the Company, by counsel, indicated it had completed and terminated its service obligations to its current customers. Based on this information, it appears that the Company's actions were in accordance with the authority granted.

NOW UPON CONSIDERATION of DEDSI's August 31, 2001, filing in which it stated that it did not wish to convert pilot License No. PE-5 to a permanent license, the Commission is of the opinion and finds that the Company's current pilot license, License No. PE-5 has expired. As a result, DEDSI is no longer authorized to act as a competitive service provider in the Commonwealth of Virginia.

Accordingly, IT IS ORDERED that this matter is hereby dismissed.

<sup>1</sup> Commonwealth of Virginia, at the relation of the State Corporation Commission, Ex Parte: In the matter of establishing rules for retail access, Case No. PUE010013, Document Control Center No. 010630011, Final Order (June 19 2001).

### **CASE NO. PUE000386 JANUARY 15, 2002**

APPLICATION OF  
ESSENTIAL.COM, INC.

For a license to conduct business as a competitive service provider in electric and natural gas retail access pilot programs

#### **DISMISSAL ORDER**

On August 31, 2000, essential.com, inc. ("essential.com" or "the Company"), completed an application with the State Corporation Commission ("Commission") for licensure to conduct business as an electric and natural gas competitive service provider. The Company proposed to provide competitive electric and natural gas service in the retail access pilot programs of Virginia Electric and Power Company ("Virginia Power"), Appalachian Power Company d/b/a American Electric Power-Virginia ("AEP-VA"), Rappahannock Electric Cooperative ("REC"), Washington Gas Light Company ("WGL"), and Columbia Gas of Virginia, Inc. ("CGV").

By Order dated October 6, 2000, Essential.com was granted License Nos. PE-8 and PG-6 to provide competitive electric and natural gas service to commercial and residential customers within the Virginia Power, AEP-VA, REC, WGL, and CGV retail access pilots. In granting these licenses, the Commission stated in its Order that these licenses would expire upon termination of the pilot programs unless otherwise ordered by the Commission.

On June 19, 2001, the Commission entered its Final Order in Case No. PUE010013, adopting its Rules Governing Retail Access to Competitive Energy Services ("Retail Access Rules"), 20 VAC 5-312-10, et seq. This Order provided that each competitive service provider that wished to convert its pilot license to a permanent license to participate in retail access must submit a request to do so in writing to the Commission on or before August 31, 2001. We directed that: (i) each such request must include an attestation that the information provided and updated in its application for a pilot license is true and correct; (ii) the Company must attest that it will abide by all applicable regulations of the Commission, as required by 20 VAC 5-312-40 B; and (iii) the Company must include any changes to information previously provided to the Commission, as required by 20 VAC 5-312-20 R.

To date, essential.com has not filed a request to convert its pilot licenses to permanent licenses.

NOW UPON CONSIDERATION of essential.com's failure to request to convert its pilot licenses to permanent licenses, the Commission is of the opinion and finds that essential.com's pilot licenses have expired, and this matter should be closed. Accordingly,

## IT IS ORDERED THAT:

(1) essential.com's License Nos. PE-8 and PG-6 to provide competitive electric and natural gas service to commercial and residential customers in conjunction with the retail access pilots have expired. As a result, essential.com is no longer authorized to act as a competitive service provider in Virginia but may reapply for licensure at any time.

(2) This case is hereby dismissed.

**CASE NO. PUE-2000-00409  
JUNE 19, 2002**

APPLICATION OF  
BROOKFIELD WATER COMPANY, INC.

For a certificate of public convenience and necessity to provide water service to the Brookfield subdivision

**ORDER**

On August 1, 2000, Brookfield Water Company, Inc. ("Brookfield" or the "Company"), filed an application with the State Corporation Commission ("Commission") pursuant to § 265.3 of the Utility Facilities Act, § 56-265.1 *et seq.* of the Code of Virginia, to obtain a certificate of public convenience and necessity to provide water service to the Brookfield subdivision in Botetourt County, Virginia.

On March 2, 2001, the Commission issued an Order granting Certificate No. 307 to Brookfield. The Commission further directed the Commission Staff ("Staff") to review the Company's rates and miscellaneous charges and file a report.

On January 16, 2002, the Staff filed its report finding the Company's rates and charges not to be excessive. The Company did not take issue with the Staff's findings.

NOW THE COMMISSION, having considered the matter, is of the opinion that the above captioned matter should be closed.

Accordingly, IT IS ORDERED THAT, there being nothing further to come before the Commission, this case shall be dismissed and the papers filed herein placed in the file for ended causes.

**CASE NO. PUE000412  
JANUARY 15, 2002**

APPLICATION OF  
SMARTENERGY.COM, INC.

For a license to conduct business as an electric and natural gas competitive service provider and aggregator

**DISMISSAL ORDER**

On August 23, 2000, SmartEnergy.com, Inc. ("SmartEnergy" or "the Company"), completed an application with the State Corporation Commission ("Commission") for licensure to conduct business as an electric and natural gas competitive service provider and aggregator. The Company proposed to provide competitive electric, natural gas, and aggregation services in the retail access pilot programs of Virginia Electric and Power Company ("Virginia Power"), Appalachian Power Company d/b/a American Electric Power-Virginia ("AEP-VA"), Rappahannock Electric Cooperative ("REC"), Washington Gas Light Company ("WGL"), and Columbia Gas of Virginia, Inc. ("CGV").

By Order dated October 6, 2000, SmartEnergy was granted License Nos. PE-7, PG-5, and PA-4 to provide competitive electric, natural gas, and aggregation services to commercial and residential customers within the Virginia Power, REC, AEP-VA, WGL, and CGV retail access pilots. In granting these licenses, the Commission stated in its Order that the licenses would expire upon termination of these pilot programs unless otherwise ordered by the Commission.

On June 19, 2001, the Commission entered its Final Order in Case No. PUE010013, adopting its Rules Governing Retail Access to Competitive Energy Services ("Retail Access Rules"), 20 VAC 5-312-10, *et seq.* This Order provided that each competitive service provider that wished to convert its pilot license to a permanent license to participate in retail access must submit a request to do so in writing to the Commission on or before August 31, 2001. We directed that: (i) each such request must include an attestation that the information provided and updated in its application for a pilot license is true and correct; (ii) the Company must attest that it will abide by all applicable regulations of the Commission, as required by 20 VAC 5-312-40 B; and (iii) the Company must include any changes to information previously provided to the Commission, as required by 20 VAC 5-312-20 R.

To date, SmartEnergy has not filed a request to convert its pilot licenses to permanent licenses.

NOW UPON CONSIDERATION of SmartEnergy's failure to request to convert its pilot licenses to permanent licenses, the Commission is of the opinion and finds that SmartEnergy's pilot licenses have expired, and this matter should be closed. Accordingly,

## IT IS ORDERED THAT:

(1) SmartEnergy's License Nos. PE-7, PG-5, and PA-4 to provide competitive electric, natural gas, and aggregation services to commercial and residential customers in conjunction with the Virginia Power, AEP-VA, REC, WGL, and CGV retail access pilots have expired. As a result, SmartEnergy is no longer authorized to act as a competitive service provider and aggregator in Virginia but may reapply for licensure at any time.

(2) This case is hereby dismissed.

**CASE NO. PUE000473  
MARCH 22, 2002**

APPLICATION OF  
COLUMBIA ENERGY SERVICES CORPORATION

For waiver from compliance with filing deadline

**DISMISSAL ORDER**

In its Petition filed with the State Corporation Commission ("Commission") on September 8, 2000, Columbia Energy Services Corporation ("CES" or "Company") requested from the Commission, and was subsequently granted, a waiver of the deadline to seek a license as a competitive service provider or an aggregator under the Commission's Interim Rules Governing Electric and Natural Gas Retail Access Programs ("Interim Rules"), 20 VAC 5-311-10 *et seq.*<sup>1</sup> In its September 8 petition, CES represented that it needed additional time, until December 1, 2000, to comply with 20 VAC 5-311-60 B because the Company was in the process of selling its mass market retail operations to The New Power Company ("New Power"). CES explained that it intended to assign its natural gas customers in Virginia to New Power when New Power receives a license to conduct business as a competitive service provider in natural gas retail access programs in Virginia.<sup>2</sup>

By Order entered September 25, 2000, the Commission granted CES' request for a waiver of the filing deadline. The Commission directed CES, on or before December 1, 2000, to transfer its customers to New Power or another licensed entity or, if that could not be accomplished, to apply for the appropriate licenses under the Interim Rules. The Commission further directed the Company to file with the Clerk of the Commission, on or before December 1, 2000, a notification that the planned transfer of customers had been accomplished.

Acting on a further request for waiver filed by the Company on November 28, 2000, the Commission granted CES an additional waiver of the filing requirement found in 20 VAC 5-311-60 B.<sup>3</sup> In the December 4, 2000, Order, the Commission expressed its concern about the Company's rate of progress and attached certain conditions to the waiver granted to the Company. Among other things, it directed the Company to file with the Office of the Clerk of the Commission notification that the planned transfers of customers to New Power or another licensed entity had been accomplished.

On February 1, 2001, CES, by counsel, filed its "Notification of Transfer of Customers". In that document, CES notified the Commission that all of its customers had been transferred to New Power, and that CES was no longer a competitive service provider or aggregator participating in a natural gas retail access pilot program approved by the Commission. It represented that it was no longer necessary for the Company to obtain a license to become a competitive service provider. The Company requested that the Commission dismiss this proceeding.

NOW, UPON consideration of the Company's request, the Commission is of the opinion and finds that since the transfer of customers to New Power has been affected, this matter should be dismissed from the Commission's docket of active proceedings.

Accordingly, **IT IS ORDERED THAT** this matter shall be dismissed from the Commission's docket of active proceedings and the papers filed herein shall be made a part of the Commission's file for ended causes.

<sup>1</sup> The Interim Rules were adopted by the Commission's Final Order in Case No. PUE980812. See Commonwealth of Virginia, At the relation of the State Corporation Commission, Ex Parte: In the Matter of establishing interim rules for retail access pilot programs, Case No. PUE980812, 2000 S.C.C. Ann. Rept. 392. Subsection B of 20 VAC 5-311-60 requires natural gas retail access pilots previously approved by the Commission and any participants in said pilots to comply with the Interim Rules within a 120-day time period ("filing deadline"). Pursuant to the filing deadline, CES originally was required to file an application for a license as a competitive service provider or an aggregator by no later than September 25, 2000.

<sup>2</sup> By Order dated September 28, 2000, the Commission granted New Power's application for a license as a competitive service provider in Case No. PUE000435.

<sup>3</sup> See Commission's December 4, 2000, "Order Granting Additional Waiver Subject to Conditions", Case No. PUE000473, 2000 S.C.C. Ann. Rept. 566.

**CASE NO. PUE000486  
JANUARY 15, 2002**

APPLICATION OF  
TITAN ENERGY OF CHESAPEAKE, INC.

For a license to conduct business as a competitive service provider in natural gas retail access pilot programs

**DISMISSAL ORDER**

On January 11, 2001, Titan Energy of Chesapeake, Inc. ("Titan" or "the Company"), completed an application with the State Corporation Commission ("Commission") for licensure to conduct business as a natural gas competitive service provider. The Company proposed to provide competitive natural gas service in the retail access pilot programs of Washington Gas Light Company ("WGL") and Columbia Gas of Virginia, Inc. ("CGV").

By Order dated February 20, 2001, Titan was granted License No. PG-18 to provide competitive natural gas service to commercial, residential, and industrial customers within the WGL and CGV retail access pilots. In granting this license, the Commission stated in its Order that the license would expire upon termination of the WGL and CGV pilot programs unless otherwise ordered by the Commission.

On June 19, 2001, the Commission entered its Final Order in Case No. PUE010013, adopting its Rules Governing Retail Access to Competitive Energy Services ("Retail Access Rules"), 20 VAC 5-312-10, *et seq.* This Order provided that each competitive service provider that wished to convert its pilot license to a permanent license to participate in retail access must submit a request to do so in writing to the Commission on or before August 31, 2001. We directed that: (i) each such request must include an attestation that the information provided and updated in its application for a pilot license is true and correct; (ii) the Company must attest that it will abide by all applicable regulations of the Commission, as required by 20 VAC 5-312-40 B; and (iii) the Company must include any changes to information previously provided to the Commission, as required by 20 VAC 5-312-20 R.

To date, Titan has not filed a request to convert its pilot license to a permanent license. Rather, by letter dated August 29, 2001, the Commission was notified by Titan that it was exiting the residential retail gas market in Virginia.

NOW UPON CONSIDERATION of Titan's decision to exit the residential retail gas market in Virginia and its failure to request to convert its pilot license to permanent, the Commission is of the opinion and finds that Titan's pilot license has expired, and that this matter should be closed. Accordingly,

IT IS ORDERED THAT:

(1) Titan's License No. PG-18 to provide competitive natural gas service to commercial, residential, and industrial customers in conjunction with the WGL and CGV retail access pilots has expired. As a result, Titan is no longer authorized to act as a competitive service provider in Virginia but may reapply for licensure at any time.

(2) This case is hereby dismissed.

**CASE NO. PUE000584  
JANUARY 8, 2002**

APPLICATION OF  
VIRGINIA ELECTRIC AND POWER COMPANY

For approval of a Functional Separation Plan under the Virginia Electric Utility Restructuring Act

**ORDER GRANTING RELIEF**

On December 28, 2001, Virginia Electric and Power Company ("Virginia Power" or "the Company"), filed with the Clerk of the State Corporation Commission ("Commission") a letter notifying the Commission that it proposed to use the transmission rates currently effective under its Open Access Transmission Tariff ("OATT") on file with the Federal Energy Regulatory Commission ("FERC"), including the current ancillary service rates, in the development of its unbundled rates.

The Commission issued its Order on Functional Separation in this case on December 18, 2001 (the "Order"). The Order approved the Company's unbundled rates to be used going forward as retail choice begins in the Commonwealth. The Order approved "rates that recover the revenue requirements contained in Staff witness Glenn A. Watkins' Exhibit GAW-5 and designed in compliance with the rate designs agreed upon between the Staff and Company as noted by both in the hearing." Further, the Order found that "[t]he rates shall also embody the agreement expressed in Exh. VP-92 as to the appropriate treatment of the difference between Virginia jurisdictional transmission rates and those contained in the FERC Open Access Transmission Tariff."

In the Order, the Commission approved Exh. VP-92, which provided for a mechanism for adjusting the difference between the transmission rate approved by the FERC and the Virginia jurisdictional transmission rate. Exhibit VP-92 described that "[t]he Company shall unbundle distribution, transmission, and generation using its proposed FERC OATT, including ancillary services." (Emphasis supplied.)

The Company had requested approval of its proposed FERC OATT in FERC Docket ER01-2993-000. The FERC, however, issued an Order on December 19, 2001, terminating Docket ER01-2993-000, and effectively rejecting the Company's proposed FERC OATT. Thus, Virginia Power no longer has the "proposed FERC OATT" to apply in this case for unbundling its rates.

The Company proposes instead to use its current FERC OATT in place of the proposed FERC OATT, which is no longer under consideration at the FERC. The Company solicited the views of the other parties to the proceeding by letter and has advised the Commission that, while not all parties have responded, none that did respond objected to the use of the current FERC OATT. Further, the Commission Staff has advised the Commission it has no objection to the use of the transmission rates currently on file at FERC for setting the Company's unbundled rates.

NOW, IN CONSIDERATION of the foregoing, the Commission is of the opinion and finds that the proposed modification is reasonable and should be granted.

Accordingly, IT IS ORDERED THAT:

- (1) The Company is directed to use in establishing its unbundled rates the transmission rates currently effective under its OATT on file with the FERC, including the current ancillary service rates.
- (2) The Commission's December 18, 2001, Order on Functional Separation in this matter is modified as described herein and no part thereof is further suspended.
- (3) This matter is dismissed.

**CASE NO. PUE000665  
MARCH 27, 2002**

APPLICATION OF  
ROBERT A. WINNEY, D/B/A THE WATERWORKS COMPANY OF FRANKLIN COUNTY

To change rates and charges

**FINAL ORDER**

Before the Commission is the application of Robert A. Winney, d/b/a The Waterworks Company of Franklin County ("The Waterworks Company" or "Company"), to change rates and charges as provided by the Small Water or Sewer Public Utility Act ("Small Water Act"), §§ 56-265.13:1 through 56-265.13:7 of the Code of Virginia. In the Report of Alexander F. Skirpan, Jr., Hearing Examiner of February 21, 2002 (the Report), Examiner Skirpan recommended that The Waterworks Company's current schedule of rates and charges, including its availability charge, remain in effect without revision. No comments on the Report were filed. Upon consideration of the applicable statutes and the record in this proceeding, the Commission will adopt the examiner's recommendation that the Company's current rate structure remain in effect.

As discussed in the Report, at 1-2, this application has had a complex history. By Order for Notice and Hearing of December 12, 2000, the Commission docketed The Waterworks Company's application and scheduled a public hearing for March 20, 2001, before a hearing examiner. On March 12, 2001, the Company requested leave to withdraw the application. By Hearing Examiner's Report of March 16, 2001, the examiner recommended to the Commission that the application be dismissed.

The Commission determined that the matter should not be dismissed but should proceed to hearing as directed by our Order Remanding Case to Examiner of July 6, 2001. While the examiner had recommended that the Commission grant The Waterworks Company leave to withdraw its application, we remanded the case to develop a record. In particular, we directed the Commission Staff to present evidence on the Company's availability charge in light of our Order of March 20, 2001, in B&J Enterprises, L.C., Case No. PUE990616.

As we discuss in the following paragraphs, the Commission will allow The Waterworks Company's availability charge to remain in effect. Our decision, based on the record in this proceeding, to allow the charge to remain in effect does not alter the determination that led the Commission to remand the case. As we found in our Order Remanding Case to Examiner of July 6, 2001, the Small Water Act confers authority to review the reasonableness of a charge after the small water company initiates the statutory process for changing its rates and charges. The Small Water Act reduces the regulatory burden on small companies and limits the Commission's jurisdiction. An applicant for rate relief under the Small Water Act may determine that pursuing an application is not productive and withdraw. However, when a rate, charge, rule, or regulation is questioned and testimony or other information supporting the challenge is offered, the Commission is empowered and obligated to consider the matter, and leave to withdraw may be denied in those circumstances.

In the Report, at 9-11, the Examiner reviewed the evidence offered by the Staff to establish that an availability charge was not just and reasonable. Examiner Skirpan found that the Staff had not satisfied its evidentiary burden, and the Commission will not disturb that finding. The annual availability charge will remain in effect to the extent required by a contract, covenant, equitable servitude, or the like which is independent of the Company's tariff. Commonwealth, ex rel. Ott v. Wintergreen Valley Utility Co., L.P., 1998 S.C.C. Ann. Rep. 352, 354. Further, as with any of the Company's rates, charges, rules, or regulations, it may be subject to challenge in any future proceeding.

Likewise, as long as the charge remains in effect, it must be applied uniformly. The record establishes that The Waterworks Company has not billed all lot owners for the charge. It appears that the Company has not made an effort to collect the annual availability charge from some developers or investors. Such a practice is contrary to the requirement for uniformity of charges in the Small Water Act, § 56-265.13:4 of the Code of Virginia, and the Company must apply the charge to all lot owners.

In this application, The Waterworks Company proposed a connection charge, which the Commission rejects. The Company did not establish that it incurs any cost in connecting a new customer to its system. Rather, the customer bears the costs of labor and materials to connect a residence to the system. Based upon the record before us, we find that a connection charge or fee is unjust and unreasonable. Our decision based on the record before us does not preclude The Waterworks Company from imposing a connection fee or charge in the future. The Waterworks Company might establish in a future rate proceeding that a cost-based connection fee is just and reasonable and should be in its tariff. As shown in the record, The Waterworks Company does

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not comply with all requirements of the Virginia Department of Health. A properly designed connection charge or fee may be a means of recovering certain costs of necessary improvements reasonably allocable to new connections.

While the Commission denies any increase in rates and charges, a refund will not be ordered. On March 29, 2001, the Company filed with the Clerk a statement that, following withdrawal of its application, it had voluntarily refunded any sums due customers that had paid the proposed rates.

Finally, the Commission will take notice of the Order of November 16, 2001, in Commonwealth of Virginia v. Robert A. Winney, File No. 01-01-4647 (Franklin Co. Cir. Ct.). By the Order of November 16, 2001, in a proceeding initiated by the Virginia Department of Health, the Circuit Court appointed David Talbott as receiver for The Waterworks Company. While the Commission may consider this receivership or related matters in the future, those issues are not now before us. The Waterworks Company holds a certificate of public convenience and necessity granted by the Commission, and we have found that its schedule of rates and charge meets the requirements of the Small Water Act. Until the Commission may order any revisions to its certificate or its tariff, the Commission expects the Waterworks Company to continue its current operations. We likewise expect the Company to comply with this order.

Based upon the record in this proceeding, the Commission finds as follows:

- (1) The use of a test year ending November 30, 2000, is proper in this proceeding;
- (2) The Waterworks Company's test year operating revenues, after all adjustments, were \$16,440;
- (3) The Waterworks Company's test year operating revenue deductions, after all adjustments, were \$10,956;
- (4) The Waterworks Company's test year operating income, after all adjustments, was \$5,484;
- (5) The Waterworks Company's adjusted test-year rate base was \$33,267;
- (6) The Waterworks Company's current rates produce a return on adjusted rate base of 16.484%;
- (7) The Waterworks Company's rates and charges now in effect are just and reasonable and should remain in effect;
- (8) The Waterworks Company has not established any cost that the utility incurs in connecting a customer and any connection charge or fee would be unjust and unreasonable;
- (9) The Waterworks Company may continue to collect its annual availability charge, but such a charge must be collected from the owners, including investors or developers, of all lots within the Company's service territory;
- (10) As of the end of the test year, any vehicle loans, mortgages, or other loans provided by Robert A. Winney to The Waterworks Company of Franklin County that may be reflected on the Company's books and records have been repaid in full by the Company's ratepayers and should no longer be reflected in the books and records;
- (11) The Waterworks Company should maintain its books in accordance with the Uniform System of Accounts for Class C Water Utilities adopted by the Commission;
- (12) The Waterworks Company should maintain property records on capitalized plant items;
- (13) The Waterworks Company should maintain logs of employee time devoted to Company activities, long distance telephone calls, and mileage for Company activities; and
- (14) The Waterworks Company should file an Annual Financial and Operating Report with the Commission's Division of Public Utility Accounting.

Accordingly, IT IS ORDERED THAT:

- (1) The Company's application to change rates and charges pursuant to the Small Water or Sewer Public Utility Act, §§ 56-265.13:1 through 56-265.13:7 of the Code of Virginia, is denied.
- (2) The Company maintain records and logs in accordance with findings (11), (12) and (13) above and file an annual report in accordance with finding (14) above.
- (3) Based on the evidence in this case, in future proceedings before the Commission, no application, financial statement, or other document shall reflect any vehicle loans, mortgages, or other loans provided by Robert A. Winney to The Waterworks Company of Franklin County.
- (4) This application be dismissed and removed from the Commission's docket.



**CASE NOS. PUE000747 and PUE000748  
JANUARY 7, 2002**

APPLICATION OF  
SHENANDOAH VALLEY ELECTRIC COOPERATIVE

For a general rate increase

APPLICATION OF  
SHENANDOAH VALLEY ELECTRIC COOPERATIVE

For approval of a functional separation plan

**CORRECTING ORDER**

The Commission's Final Order of December 18, 2001, Ordering paragraph (3), directed Shenandoah Valley Electric Cooperative ("Shenandoah" or the "Cooperative") to file revised schedules of rates and charges and terms and conditions conforming to the Commission's findings in the Final Order and bearing an effective date of January 1, 2002. The Commission finds that the effective date should be January 1, 2001, and that the Final Order should be corrected.<sup>1</sup>

Accordingly, IT IS ORDERED THAT:

- (1) Ordering paragraph (3) of the Final Order of December 18, 2001, is revised to provide that the revised rates and charges and terms and conditions shall bear an effective date of January 1, 2001, and be effective for service provided on and after January 1, 2001.
- (2) On or before January 15, 2002, Shenandoah shall file with the Commission's Division of Energy Regulation revised schedules of rates and charges and terms and conditions conforming to the Commission's findings in this Correcting Order.
- (3) Eleven other ordering provisions in the Final Order of December 18, 2001, shall remain in effect without revision.

<sup>1</sup> On January 2, 2002, Shenandoah petitioned for reconsideration of the Final Order. The Cooperative requested that the Commission change the effective date of its revised schedules from January 1, 2002, to January 1, 2001. In light of our action in this Correcting Order, the Commission need not consider the petition.

**CASE NO. PUE010011  
JANUARY 8, 2002**

APPLICATION OF  
APPALACHIAN POWER COMPANY d/b/a AMERICAN ELECTRIC POWER-VIRGINIA

For approval of functional separation plan

**ORDER GRANTING RECONSIDERATION**

On December 18, 2001, the State Corporation Commission ("Commission") entered its Order on Functional Separation in which we approved and adopted certain stipulations entered into among the parties to this matter regarding the functional separation of Appalachian Power Company d/b/a American Electric Power-Virginia ("AEP-VA" or "Company").

On January 7, 2002, the Old Dominion Committee for Fair Utility Rates (the "Committee") filed a Petition for Reconsideration and Clarification ("Petition"). In the Petition, the Committee asserts that tariffs filed by AEP-VA pursuant to our December 18 Order fail in one respect to comply with the findings of that Order.

The disputed term appears, according to the Committee, in the Standard Rate Schedules Terms and Conditions of Standard Service and impose a 90-day waiting period before certain customers could switch energy suppliers. According to the Committee, the parties by stipulation agreed on the removal of this term from the Company's tariffs.

NOW THE COMMISSION, having considered the Petition, is of the opinion that it should be granted and that AEP-VA should respond to the allegations contained in it.

Accordingly, IT IS ORDERED THAT:

- (1) The Petition for Reconsideration and Clarification is granted for the purpose of continuing our jurisdiction over this matter.
- (2) The Company shall file a response to the Petition on or before January 16, 2002.
- (3) The Committee may file a reply to the response on or before January 21, 2002.
- (4) This matter is continued for further orders of the Commission.

**CASE NO. PUE010011  
MARCH 1, 2002**

APPLICATION OF  
APPALACHIAN POWER COMPANY d/b/a AMERICAN ELECTRIC POWER-VIRGINIA

For approval of a Functional Separation Plan under the Virginia Electric Utility Restructuring Act

**ORDER PROVIDING CLARIFICATION**

On December 18, 2001, the State Corporation Commission ("Commission") entered its Order on Functional Separation ("Order") in this proceeding adopting certain stipulations entered into by the parties relevant to the functional separation of Appalachian Power Company d/b/a American Electric Power-Virginia ("AEP-VA" or "Company"). On January 7, 2002, the Old Dominion Committee for Fair Utility Rates ("Old Dominion Committee") filed a Petition for Reconsideration and Clarification in this matter ("Petition"). The Petition requested the Commission to reconsider the "Rate Unbundling Stipulation" ("Stipulation") adopted by the Commission in the Order and to clarify that the Commission has not approved a certain 90-day notice requirement that AEP-VA included in its December 28, 2001, compliance filing ("filing").

The Old Dominion Committee explains in its Petition that AEP-VA's filing included a tariff provision in the "Use Of Energy By Customer" section of the Company's Terms and Conditions of Service that imposes a 90-day waiting period before a customer may switch to an alternative supplier. According to the Old Dominion Committee, if a customer does not elect to switch during that 90-day period, the proposed tariff language also requires the customer to remain with AEP-VA's generation service for at least 12 months.

The Old Dominion Committee explains in its Petition that Commission Staff Witness Cody Walker, in his testimony filed in this proceeding on September 21, 2001,<sup>1</sup> stated that the 90-day notice requirement was contrary to the enrollment and switching provisions, 20 VAC 5-312-80, of the Commission's Retail Access Rules.<sup>2</sup> The Old Dominion Committee further states that the Stipulation required that the Standard tariffs and Open Access Distribution ("OAD") tariffs be revised to comply with the Commission's Order, dated October 9, 2001, on minimum stay requirements in Case No. PUE010296.<sup>3</sup> The Old Dominion Committee argues that Exhibit 3 to the Stipulation contains no reference to the 90-day waiting period and contemplates that the language in Exhibit 3 be added to the "Use of Energy By Customer" tariff provision in lieu of the language proposed by AEP-VA in its filing.

The Petition further states that the Stipulation, if read thusly, is consistent with Staff Witness Walker's testimony and the Commission's rules governing switching and minimum stay provisions as well as the statutory rights afforded customers under the Virginia Electric Restructuring Act, Va. Code § 56-576, *et seq.* ("Act"). The Petition contends that AEP-VA's proposed 90-day notice requirement would impose an arbitrary, unreasonable, and anti-competitive barrier to its customers' exercise of their statutory right to choose competitive suppliers "on and after January 1, 2002," pursuant to the Act, Va. Code § 56-577 A 2, and the Commission's Order of March 30, 2001, in Case No. PUE000740, adopting a plan for phasing in customer choice for all of AEP-VA's customers, commencing on January 1, 2002.

Pursuant to Rule 5 VAC 5-20-220 of the Commission's Rules of Practice and Procedure, the Commission issued an Order Granting Reconsideration on January 8, 2002, and established a schedule for the parties to file responsive pleadings in this proceeding.

Pursuant to the January 8, 2002, Order, AEP-VA filed its Response on January 16, 2002. The Company argues in its Response that the issues raised by the Old Dominion Committee are governed by the terms of the Stipulation to which both the Company and the Old Dominion Committee are parties. AEP-VA further argues that, contrary to the assertion of the Old Dominion Committee, the changes that the Company made to the "Use Of Energy By Customer" provisions of the Company's tariff filing comply with the Stipulation.

AEP-VA contends that it made each and every change required by Exhibit 3 to the Stipulation.<sup>4</sup> The Company further states that the sentences about which the Old Dominion Committee complains were explicitly preserved by paragraph 3 of the Stipulation which states: "Except as specifically addressed herein, the unbundled rate schedules and tariffs proposed by the Company in this proceeding are acceptable and should be approved." According to AEP-VA, the disputed language is not "specifically addressed" in the Stipulation, and the parties to the Stipulation therefore agreed that the language is "acceptable." Further, the Company contends that the language changes that Exhibit 3 requires to be made to the "Use Of Energy By Customer" provisions of the Company's tariff is incomplete standing alone. AEP-VA argues that because the relevant language in Exhibit 3 concludes with the phrase "subject to the provisions below," the language expressly anticipates that additional provisions follow it, and according to the Company, those additional provisions are not set forth in Exhibit 3. Thus, the Company contends the changes required by Exhibit 3 that were agreed to by the parties to the Stipulation are required in addition to material already in the Company's tariff, not in lieu of that material.

The Company further states that its tariff filing complies with the Commission's minimum stay rules, and that particular provisions of its tariff have been revised to reflect the 500 kW minimum stay threshold required under the Retail Access Rules. AEP-VA argues that the disputed tariff provision applies to customers that have contractual notice requirements. According to the Company, these are the same customers that have minimum stay requirements under the Commission's rules and the Company's tariff, that is, customers whose annual peak demand is 500 kW or greater.

<sup>1</sup> See Staff witness Cody Walker's Testimony filed September 21, 2001, at 25.

<sup>2</sup> The Commission adopted Rules Governing Retail Access to Competitive Energy Service, 20 VAC 5-312-10 *et seq.* ("Retail Access Rules"), in its Final Order issued June 19, 2001, Case No. PUE010013.

<sup>3</sup> The Commission adopted minimum stay rules in its Final Order issued October 9, 2001, in Case No. PUE010296. See 20 VAC 5-312-10; -70; and -80.

<sup>4</sup> Exhibit 3 attached to the Stipulation sets forth the specific language changes that were to be made to the Company's Standard and OAD Tariffs in circumstances where a customer switches between Standard and OAD schedules.

The Company puts forth the additional arguments in its Response that it must plan for a returning customer, and that it must also have some initial assurance that a customer it plans to serve will actually take service. The Company states that without proper notice, large customers could shift load leaving the Company inadequate opportunity to plan for their departure. This could result in the Company purchasing more power than it needs.<sup>5</sup> Finally, AEP-VA argues that the tariff provision in question does not erode customers' rights to choose their electric generation supplier because notice is only required 90 days before service from the Company is discontinued; it does not require notice before a customer may choose.

The Old Dominion Committee filed its Reply on January 23, 2002. The Old Dominion Committee moved in its Reply to file one day out of time. We herein grant the Old Dominion Committee's motion. The Old Dominion Committee contends in its Reply that under the disputed provision, if a customer provides notice to AEP-VA but elects not to switch by the end of the 90-day period, the provision nevertheless imposes a minimum stay requirement on the customer, requiring the customer to continue to take AEP-VA's bundled service for 12 months. The Old Dominion Committee also explains that the disputed language is not in AEP-VA's unbundled rate schedules and tariffs but is in the Company's Standard tariffs; therefore, the Stipulation which applies to unbundled rate schedules and tariffs does not strictly apply to the Company's Standard tariffs.

Further, the Old Dominion Committee argues that Paragraph 1. c. of the Stipulation specifically addressed a customer's ability to change, during a contract, from service under AEP-VA's Standard tariffs to AEP-VA's OAD tariffs where it states that those provisions are to "be governed by the switching and minimum stay provisions adopted by the SCC." Thus, the Company's tariff was to be revised so that the tariff would be governed by the switching and minimum stay rules. According to the Old Dominion Committee, if AEP-VA's interpretation that the Stipulation intended to include the proposed 90-day notice/minimum stay language in the tariff was correct, the switching and minimum stay rules adopted by the Commission would include language authorizing a 90-day notice/minimum stay requirement. But no such requirement exists in the Commission's rules. The Old Dominion Committee further argues that the minimum stay rules prohibit the 90-day notice provision because the proposed tariff provision requires a 12-month minimum stay when the customer gives notice to switch irrespective of whether the customer switches or not. The minimum stay rules on the other hand require a 12-month minimum stay only for customers that actually take service from a CSP and then return to service from incumbent electric utilities.

In addition, the Old Dominion Committee argues that Exhibit 3 to the Stipulation, which is to include language clarifications to certain portions of the Company's tariff, contains no reference to the 90-day notice/minimum stay provision. The Old Dominion Committee argues that the language in Exhibit 3 must replace the Company's 90-day notice/minimum stay provision to reflect the "Add Paragraph" language in Exhibit 3, and to permit the Company's tariff to conform to the Commission's switching and minimum stay rules. The Old Dominion Committee urges the Commission to reject the argument that notice is necessary for the Company's planning needs. According to the Old Dominion Committee, the Commission's rules and AEP-VA's tariffs include requirements for 15 days' notice to AEP-VA by the CSP. Furthermore, in response to AEP-VA's concern that without the 90-day notice the Company may purchase more power than it needs, the Old Dominion Committee states that a customer who chooses a CSP remains a customer of AEP-VA, and any costs "stranded" are being fully paid to the Company through the capped and wires charges provided in the Act. Finally, the Old Dominion Committee emphasizes its belief that the proposed tariff language violates the Commission's rules and that the Stipulation is consistent with Staff Witness Walker's testimony, which recommended deletion of the disputed language.

First, we will examine the 90-day notice requirement language in AEP-VA's filing, which is the subject of the Old Dominion Committee's Petition. The 90-day notice language is included in the "Use Of Energy By Customer" tariff provisions of the Company's Terms and Conditions of Service and reads as follows:

A customer may not change from one Standard Schedule to another Standard Schedule during the term of the contract except with the consent of the Company. However, the customer may change from a Standard Schedule to the corresponding Open Access Distribution Schedule subject to the following provision. Except in instances where the Company has significant investment in local facilities or other special agreements with the customer, the customer may elect to take service from a qualified Energy Service Provider, pursuant to the terms and conditions of the applicable Open Access Distribution Schedule, by first providing 90-days' written notice to the Company. This provision is notwithstanding a Standard Schedule contractual requirement for longer than 90-days' notice to discontinue service and is applicable only to customers with such a requirement. If upon completion of such 90-day notice period, the customer has not enrolled with a qualified Energy Service Provider, then the customer must continue to take service under the Company's Standard Service Schedules for a period of not less than twelve (12) consecutive months.<sup>6</sup>

We shall also review the "Rate Unbundling Stipulation," referred to herein as the Stipulation, entered into by the parties to this proceeding including the Old Dominion Committee, AEP-VA, and the Commission Staff, and adopted by the Order. The Stipulation specifically addressed a customer's movement from the Company's Standard Schedule to its OAD Schedule. Paragraph 1. c. of the Stipulation, titled "Tariff Language," states in pertinent part:

The Standard and Open Access Distribution (OAD) tariffs filed by the Company shall be revised to clarify the provisions regarding a customer's ability to change from service under a Standard rate schedule to the corresponding OAD rate schedule or from service under an OAD rate schedule to a corresponding Standard rate schedule during the customer's term of contract. Such movements are governed by the switching and minimum stay provisions adopted by the SCC. The language clarifications are set forth in Exhibit 3 to this Stipulation.

...

The Company will revise its Standard and OAD Tariffs to comply with the Commission's Order dated October 9, 2001 on minimum stay requirements in Case No. PUE010296.

<sup>5</sup> Forms of this same argument were proposed by the various utilities, including AEP-VA, in the minimum stay proceeding, Case No. PUE010296. The Commission addressed this concern through the minimum stay rules, 20 VAC 5-312-10 and -80, which permit the utility to impose the 12-month minimum stay requirements for shopping customers that return and whose annual peak demand is 500 kW or greater.

<sup>6</sup> Application of Appalachian Power Company d/b/a American Electric Power-Virginia for Approval of Functional/Corporate Separation Plan, tariffs filed December 28, 2001, AEP-VA Standard Tariff Terms and Conditions of Standard Service Standard Rate Schedules, Sheet 3-4.

Exhibit 3, referenced above in Paragraph 1. c. to the Stipulation, sets forth the specific language modifications to be made to certain portions of AEP-VA's tariff that address those customers who leave Standard service and take service from a competitive service provider ("CSP"). Exhibit 3 indicates, under "Standard Tariff Changes," that the following underlined language was to be added to the Company's "Use Of Energy By Customer" tariff provision:

A customer may not change from one Standard Schedule to another Standard Schedule during the term of the contract except with the consent of the Company. However, the customer may change from a Standard Schedule to the corresponding Open Access Distribution Schedule subject to the provisions below:

While Exhibit 3 added the underlined language above, it did not contain language that would specifically revise the Company's proposed tariff to delete the 90-day notice requirement language.<sup>7</sup>

We find that while Exhibit 3 failed to include specific language deleting the 90-day notice/minimum stay provision, the Company's tariffs must conform to the switching and minimum stay rules. As evidenced above, the Stipulation expressly indicates this fact in Paragraph 1. c. where it states that the Company's tariffs are governed by and must comply with the switching and minimum stay requirements adopted by the Commission in the Retail Access Rules, 20 VAC 5-312-10 *et seq.* These rules provide that the local distribution company may require a 12-month minimum stay for those customers with an annual peak demand of 500 kW or greater that, after receiving electricity supply service from a CSP, request service by the local distribution company.<sup>8</sup> We find that the tariff language included in AEP-VA's tariff protested by the Old Dominion Committee is not consistent with the Commission's rules pertinent thereto.

First, we agree with the Old Dominion Committee that under the proposed provision, once notice is given of the intended switch, the customer is subject to a 12-month minimum stay, regardless of whether the customer actually switches to a CSP. This outcome is contrary to the workings of the minimum stay rules, 20 VAC 5-312-10 and -80, which allow the local distribution company to require a 12-month minimum stay period for customers with an annual peak demand of 500 kW or greater, but only if the customer *receives service* from a CSP and then returns to the local distribution company.<sup>9</sup> Under our rules, a minimum stay period cannot be imposed on a customer who gives notice of his intent to switch to the local distribution company, but does not receive service from a CSP.

Moreover, the 90-day notice effectively imposes a 90-day minimum stay period. That is the obvious effect of requiring a full 90-day notice before a customer is allowed to switch. Otherwise, at any time during that 90-day period, the customer could have switched and begun to receive service from a CSP of his choice. The Retail Access Rules do not provide for such a waiting period before a customer is allowed to leave the incumbent electric utility.

Also, the proposed provision conflicts with the enrollment and switching provisions of the Retail Access Rules. Under the enrollment and switching rules, a CSP, with affirmative authorization from a customer, may enroll a customer by submitting an enrollment request to the local distribution company at least 15 days prior to the customer's next meter reading date.<sup>10</sup> The Company's proposed notice provision is contrary to these rules which do not require any customer to give notice to the local distribution company before the customer enrolls with the CSP, nor do the rules require the customer to satisfy a waiting period before the customer is switched to the CSP of his choice, as long as the CSP sends the required enrollment request to the Company at least 15 days prior to the next meter reading date.

Next, the 90-day notice and minimum stay requirements would appear to apply to all customers who choose a CSP, not just customers who have an annual peak demand of 500 kW or greater. The limitation argued by the Company in its pleadings is not readily apparent from the tariff language. To the extent that the notice requirement could apply to a customer with annual average peak demand of less than 500 kW, it would be in obvious conflict with the minimum stay rules, 20 VAC 5-312-10 and -80.<sup>11</sup>

NOW, upon consideration of the foregoing, the Commission is of the opinion and finds that the proposed 90-day notice/minimum stay provision conflicts with the Commission's switching and minimum stay rules. Accordingly, the third paragraph of the Company's "Use Of Energy By Customer" tariff provisions shall be revised to read in its entirety as follows:

<sup>7</sup> The Old Dominion Committee argues that the Stipulation required that the 90-day notice language be removed from the tariff and the third paragraph be replaced by the language in Exhibit 3. The Old Dominion Committee's Petition at 3-7; Reply at 3-4. AEP-VA contends that the 90-day notice language was preserved by the Stipulation, and the relevant language in Exhibit 3 was only to serve as the opening two sentences of the third paragraph. AEP-VA's Response at 2-3.

<sup>8</sup> 10 VAC 5-312-10 defines "Minimum stay period" as "the minimum period of time a customer who requests electricity supply service from the local distribution company, pursuant to § 56-582 D of the Code of Virginia, after a period of receiving electricity supply service from a competitive service provider, is required to use such service from the local distribution company." 20 VAC 5-312-80 Q states "[t]he local distribution company may require a 12-month minimum stay period for electricity customers with an annual peak demand of 500 kW or greater. Electricity customers that return to capped rate service provided by the local distribution company as a result of a competitive service provider's abandonment of service in the Commonwealth may choose another competitive service provider at any time without the requirement to remain for the minimum stay period of 12 months."

<sup>9</sup> 20 VAC 5-312-10. This criterion specifically appears in Va. Code § 56-577 E as well.

<sup>10</sup> See 20 VAC 5-312-80 A and B. 80 A states "[a] competitive service provider may offer to enroll a customer upon: (i) receiving a license from the State Corporation Commission; (ii) receiving EDI certification as required by the VAEDT or completing other data exchange requirements as provided by the local distribution company's tariff approved by the State Corporation Commission, including the subsequent provision of a sample bill as required by 20 VAC 5-312-20 M; and (iii) completing registration with the local distribution company." 80 B states in relevant part that "[a] competitive service provider may enroll, or modify the services provided to, a customer only after the customer has affirmatively authorized such enrollment or modification." The CSP must then submit an enrollment request to the local distribution company at least 15 days prior to the customer's next meter reading date. The local distribution company must give notice to the customer normally within one business day of receiving the enrollment request from the CSP.

<sup>11</sup> See AEP-VA's Response at 3-4.

"A customer may not change from one Standard Schedule to another Standard Schedule during the term of contract except with the consent of the Company. However, the customer may change from a Standard Schedule to the corresponding Open Access Distribution Schedule."

Furthermore, any other applicable portions of the tariff including the disputed 90-day notice/minimum stay language shall be similarly revised.

In accordance with 20 VAC 5-312-80 R, AEP-VA may, at some future time, upon a proper showing supported by evidence acquired through actual experience, apply for approval from the Commission to implement alternative minimum stay period requirements. Also pursuant to that rule, if AEP-VA applies to lower the applicability limit below 500 kW, such application shall include, at a minimum, the detailed information prescribed by the Commission in its Final Order in Case No. PUE010296, or as may be revised in a subsequent order.<sup>12</sup>

Accordingly, IT IS ORDERED THAT:

- (1) The Old Dominion Committee's motion to file its Reply one day out of time is granted.
- (2) The Company shall revise all applicable portions of its tariffs to comply with the findings in this Order.
- (3) The Company shall re-file all applicable tariff sheets reflecting those changes with the Commission on or before March 11, 2002.
- (4) This matter is continued for further orders of the Commission.

<sup>12</sup> 20 VAC 5-312-80 R.

**CASE NO. PUE-2001-00011  
JUNE 18, 2001**

APPLICATION OF  
APPALACHIAN POWER COMPANY d/b/a AMERICAN ELECTRIC POWER-VIRGINIA

For approval of a Functional Separation Plan under the Virginia Electric Utility Restructuring Act

**ORDER ON MOTION**

On December 18, 2001, we entered an Order on Functional Separation in this proceeding, which adopted certain stipulations ("Stipulation") entered into by the participants relevant to the functional separation of Appalachian Power Company d/b/a American Electric Power-Virginia ("AEP-VA" or "Company"). On March 1, 2002, we issued an Order Providing Clarification. On April 30, 2002, AEP-VA filed a Motion to Bifurcate Issues and Defer Further Proceedings ("Motion").

In its Motion, AEP-VA requests that the Commission: "(a) limit further proceedings in this case to the inquiry into the terms and conditions of [the Company's] corporate separation and hold all further proceedings on the corporate separation issues in abeyance until no earlier than July 1, 2003; (b) close this case with respect to fuel factor and wires charges issues and consider fuel factors and wires charges for post-2002 periods on such schedules and in such other proceedings as may be appropriate in the future; and (c) close this case with respect to all other issues." Motion at 4. The Company asserts that the resolution of certain pending proceedings at the Federal Energy Regulatory Commission ("FERC") will provide the appropriate context for the Commission to address the proposed corporate separation of AEP-VA. The Company also states that, "[b]y counsel, the Commission Staff and the Division of Consumer Counsel have authorized the Company to state that they do not oppose this motion." *Id.*

On May 14, 2002, the Old Dominion Committee for Fair Utility Rates ("Committee") filed a response in opposition to the Motion. The Committee asserts, among other things, that: (1) granting the Company's Motion violates the Stipulation entered into by the participants and adopted by the Commission; (2) AEP-VA provides no basis to violate or to overturn the Stipulation; (3) AEP-VA should not continue to ignore the statutory deadline for filing a complete corporate separation plan; and (4) the Commission should deny the Company's request to close this case with respect to fuel factor, wires charges, and other issues. The Committee claims that AEP-VA has not used its best efforts to conclude this case pursuant to the Stipulation, that granting the Company's Motion will not encourage parties in future cases to enter into similar stipulations, and that the Company's request to hold further proceedings in abeyance until no earlier than July 1, 2003, is unrelated to implementation of any order in the pending FERC cases. The Committee also proposed a procedural schedule for the resolution, by January 1, 2003, of issues related to AEP-VA's corporate separation proposal.

On May 28, 2002, AEP-VA filed a reply to the Committee's response ("AEP-VA Reply"). AEP-VA characterizes its Motion as a scheduling request, which it filed after consulting with the other parties to the Stipulation on the need for additional time to permit the orderly development of a record. The Company states that, under the Stipulation, although the "mutual goal and objective of the parties was to complete the record in time for the Commission to decide the case by January 1, 2003, there is nothing in the Stipulation that requires the Commission to sacrifice the orderly development of a record for the sake of an absolute time line." AEP-VA Reply at 3. AEP-VA suggests that the language of the Stipulation "implies quite the opposite – that an orderly record is paramount because it requires best efforts while the time line is secondary because it is a 'goal and objective' rather than a firm commitment to be reached at all costs." AEP-VA Reply at 3-4. The Company states that an extension would not prejudice anyone, and that the Committee has offered no reason why it would be prejudiced. AEP-VA asserts that it has complied with the statutory deadline to file a functional separation plan and that the Commission, in its Order on Functional Separation referenced above, has met the statutory deadline to direct the Company's functional separation. The Company also continues to request that the Commission close this proceeding with respect to fuel factor, wires charges, and other issues.

On May 29, 2002, Commission Staff filed a reply to the Committee's response ("Staff Reply"). Staff requests that the Commission grant the Company's Motion. Staff believes that "a continued postponement of further Commission proceedings addressing [corporate separation] until the FERC

proceedings are decided is appropriate and would, together with an examination of the course of market development in Texas and Ohio, provide useful information for the Commission to consider any plan for corporate separation of the AEP-VA assets." Staff Reply at 5. Staff states that holding further proceedings in abeyance does not violate the Stipulation, and that there is no evidence any signatory to the Stipulation has failed to use best efforts to develop a record as required therein. Staff also explains that the statutory deadlines for the Company to file a functional separation plan, and for the Commission to direct functional separation, have been met. Finally, "it would seem to Staff that granting the Company's request to bifurcate the fuel factor and wires charge issues into separate proceedings for the year 2003 would not foreclose further consideration of these issues as part of the Commission's future consideration of any proposal for corporate separation." Staff Reply at 6.

NOW THE COMMISSION, having fully considered the pleadings, finds as follows. We will hold further proceedings in this case in abeyance until no earlier than July 1, 2003. We will not, however, close this case with respect to any issue.

The Company and the Staff have shown good cause to hold this proceeding in abeyance. The Stipulation states that the "signatories will use their best efforts to permit the orderly development of a record for the above inquiry, with the mutual goal and objective that the Commission should be able to conclude its investigation and issue an order to resolve these issues on or before January 1, 2003." AEP-VA Reply at 1 (quoting Stipulation, Staff Exh. 8, at 1-2). Continuing this case to permit the orderly development of a record is consistent with the Stipulation. Indeed, it has not been established that any signatory has failed to use "best efforts" as required by the Stipulation. We also note that we can amend our decision to hold this proceeding in abeyance upon good cause shown if further circumstances warrant.

We agree with the Committee that the Commission does not need to close this case with respect to any issue. For example, the Commission may address fuel factor and wires charge issues in other proceedings, as appropriate, without closing this case with respect to those issues.

Finally, we will direct the Company to file via motion, on July 1, 2003, a proposed schedule for further proceedings in this case. The Company shall confer with the participants prior to such filing, and we encourage the participants to file a joint proposal for further proceedings herein.

Accordingly, IT IS ORDERED THAT:

- (1) Further proceedings in this case are held in abeyance until July 1, 2003.
- (2) Fuel factor, wires charge, and other issues may be addressed in this case, and in other proceedings, as appropriate.
- (3) The Company shall file via motion, on July 1, 2003, a proposed schedule for further proceedings in this case.
- (4) This matter is continued.

**CASE NO. PUE-2001-00012  
APRIL 16, 2002**

APPLICATION OF  
SOMMERSBY WATER COMPANY, INC.

For a certificate of public convenience and necessity pursuant to Section 56-265.3 of the Code of Virginia

**FINAL ORDER**

On November 5, 2001, Sommersby Water Company, Inc. ("Sommersby" or "the Company"), filed an application requesting authority pursuant to §§ 56-89 and 56-90 of the Code of Virginia to purchase from Sommersby Development Corporation the water facility assets of the Sommersby subdivision in Botetourt County, Virginia. In addition, Sommersby also sought approval of its proposed rates, rules, and regulations of service as follows:

1. Service Connections
 

(a) 3/4 inch service connection	\$1,000.00
(b) Service connection over 3/4 inch	\$1,000.00 plus any cost greater than for a 3/4 inch connection
2. Water Rates (available to all customers other than customers purchasing water for resale):
 

Bi-monthly Rates	
For any portion of the first 4,000 gallons	\$20.00
For the next 1,000 gallons	\$3.00 per each 1,000 gallons
3. Minimum Charge

There shall be a bi-monthly minimum service charge of \$20.00 for water service, and no bill will be rendered for less than the minimum charge. This minimum bi-monthly service charge shall become effective when the water service is connected to the lot.

On February 23, 2001, the Commission issued an Order Inviting Comments and Requests for Hearing. The Commission's Order directed the Company to give notice of its application and provided that any interested person desiring to comment could do in writing on or before April 22, 2001. The Company filed its proof of notice with the Commission on April 16, 2001. No comments or requests for a hearing were received. The Commission also

directed its Staff to review and analyze the Company's application and to file a report detailing its findings and recommendations. By subsequent Orders of the Commission the date for the filing of the Staff report was extended to January 16, 2002.

On January 16, 2002, Staff filed its Report. Staff noted that there were no comments or requests for hearing. Staff recommended approval of the proposed acquisition of water facility assets by Sommersby. Staff recommended that the Commission grant Sommersby a certificate of public convenience and necessity to provide water service. Additionally, Staff's findings indicated that the rates proposed in the Company's application were not excessive and recommended the approval of Sommersby's proposed rates, rules, and regulations of service.

NOW THE COMMISSION, having considered the application, Staff's Report, and applicable law, is of the opinion that the above-captioned application should be approved. We find that the above-described transfer of utility assets will neither impair nor jeopardize the provision of adequate service to the public at just and reasonable rates.

Accordingly, IT IS ORDERED THAT:

- (1) Pursuant to §§ 56-89 and 56-90 of the Code of Virginia, Sommersby Water Company, Inc., is hereby granted authority to purchase from Sommersby Development Corporation the water facility assets of the Sommersby subdivision.
- (2) The granting of the above-referenced authority shall have no ratemaking implications.
- (3) The Company shall submit a Report of Action to the Commission's Director of Public Utility Accounting no later than 30 days from the date of the transfer, subject to extension by the Director of Public Utility Accounting, providing notice that the transfer has taken place.
- (4) The Company's proposed rates, rules, and regulations of service are hereby approved as filed.
- (5) Sommersby Water Company, Inc., shall be granted a certificate of public convenience and necessity, Certificate No. W-308, authorizing it to provide water service to the above-referenced Sommersby subdivision in Botetourt County, Virginia.
- (6) This case shall be hereby dismissed.

**CASE NO. PUE010039  
JANUARY 16, 2002**

APPLICATION OF  
TENASKA VIRGINIA PARTNERS, L.P.

For approval of a certificate of public convenience and necessity pursuant to Virginia Code § 56-265.2, an exemption from Chapter 10 of Title 56, and interim approval to make financial commitments and undertake preliminary construction work

**ORDER**

On January 16, 2001, Tenaska Virginia Partners, L.P., ("Tenaska" or "Applicant") filed an Application for approval of a certificate of public convenience and necessity pursuant to § 56-265.2 of Chapter 10.1 of Title 56 of the Code of Virginia ("Code") to construct and operate a 900 MW natural gas-fired electric generating facility in Fluvanna County, Virginia. Tenaska requested an exemption from the provisions of Chapter 10 of the Code (§§ 56-232, *et seq.*). The Applicant also requested interim authority under § 56-234.3 of the Code to allow it to make financial expenditures and undertake preliminary construction work. On April 20, 2001, the Applicant filed additional information necessary for the Commission's environmental assessment of the proposed facility.

On May 4, 2001, the Commission entered an Order for Notice and Hearing providing an opportunity for interested persons to file comments, directing Staff to investigate the Application, and setting a hearing in this matter. The evidentiary hearing was held on July 24, 2001, before Hearing Examiner Michael D. Thomas. Richard D. Gary, Esquire, and John M. Holloway, III, Esquire, appeared on behalf of Tenaska. C. Meade Browder, Jr., Esquire, and Kara Austin Hart, Esquire, appeared on behalf of the Commission's Divisions of Energy Regulation and Economics and Finance ("Staff"). Kodwo Ghartey-Tagoe, Esquire, appeared on behalf of Columbia Gas of Virginia, Inc. ("Columbia Gas"). Eight public witnesses testified at the hearing.

Tenaska is a limited partnership that plans to construct and operate the generating facility ("Facility") but will not sell the electricity generated by the Facility at retail. The Applicant proposed to enter into a contract or tolling agreement with a wholesale power purchaser that would sell the output or would transfer the output through an energy conversion services arrangement to a marketing entity not affiliated with Tenaska or its general partner, Tenaska Virginia, Inc. The Applicant states that it plans to start construction in the spring of 2002 and commence commercial operation in the summer of 2004.

In support of its request to be exempted from regulation under Chapter 10, the Applicant states that it will build and operate the proposed Facility but will not sell the Facility's output at retail. Moreover, the Applicant stated, no incumbent electric utility has a financial or ownership interest in the Facility, so no portion of the cost of the proposed Facility will be included in the rate base of any utility subject to regulation under Chapter 10. Thus, the sale of the Facility's output will be subject to the Federal Energy Regulatory Commission's ("FERC's") jurisdiction, not this Commission's.

Tenaska must also obtain a number of other regulatory approvals before it can commence construction. It filed an application for a Special Use Permit ("SUP") with the Fluvanna County Board of Supervisors ("Board of Supervisors"). The SUP was approved by the Board of Supervisors with 34 conditions on November 16, 2000. The Applicant also submitted a Prevention of Significant Deterioration ("PSD") program application with the Department of Environmental Quality ("DEQ") in September of 2000, which was supplemented in October 2000, in order to obtain an air permit.

Tenaska's air quality witness testified that Fluvanna County is in attainment of each of the National Ambient Air Quality Standards ("NAAQS") criteria pollutants, including nitrogen oxides ("NO<sub>x</sub>") and sulfur dioxide ("SO<sub>2</sub>"). He stated that Tenaska's air quality modeling analysis showed that the

Facility, emitting at its maximum potential emissions rate, will not have a significant impact on air quality. He further testified that, in his opinion, federal programs, such as the new ozone standards promulgated by the U.S. Environmental Protection Agency ("EPA") that will impose a new NO<sub>x</sub> emissions cap, will do more to address regional air quality issues. He stated that the new emissions cap will apply to the operation of the Facility. He added that emissions of sulfur dioxide and particulate matter ("PM") will be minimized through the use of combustion controls.

The Piedmont Environmental Council ("PEC") filed comments prior to the hearing. The PEC states that it is a not-for-profit land conservation and planning organization having membership throughout central Virginia, including the areas directly affected by the Facility. The PEC advocated an assessment of the Facility's impacts on the local community and quality of life, water supply, water quality, and air quality. The PEC stated that there are already eight other power plants either existing or planned that are or will be near the Facility, and, collectively, these plants could have a significant impact on the region's air quality that would not be predicted under the PSD permitting process. The PEC concluded that it would be premature and contrary to the public interest for the Commission to approve Tenaska's application in the absence of an assessment of the cumulative impact of these facilities on air quality in the region.<sup>1</sup>

On October 23, 2001, Hearing Examiner Michael D. Thomas entered his Report in which he summarized the record.<sup>2</sup> The Report reviews and analyzes the evidence and issues in this proceeding. We will primarily address three matters: (i) the impact of the Facility on the rates for customers of regulated utility service; (ii) the Hearing Examiner's recommendation that the Facility not be allowed to burn low sulfur fuel oil as an alternative fuel; and (iii) the cumulative environmental impact of the Facility and other existing as well as proposed plants on the region's air quality.

First, the Hearing Examiner concluded that the Facility will have no material adverse effect upon the rates paid by customers of any regulated utility in the Commonwealth. It is not clear if the Hearing Examiner considered the impact of the Facility on all regulated public utilities or just electric public utilities.

The Hearing Examiner also discussed the issues surrounding the Applicant's proposal to burn fuel oil for no more than 720 hours per year, from October through March. He summarized the public witnesses' concerns and his own about the potential impacts of using fuel oil, as further discussed below. The Hearing Examiner found that Tenaska had not articulated well its need to burn fuel oil as a back-up fuel. He observed that by prohibiting the use of such fuel, the Facility's most harmful emissions would be measurably reduced. The Examiner recommended that the Applicant's proposed use of fuel oil be prohibited in any certificate that may be granted.

Turning to the Hearing Examiner's discussion of the Facility's impact on air quality, the Hearing Examiner summarized the testimony of public witnesses who are extremely concerned about the Facility's potential negative impact on the air quality in their community.<sup>3</sup> He stated that Tenaska's environmental witness testified that its air quality modeling techniques had been approved by the DEQ and the EPA, and indicated that the Facility's impact on the air quality will be below applicable federal and state health standards. The Hearing Examiner observed that the DEQ's air quality witness supported the Applicant's case in stating that Tenaska's modeling showed that the Facility's impact on air quality would be *de minimis*.

The Hearing Examiner was concerned about the adequacy of the air quality analysis required by the PSD program. The Examiner identified and discussed two areas that he believes are missing from the DEQ's current air quality analysis, areas that if included could provide a better assessment of the Facility's impact on air quality. The first area is the failure of the analysis to take into account the existing air quality, not including the proposed facility. The second area is the failure of the air quality analysis to take into consideration other pollution sources in the surrounding area, including other proposed generating facilities. The Hearing Examiner stated that as long as applicants for air permits model beneath the significance levels, the analysis ignores incremental increases in the overall level of pollutants in the air. He recommended that the Commission direct its Staff to discuss with the DEQ possible enhancements in the air quality analysis used for major stationary pollutant sources and address them in the next application for a generating facility to come before the Commission.

Comments on the Hearing Examiner's Report were filed by Tenaska and Columbia Gas of Virginia ("Columbia"). Staff submitted the comments of the DEQ. In addition, ten written comments or letters were filed by others.<sup>4</sup>

In its Comments, Tenaska states that, for the most part, it believes the Hearing Examiner made his findings and recommendations based on the record and the law. The Applicant believes, however, that on certain points the Hearing Examiner's recommendations are contrary to the record and the law, and are arbitrary and capricious. Specifically, Tenaska takes exception to the Hearing Examiner's recommendation that the Commission prohibit the use of low sulfur oil as a back-up fuel; the Examiner's concerns about Tenaska's use of a reservoir or other back-up water source during drought conditions; the Examiner's recommendation that certain conditions should be included in the emergency management plan; and his recommendation that the Commission impose certain conditions relating to the possibility of clear-cutting trees in the buffer surrounding the proposed site.

First, Tenaska objects to the recommendation that the use of fuel oil be prohibited, arguing that the Commission's adoption of the Hearing Examiner's recommendations would: (i) negatively impact the Facility's reliability; (ii) place the Facility at a competitive disadvantage; (iii) undermine the General Assembly's goal of advancing retail competition; (iv) ignore evidence showing that the Facility will not have a significant impact on the environment; and (v) usurp the DEQ's authority to evaluate and determine the impact of proposed plants on air emissions.

Tenaska also objects to the Hearing Examiner's recommendation that the Commission prohibit it from using water from any source other than the James River until Tenaska clarifies its position on water usage and its impact on the environment. Tenaska contends that Commission involvement in this

<sup>1</sup> The PEC currently is in litigation with the Board of Supervisors and Tenaska over land use and zoning decisions made by the Board of Supervisors to permit the location and construction of the Facility.

<sup>2</sup> Report of Michael D. Thomas, Hearing Examiner, Case No. PUE010039, Doc. Con. Ctr. No. 011030022 (Oct. 23, 2001) ("Report").

<sup>3</sup> Report at 2-6.

<sup>4</sup> These persons or entities are: John E. Rueckert; Catherine E. Neelley; Elizabeth Ellis; Jim and Annie Christmas; Paul P. Gallagher; William E. Damon, Jr., of the U.S. Department of Agriculture, Forest Service; Delegate Watkins M. Abbitt, Jr.; Kat Imhoff, Chief Operating Officer of Monticello; the Board of Supervisors; and Dynegey.



matter is unnecessary and counterproductive. Tenaska states that such a prohibition could preclude it from obtaining auxiliary water supply from surface or underground water sources lawfully available to it.

Tenaska further objects to the Hearing Examiner's recommendation that the Commission should approve the Facility conditioned upon Tenaska's inclusion of procedures for contacting off-duty plant personnel in its emergency management plan and a requirement that it provide annual emergency response training for county emergency management personnel. Tenaska contends that this recommendation would usurp the Board of Supervisors' authority concerning emergency response issues in Fluvanna County.

Finally, Tenaska objects to the Hearing Examiner's recommendation that the Commission impose a prohibition on clear-cutting and his suggestion as to how tree thinning should be conducted. Tenaska responds that the recommendation would put restrictions on the forestry management plan before Tenaska has an opportunity to consult with forestry experts.

On behalf of the Board of Supervisors, the Fluvanna County Administrator sent a letter to the Commission stating he wished to acknowledge and respond to the Hearing Examiner's Report. The County Administrator stated that the Board of Supervisors was surprised by some of the Hearing Examiner's recommendations, particularly regarding the Applicant's proposed use of low sulfur oil as a back-up fuel. The County Administrator stated that he realizes it may not be feasible for the Hearing Examiner to review information that has not been submitted to the Commission, but he has found no evidence indicating that the Hearing Examiner attempted to contact the County concerning these matters. He added that he was even more surprised to find few indications that the Commission's Staff had reviewed and appropriately considered the extensive work of the DEQ Air Quality Division's analysis of the use of fuel oil.

The County Administrator summarized a list of the measures undertaken by the Board of Supervisors beginning in the summer of 2000, even before the plant was announced. This list included: (i) the Board of Supervisors' trip to Seattle, Washington, in August 2001, to visit a plant similar to the Facility, where they met with local and State government officials who were knowledgeable about that plant; (ii) a trip by five County officials, including members of the Planning Commission and the Board of Supervisors, who traveled to Fredericksburg in August of 2000, to attend a meeting with three DEQ Air Quality officials to discuss in detail the standards and process required for maintaining air quality; (iii) the County's retention of an independent consultant to investigate numerous considerations about the project, including air quality and traffic impact; and (iv) the imposition of 34 conditions on the SUP to ensure that all reasonable efforts would be made to protect the public, the County, and the Commonwealth.

Additionally, the County Administrator pointed out that it is expected that fuel oil would be used only 48 to 96 hours per year because the high grade, low sulfur fuel oil that the Applicant proposes to use will be considerably more expensive than natural gas. Given the low volume of truck traffic on the roads around the Facility and the Virginia Department of Transportation's ("VDOT's") ability to route the trucks, the Board of Supervisors estimated that the truck traffic would amount to perhaps 25 or 35 trucks per month. According to the County Administrator, the Board of Supervisors is convinced that the truck traffic will be manageable and not pose a significant problem. The County Administrator stated that the Hearing Examiner's Report appears to be full of sweeping generalizations and conclusions that have not been checked against the facts or the analyses of state and local officials.

Staff filed comments that were provided by the DEQ. The DEQ states that it appears the Hearing Examiner may have misinterpreted some of the testimony, and it is concerned about many of the Examiner's assertions. The DEQ commented that if the Commission has concerns about the appropriateness of its or the EPA's policies on the protection of air quality, there are other forums more appropriate than the review of an individual application.<sup>5</sup>

Dynergy filed a Response to the Hearing Examiner's Report, along with a request for leave to file its Response, stating that it accepts the record as it has been developed prior to the filing of Dynergy's Response. Alternatively, Dynergy requests that it be permitted to participate as a party. Dynergy is the only non-party entity that filed a formal request that its comments on the Hearing Examiner's Report be considered. We will consider Dynergy's comments and the comments filed by others, including the DEQ and the Fluvanna County Board of Supervisors.

Dynergy strongly opposes the Hearing Examiner's recommendations concerning the air quality analysis. Dynergy contends that the Commission should not expand the scope or nature of its environmental review. Dynergy maintains that if the Hearing Examiner's recommendations are adopted, "the approval of construction of generation capacity would be impeded, and developers would face a new and uncertain regulatory landscape with additional layers of complex, questionable, and inconsistent environmental analyses by two institutions of state government."<sup>6</sup> Dynergy asserts that the Commission's environmental analysis should be based on responsible environmental stewardship, and it will fulfill that role by receiving and giving due consideration to all reports from state agencies concerned with environmental protection.

Dynergy also opposed the Hearing Examiner's recommendation that the use of low-sulfur oil as a back-up fuel be prohibited. It contends that the issue should be left to the state authorities and local government entities that have expertise in that matter. Dynergy argues that the Commission should not substitute its judgment for those of the Board of Supervisors, that approved a SUP that allows Tenaska to use fuel oil for no more than 720 hours per year, and VDOT, both of which, according to Dynergy, are satisfied that the tanker truck traffic does not present a condition sufficient to prohibit or restrict the delivery of fuel oil.

Columbia filed Comments stating that it holds certificates to provide natural gas service in Fluvanna County, including the area where Tenaska proposed to build the Facility. Columbia explains that its interest in this case is to ensure that any gas lateral line or piping that is constructed to supply natural gas to the Facility is properly certificated under Virginia law. Columbia states that it entered into a Stipulation with Tenaska and the Commission Staff regarding the certification of the Facility, including plant piping. Columbia states that Transcontinental Gas Pipeline Corp. ("Transco") will construct, own, and operate a lateral gas pipeline necessary for the provision of natural gas to the Facility. Further, the Stipulation makes clear that the gas lateral necessary to service the plant is to be constructed by Transco, not Tenaska. Columbia represents that the parties to the Stipulation believe that the Stipulation results in a fair and reasonable resolution of Columbia's concerns.

<sup>5</sup> Although DEQ was not a "party," we will consider their comments. The DEQ's comments are discussed in greater detail in our analysis below.

<sup>6</sup> Dynergy Comments at 7.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

NOW THE COMMISSION, having considered the record, the Hearing Examiner's Report, the comments and letters filed in response thereto, and the applicable law, is of the opinion and finds that the case must be remanded to the Hearing Examiner for further proceedings in several areas. We ask him to develop the record further on these issues and to make recommendations.

The law establishing the criteria and bases for our decision in this case is found in several statutes, §§ 56-265.2 B, 56-580 D, 56-46.1 and 56-596 A of the Code. Sections 56-265.2 B and 56-580 D are similar; § 56-580 D is designed to supercede § 56-265.2 B after January 1, 2002.<sup>7</sup> Both sections apply in this case, and their provisions overlap to a large extent. Section 56-265.2 B provides that the Commission:

[M]ay permit the construction and operation of electrical generating facilities, which shall not be included in the rate base of any regulated utility whose rates are established pursuant to Chapter 10 (§ 56-232 et seq.) of this title, upon a finding that such generating facility and associated facilities including transmission lines and equipment (i) will have no material adverse effect upon the rates paid by customers of any regulated public utility in the Commonwealth; (ii) will have no material adverse effect upon reliability of electric service provided by any such regulated public utility; and (iii) are not otherwise contrary to the public interest. In review of its petition for a certificate to construct and operate a generating facility described in this subsection, the Commission shall give consideration to the effect of the facility and associated facilities, including transmission lines and equipment, on the environment and establish such conditions as may be desirable or necessary to minimize adverse environmental impact as provided in § 56-46.1.

Similarly, § 56-580 D states:

The Commission may permit the construction and operation of electrical generating facilities upon a finding that such generating facility and associated facilities including transmission lines and equipment (i) will have no material adverse effect upon reliability of electric service provided by any regulated public utility and (ii) are not otherwise contrary to the public interest. In review of its petition for a certificate to construct and operate a generating facility described in this subsection, the Commission shall give consideration to the effect of the facility and associated facilities, including transmission lines and equipment, on the environment and establish such conditions as may be desirable or necessary to minimize adverse environmental impact as provided in § 56-46.1.

Both sections incorporate and refer to § 56-46.1. Section 56-46.1 states that, in reviewing an application for "any electrical utility facility," the Commission:

[S]hall give consideration to the effect of that facility on the environment and establish such conditions as may be desirable or necessary to minimize adverse environmental impact. In such proceedings it shall receive and give consideration to all reports that relate to the proposed facility by state agencies concerned with environmental protection; and if requested by any county or municipality in which the facility is proposed to be built, to local comprehensive plans that have been adopted pursuant to Article 3 (§ 15.2-2223 et seq.) of Chapter 22 of Title 15.2. Additionally, the Commission (i) may consider the effect of the proposed facility on economic development within the Commonwealth and (ii) shall consider any improvements in service reliability that may result from the construction of such facility.

Under § 56-46.1, the Commission:

- (a) shall consider the impact of the facility on the environment.
- (b) shall establish conditions that may be desirable or necessary to minimize any adverse environmental impacts resulting from the facility.
- (c) shall receive and give consideration to all reports that relate to the proposed facility by state agencies concerned with environmental protection, and, if requested by any county or municipality in which the facility is proposed to be built, to local comprehensive plans that have been adopted pursuant to Article 3 (§ 15.2-2223 et seq.) of Chapter 22 of Title 15.2.
- (d) shall consider any improvements in service reliability that may result from the construction of such facility.
- (e) may consider the effect of the proposed facility on economic development within the Commonwealth.

In addition, § 56-596 A sets forth additional criteria that the Commission is required to consider in matters relating to the provisions of the Act, including the review of petitions for approval to construct and operate electric generating facilities. Specifically, that section states that: "In all relevant proceedings pursuant to this Act, the Commission shall take into consideration, among other things, the goals of advancement of competition and economic development in the Commonwealth."

The Code thus establishes criteria and requires findings in a number of areas.

*Reliability:* To approve the construction and operation of an electrical generating facility, the Commission must find that the proposed facility and associated facilities will have no material adverse effect upon reliability of electric service provided by any regulated public utility.<sup>8</sup> In determining

<sup>7</sup> The Commission determined that the Virginia Electric Utility Restructuring Act ("Act") operates so that the provisions of the Act relating to generation supplant §§ 56-234.3 and 56-265.2 B of the Code on and after January 1, 2002. See *Commonwealth of Virginia, ex rel. State Corporation Comm'n, Ex Parte: In the matter of amending filing requirements for applications to construct and operate electric generating facilities*, Case No. PUE010313, Doc. Con. Ctr. No. 010810174 (Order Aug. 3, 2001) at 3, 5-6.

<sup>8</sup> Sections 56-265.2 B(ii) and 56-580 D(i).

whether to approve the facility, the Commission shall also consider any improvements in service reliability that may result from construction of the proposed facility.<sup>9</sup>

*Competition:* The Commission must take into consideration the goal of the advancement of competition in the Commonwealth.<sup>10</sup>

*Rates:* The Commission must find that the proposed generating facility and associated facilities will have no material adverse effect upon the rates paid by customers of any regulated public utility in the Commonwealth.<sup>11</sup>

*Environment:* In determining whether to approve the construction and operation of an electric generating facility, the Commission shall consider the effect of the facility and associated facilities on the environment. If the Commission approves construction and operation of the facility, the Commission shall establish such conditions as may be desirable or necessary to minimize adverse environmental impact.<sup>12</sup>

*Economic Development:* The Commission "may" consider the effect of the proposed facility on economic development; the Commission, however, shall take into consideration the goal of the advancement of economic development in the Commonwealth.<sup>13</sup>

*Public Interest:* Both §§ 56-265.2 B and 56-580 D require a finding that the proposed facility and associated facilities "are not otherwise contrary to the public interest."

Below, we will review each area of consideration in analyzing Tenaska's proposal.

#### Reliability

There is ample evidence that the Tenaska plant and associated facilities should have no material adverse effect upon reliability of electric service provided by any regulated public utility.<sup>14</sup> We agree with the Hearing Examiner and can make such a finding as required by § 56-265.2 B(ii) and 56-580 D(i). In addition, under § 56-46.1, we are required to consider any improvements in service reliability that may result from construction of the project. While this project should not harm reliability, there is little evidence that it will necessarily help service reliability in Virginia to any significant extent. Tenaska has not yet entered into a contract or a tolling agreement pursuant to which it will sell its output. The Company states that it will do so once it has received all necessary regulatory approvals. If the output is sold on a firm basis to an out-of-state buyer, then the facility may not provide significantly increased reliability in a time of shortage. In such a situation, if there is insufficient electricity to supply both the Virginia load and the out-of-state buyer such that a blackout is required either for the buyer or Virginia consumers, the transmission operator could well require blackouts in Virginia so that the electricity could be delivered to the out-of-state buyer who paid for it. At other times, when there is no shortage or a less severe shortage, the plant would provide improvement to service reliability. Thus, while the plant generally will be a plus for reliability, depending on transmission rules, it may not help in a time of shortage when it may be needed the most.

#### Competition

We are required by § 56-596 A of the Code to consider, in our deliberation, the goal of advancement of competition in the Commonwealth. This plant will, we understand, sell its output into the wholesale market. As Staff noted, because the capacity will not be controlled by the incumbent utility, the proposed facility should help develop wholesale competition in the region which, in turn, should help advance the goal of competition in the Commonwealth.

#### Rates

The Hearing Examiner found that the facility will have no material adverse effect upon the rates paid by customers of any regulated utility in the Commonwealth, as required by § 56-265.2 B(i) of the Code. Section 56-265.2 B(i) of the Code is broad and covers not only electric utilities, but "the rates paid by customers of any regulated public utility in the Commonwealth." Thus, impacts on customers of other utilities are included. We agree with the Hearing Examiner with respect to rates for electric service; nothing in the record indicates that incumbent electric utilities' rates would be impacted by the Facility's operation.

It is not clear, however, whether the Hearing Examiner considered the Facility's impact on regulated public utilities other than electric utilities. There was no discussion of whether, because of the amount of natural gas the Facility will use, the Facility could influence the price and/or availability of natural gas or transportation capacity for natural gas. Given that the Examiner did not discuss this issue, we will remand this case and ask that the Examiner develop the record and make findings and recommendations on these matters with respect to other utilities such as gas and water. We note that these and similar matters may also be considered as part of the public interest finding we must make under § 56-580 D(ii) of the Code.<sup>15</sup>

<sup>9</sup> Section 56-46.1 A.

<sup>10</sup> Section 56-596 A.

<sup>11</sup> Section 56-265 B 2(i).

<sup>12</sup> Sections 56-265.2 B, 56-580 D, and 56-46.1 A.

<sup>13</sup> Sections 56-46.1 and 56-596 A.

<sup>14</sup> Report at 32.

<sup>15</sup> See 20 VAC 5-20-14.

### The Environment

One of the areas of our greatest concern in this case is the environment. As discussed above, the law requires us to consider the impact of a proposed facility on the environment in determining whether to approve its construction and operation. Specifically, we are required by Code §§ 56-46.1, 56-265.2 B, and 56-580 D to consider the potential impact of a proposed facility and any associated facilities on the environment. Additionally, we are required by § 56-46.1 of the Code to receive and give consideration to all reports that relate to the proposed facility by state agencies concerned with environmental protection.

Changes in circumstances and in the law in recent years require that we review our approval of the construction and operation of new generating facilities. In the past, the Commission reviewed demand forecasts to determine whether new generation capacity was needed; considered alternative responses; examined the choice of technology and fuel source; considered the impact of a proposed facility on the environment; determined if the location on the utility's transmission grid was appropriate and efficient; and studied cost estimates and construction plans for reasonableness. The reviews and analyses were generally conducted in the context of a single utility's system.

A proposed facility was considered in conjunction with other plants owned by the applicant in the surrounding franchise area or, if near the boundary of that territory, with nearby facilities of a neighboring utility. Most often, proposed facilities were considered one at a time. It was unnecessary to consider the cumulative effect of a number of proposed plants because the regulated entity constructed almost all such plants and applications for new facilities were spread over many years. Now that has changed.

Most of the current applications for approval of proposed generating facilities are filed not by utilities but by independent power producers ("IPPs"). Currently, the Commission has pending eleven applications totaling almost 8,000 MW of proposed new capacity. These facilities are part of more than two dozen announced proposals that could total more than 15,000 MW.<sup>16</sup> Further, more new proposals are being announced on a regular basis. These proposed new plants, should they all be built, could significantly increase Virginia's total capacity, which is currently approximately 20,000 MW. These IPP projects are presented as merchant plants that intend to sell their output in the wholesale market. They are not part of an integrated utility system, but, instead are individual units.

In analyzing these applications, the Commission, in accordance with §§ 56-265.2 B and 56-580 D of the Code, no longer considers whether there is a need for the facilities in the Commonwealth. In the past we evaluated utility applications to construct generating facilities by examining the degree of need for the facility, analyzing the impact of failing to meet that need, and then reviewing alternative responses. Unless a need for the plant could be shown, it could not be approved. With need no longer a factor in our decision, the scale upon which we balance our decisions has changed. For example, we no longer are able to balance some degradation of the environment with an overriding need for the power from a new generating facility. At the same time, competition and economic development are now goals we must consider. We also need to examine whether we should evaluate proposed facilities individually, in isolation, or consider the cumulative impact of other proposed units as we consider each application. In essence, the removal of need as a criterion makes our decisions whether to grant approvals more difficult because the most compelling benefit of a proposed plant, the need for Virginia citizens for electricity, has been removed from the balance.

What was once a relatively simple, systematic, and comprehensive approach to approving the construction of generating facilities in Virginia must be reexamined in light of fundamental changes in federal and state law and their impact on the electric power industry.

The spiraling number of applications filed to construct merchant plants is not a phenomenon unique to Virginia. FERC's efforts in recent years to develop competition in bulk power markets have stimulated non-utility generators to enter the field of power production. As such, a number of states, including Virginia, have been inundated with applications to build merchant power plants. To date, the number of proposed plants throughout the nation would add approximately 368,000 MW to the country's electrical generating capacity.<sup>17</sup>

The dramatic increase in proposed new power plants in Virginia has created concerns about the cumulative impact of these proposed facilities. These concerns have been expressed not only in this proceeding, but elsewhere as well. Moreover, those expressing concern include not only environmental and health interests, but businesses and generators as well. In an order issued on December 14, 2001, in Case Nos. PUE010313 and PUE010665, we discuss and review these concerns in some detail, as well as the responses of other areas of the country to similar concerns.<sup>18</sup> In Case No. PUE010665, we proposed for consideration new rules that could require that a cumulative impact analysis be filed with applications for Commission approval for the construction and operation of new power plants.

The Hearing Examiner in this proceeding recommended approval of the certificate despite his concern that there had been no analyses of the impact of the proposed facility and other proposed facilities on the existing air quality in the area that would be affected by the Tenaska Facility. The DEQ's required analysis, instead, was based on modeling that showed that the Tenaska Facility alone would not exceed predetermined "significance" levels for any of the criteria pollutants. As discussed, the Hearing Examiner identified two primary areas of concern.

First, the Hearing Examiner stated that there is nothing in the record that addresses the current air quality in the community and other nearby areas that might be impacted by the Facility's emissions.<sup>19</sup> The Hearing Examiner noted that the stated goal of the PSD permitting process is to prevent significant deterioration of air quality; however, under the PSD program it appears that slight incremental increases in pollution are acceptable. He queries

<sup>16</sup> If utility plants and approved, under construction and recently completed plants are included, the number of plants increases to more than 30 and their combined capacity exceeds 20,000 MW.

<sup>17</sup> Electric Power Supply Association, Announced Merchant Plants, October 26, 2001.

<sup>18</sup> See *Commonwealth of Virginia, ex rel. State Corporation Comm'n, Ex Parte: In the matter of amending filing requirements for applications to construct and operate electric generating facilities*, Case No. PUE010313, Doc. Con. Ctr. No. 011220335 (Order Adopting Rules and Prescribing Additional Notice Dec. 14, 2001) ("Rules for IPP Filing Requirements") at 7-13.

<sup>19</sup> The Hearing Examiner noted that more than one witness stated that the level of air pollution in the Shenandoah National Park, which is on the western boundary of Fluvanna County, is ranked among the worst in the country. Report at 27.

how, if a community's existing air quality is not known and included in the air quality analysis, the DEQ can know when an area reaches nonattainment until it is already too late to do anything?

The second concern, which goes hand in glove with the first, involves cumulative increases in air pollution in the region. The Hearing Examiner stated that the air quality analysis ignores incremental increases in the overall level of pollutants. He points out that, at some point, the emissions of existing and proposed plants, which were insignificant for each plant in its individual analysis, will in all likelihood have a much more significant impact collectively on the area's air quality. The Hearing Examiner reasoned that since the air quality analysis ignores incremental increases in the overall level of pollution, the current system does not prevent significant deterioration, but, instead, merely delays it.<sup>20</sup>

Comments relative to the Hearing Examiner's findings and recommendations with respect to the Facility's impact on air quality were addressed primarily by the DEQ, the Applicant, and Dynegy.

The DEQ's primary points are: (i) the Hearing Examiner had misinterpreted some of the testimony; (ii) the DEQ conducts detailed multi-source air quality impact analyses for criteria pollutants when there is some indication that increased emissions may have a significant impact on ambient air quality, an approach that is a long-standing policy of the EPA and the Commonwealth's Air Pollution Control Board; and (iii) if the Commission wants more information relating to siting decisions, other forums would be more appropriate than in the context of an individual application.

The DEQ explains that the purpose of an air quality analysis is to determine if the proposed facility or modifications thereto will cause a predicted violation of either the NAAQS or the allowable increments or contribute significantly to a predicted violation. The DEQ states that, initially, the facility is analyzed for its impact on air quality alone. If the predicted maximum concentrations are all less than the significant impact levels, as defined by the EPA for the specific pollutants and their associated averaging periods, it can be deduced that no other analysis is necessary. According to the DEQ, if the predicted maximum concentrations remain under the minimal significance levels using the current conservative modeling techniques, the DEQ would be assured that the plant's impacts on ambient air quality will be insignificant.

The DEQ further states that, on the other hand, if the predicted maximum emissions from the proposed facility exceed the significance levels, a list of background facilities in addition to a monitored background concentration will be evaluated along with the proposed source. If this analysis predicts violations of the air quality standards, the impacts of the proposed source alone must be compared for the same meteorological condition and receptor to the total concentration to determine if it caused the predicted concentration alone and/or contributed significantly to the violation. If either of these conditions is predicted, then:

[T]he emissions must be modified in order to not cause a violation or not be significant at the predicted violation before the permit can be issued. On the other hand, if the proposed source does not exceed the significance levels at the predicted violations from the multi-source analysis, then the proposed facility can be permitted and the violations will be resolved in a practically enforceable manner by the DEQ.<sup>21</sup>

With respect to the Hearing Examiner's discussion of the DEQ's air quality analysis review, the DEQ states that the Examiner suggested that the DEQ did not adequately model and consider all air quality impacts. The DEQ responded that it conducts detailed multi-source air quality impact analyses for criteria pollutants when there is some indication that increased emissions may have a significant impact on ambient air quality.

It appears to us that the DEQ thinks the Hearing Examiner simply does not understand the PSD program and how the DEQ administers it. We find, to the contrary, that the DEQ's own description of its review process shows that the Hearing Examiner understood very well how the process works. For example, there is nothing in the DEQ's comments that disputes or contradicts the Hearing Examiner's observation that the DEQ's initial analysis does not take into account the existing air quality. In fact, the DEQ states that initially a proposed facility is evaluated for its impacts on the air quality "alone."<sup>22</sup>

The DEQ also addresses the Hearing Examiner's concern that there is no cumulative analysis assessing the impact of a proposed facility along with the impacts of other existing and proposed facilities in nearby areas. The DEQ states that "there is no existing modeling procedure designated the 'cumulative impact' model."<sup>23</sup> We do not dispute the accuracy of the DEQ's statement, but note that this answer neither denies the veracity of the Examiner's observation nor is responsive to the Hearing Examiner's concern. Finally, the DEQ suggests that the Commission should more appropriately raise the issue of cumulative impacts in another forum. This issue is addressed below.

Tenaska also filed comments responding to the Hearing Examiner's analysis of the environmental impact of the Facility. Though in the context of discussing its proposal to use fuel oil, Tenaska contended that the Commission has no authority under the Code of Virginia to address the impact of air emissions, and any such attempt to do so would usurp the authority of the DEQ to evaluate and determine the impact of the Facility on air emissions.

In its Comments, Dynegy asserts that the Commission's consideration of environmental issues should be based on "responsible environmental stewardship." It contends that the Commission will fulfill that role simply by receiving and giving due consideration to all reports from state agencies that are concerned with the environment. Dynegy states that:

While the Commission has a statutory charge to *receive and give consideration to all reports that relate to the proposed facility by state agencies concerned with environmental protection*, to follow the Hearing Examiner's recommendation would chart an unwise course for the Commonwealth. Rather, the best policy for the Commission to follow in fulfilling its responsibilities would be to ascertain that the DEQ has conducted its

<sup>20</sup> *Id.* at 27-28.

<sup>21</sup> DEQ Comments at 3.

<sup>22</sup> *Id.* at 2.

<sup>23</sup> *Id.* We note that the Bonneville Power Administration has recently completed the first phase of a cumulative impact study. See *infra*, nn. 29-30 and related text.

review and permitting of a proposed project in accordance with all applicable federal and Virginia environmental requirements.<sup>24</sup>

In short, Dynegy would, in essence, have the Commission's role in considering environmental impacts be limited to making sure that the DEQ did everything it is supposed to do.

As noted above, the Board of Supervisors sent a letter expressing their surprise that the Staff and the Hearing Examiner did not appear to review and take into consideration the several ways that the County has investigated the impact of the Facility on the environment, including air quality assessments. On the contrary, we find no reason to believe that the Hearing Examiner failed to read and consider any of the material submitted in this case.<sup>25</sup>

Proceeding to our analysis of this matter, in addition to the applicable statutes discussed above, the Commission must be guided by the policy set forth in the Constitution of Virginia. Section 1 of Article XI of our Constitution states:

[I]t shall be the Commonwealth's policy to protect its atmosphere, lands, and waters from pollution, impairment, or destruction, for the benefit, enjoyment, and general welfare of the people of the Commonwealth.

We cannot comply with our statutory obligations, implement this constitutional policy, and consider properly the impact of the Tenaska facility on the environment without first addressing the cumulative impact issue. We note that we have a rulemaking pending that addresses proposed filing requirements dealing with cumulative environmental impacts in applications for plant certifications.<sup>26</sup> We cannot, however, wait on the final order in that rulemaking to address this matter. As noted above, eleven applications are now pending and more are on the way. We must act now.<sup>27</sup> Moreover, the applicable statutes do not provide for, nor allow us, as Dynegy suggests, to delegate our decision to any other agency; nor do they allow us to abrogate our responsibility to decide whether the project should be approved after considering the effect of the facility on the environment. Also, while we appreciate the DEQ's desire to handle the matter in another forum, the issue is before us and we must address it.

The record in this proceeding is inadequate. While the number of proposed generating plants in Virginia and across the country may not be known with precision, these plant proposals are realities that must be faced.<sup>28</sup> There may be disagreements about exactly how many new plants are proposed in the Commonwealth, but the fact is that there are many by everyone's count. While we do not know how many of the proposed facilities ultimately will be constructed, there is no basis in this proceeding to conclude that any of the announced plants will not be completed. We cannot ignore these proposed facilities; they must be addressed in this case.

We are aware of and appreciate the conservative nature of the current DEQ process, but we must not act in ignorance of the cumulative impact that the Tenaska Facility and other plants may have on our environment. As noted in Case No. PUE010313, the Bonneville Power Administration ("BPA")<sup>29</sup> stated the issue well in its protocol for a cumulative impact study:

Impacts from generation and transmission carry both site specific and cumulative implications. Both must be examined. Single facility impacts to resources like air and water may not be so significant, but when considered together with similar impacts from other plants the cumulative effects may warrant appropriate mitigation actions, including the curtailment of site development. For example, the air emissions from one turbine may have slight impacts on an airshed but when combined with the emissions from several plants within the same airshed their cumulative impacts may prove to be considerable.<sup>30</sup>

In a similar vein, a recent Virginia industry-government task force that was formed for the purpose of attracting high-technology businesses to the Commonwealth<sup>31</sup> included the following as one of its recommendations:

An assessment should be undertaken to examine the impacts on Virginia's existing industries of the pending expansion of the Commonwealth's Ozone Nonattainment Areas. The assessment also needs to include both the impacts on and impacts by the proposed power plant projects, the existing fossil-fueled power plants, fuel-

<sup>24</sup> Dynegy Comments at 21-22. (Emphasis in italics in original; emphasis underlined added.)

<sup>25</sup> On June 27, 2001, the DEQ filed the results of its coordinated review that contained information from other agencies and localities, including materials provided by the Board of Supervisors to the DEQ.

<sup>26</sup> Rules for IPP Filing Requirements, *see supra* n. 18.

<sup>27</sup> Further, the issue of cumulative environmental impacts has been raised in *this case* by public witnesses and the PEC, and discussed by the Hearing Examiner.

<sup>28</sup> We do know, and may take judicial notice of, the number of plant applications pending before us.

<sup>29</sup> The BPA is an agency of the U.S. Department of Energy. It owns and operates 15,000 miles of high-voltage transmission facilities serving substantial portions of the Pacific Northwest, including Washington, Oregon, and Idaho. In addition, BPA markets power produced primarily by federally owned facilities.

<sup>30</sup> Regional Air Quality Modeling Protocol, Bonneville Power Administration, March 30, 2001.

<sup>31</sup> *See* Rahman, Saifut, and Bigger, John, "Improving Virginia's Attractiveness for High-Technology Industries," Task Force on Electric Power for Virginia's High Technology Industry, Alexandria Research Institute, Virginia Polytechnic Institute and State University, October 31, 2001 ("Virginia Tech Study").

switching options for already installed industrial and commercial facilities, and potential new applications and technologies, such as distributed generation. (Citation omitted.)<sup>32</sup>

This task force, with the assistance of two professors from Virginia Polytechnic Institute and State University, has made a recommendation that makes sense, both scientifically and intuitively.

We find that the Hearing Examiner was correct with the questions he raised concerning the cumulative impact of other proposed plants in combination with the Tenaska Facility.

The Hearing Examiner states that Fluvanna County is in attainment of the NAAQS but that the public does not know where along the continuum of air quality the county falls. The record does not include the current levels of air pollution in areas that might be impacted by the Facility or what these levels might be after the construction of this and other facilities.

The importance of neglecting a cumulative assessment is obvious, especially with the number of generating plant proposals in Virginia in general and Central Virginia in particular. This concern is pointed out by the PEC in its written comments in this case. Simply put, if many plants that test below the significance levels are approved, we may reach nonattainment without ever knowing it was being approached. Our environment and, indeed, our health may be threatened by the cumulative effects of numerous plants, each of which, when reviewed individually, was deemed "insignificant."

We conclude that we must consider the cumulative impacts of other proposed facilities, together with the Tenaska Facility, on the existing air quality in the area that may be impacted by the Facility.<sup>33</sup> This consideration need not track the proposed rules we recently published for consideration and comment. There may be better, easier, and faster ways to get the data upon which to make an assessment. Decisions must be made as to which proposed plants to consider and how a study should be structured and implemented. Our hope is that interested parties, Staff, and the DEQ could work with the Hearing Examiner to help him establish how these issues might be best addressed as promptly as practicable.<sup>34</sup> We do not desire to delay construction, but we must address this important issue and carry out our statutory obligations. We will remand the cumulative environmental impact issues to the Hearing Examiner. We expect the record to be developed so that he can make meaningful recommendations to us on these important issues.

We understand that the DEQ must operate within what it considers to be its parameters. We appreciate the invaluable assistance we receive from the DEQ, the Department of Game and Inland Fisheries, the Department of Conservation and Recreation, the Department of Historic Resources, and the other state agencies that provide their expert analysis in our hearings. Our decision as to whether approval should be granted to construct a facility, however, must be based upon more than a checklist of required studies. As we have discussed, we are required to make an independent decision.

#### Economic Development

Pursuant to § 56-46.1 of the Code, we may consider the effect of the facility on economic development; § 56-596 A requires that we take into consideration the goal of the advancement of economic development in the Commonwealth. This area also concerns us.

The deterioration of air quality may have a corresponding negative repercussion upon economic development. Perhaps an important impact would be that poor air quality would hinder the attraction of new jobs to an area. This would be especially true in rural areas where quality of life attributes include clean air.

A more critical impact upon economic development occurs when an area reaches nonattainment levels. In such situations, there could be a potential moratorium on new industry or significant cost increases for a major new business. If we consider the atmosphere solely from the perspective of whether new industry can economically locate in Virginia, the issues may be similar to those we must consider in evaluating only the environmental impact. At some point, nonattainment is reached and then, if significant new industry is not altogether prohibited, off-sets might be required to build a new facility. Such off-sets may mean the plant locates elsewhere. Certainly, this must have been at least part of the reason the Virginia Tech Study called for an assessment of the possible expansion of the Commonwealth's Ozone Nonattainment Areas, including the impact of proposed power plant projects. The last approved plant may put us over the edge such that neither a generating facility nor an industrial site may be economically developed in Virginia. A decision to approve a generating plant that creates 50 jobs could preclude a manufacturing plant from being constructed that would create 1,000 jobs.

The environment and economic development are inextricably intertwined. If we proceed in ignorance and pollution exceeds acceptable levels, our environment and our health will suffer and so too will our economy. If the environment deteriorates, plants and facilities will locate elsewhere because of a decrease in our quality of life and because of the added expense of off-sets and similar difficulties of locating new facilities in an area with poor environmental quality. In the long run, we can never have a healthy economy without a healthy environment.

In evaluating a proposed plant and associated facilities, the Commission must have data available that will enable it to gauge potential impact on the environment and economic development. The Hearing Examiner should consider economic development as part of his review on remand.

#### The Public Interest

One of the Hearing Examiner's primary concerns about the Facility was Tenaska's proposal to use low sulfur fuel oil as an alternative fuel during six months of the year, for no more than a total of 720 hours per year. The Hearing Examiner noted that one of Tenaska's witnesses stated that the Facility

<sup>32</sup> Virginia Tech Study at 84.

<sup>33</sup> While our Staff does not have great depth of expertise in this area, we are hopeful that the DEQ will lend its considerable expertise to help review and evaluate studies prepared by or for the Applicant. Further, we may, as we have in the past in similar cases, utilize the assistance of outside consultants.

<sup>34</sup> It may be, depending on the locations of proposed plants, that a number of applicants or developers consider working together to sponsor a single study that might address many cumulative impact issues. We note that the BPA appears to have concluded the first phase of its cumulative impact study in less than six months, and we understand that the study answered many questions. Also, a study examining the potential impact on regional haze of 15 of the more than 40 proposed power projects in the BPA service area has been completed.

will have on-site storage for 3.6 million gallons of fuel oil, which is an amount sufficient to operate the Facility at 100% capacity for 72 hours during emergency periods. The Hearing Examiner stated that if the Facility operates the entire maximum allowed amount of time using fuel oil, the Facility would consume 35 million gallons of fuel and would require approximately 4,000 tanker truckloads of fuel oil during the six months it is permitted to use fuel oil. The Examiner noted the public witnesses' concern that, given the likelihood of increased truck traffic if the use of fuel oil is approved, there may be an increase in the number of serious accidents because the Facility is located on a road that is not even two lanes wide.

Based on the Hearing Examiner's analysis of this issue from the perspective of the public interest, he recommended that Tenaska's request to use low sulfur oil as an alternative fuel, during emergency periods, be denied. He found that the Applicant has not articulated well its need to burn fuel oil in emergencies. He also stated that what constitutes an emergency is not clear. He observed that since the Facility will operate as a base load generator, the entity that will actually sell the plant's output, Tenaska's "tolling partner," should be able to match natural gas fuel deliveries to the Facility's output. Further, the Hearing Examiner queried why Virginians should be exposed to additional air pollution if its use is not essential to the success or failure of the project. He also observed that the Applicant's air modeling analysis fails to consider the impact on air quality of 4,000 diesel tanker trucks in Fluvanna County or any other area in Virginia.

Moreover, the Hearing Examiner stated, merchant plants are popping up in Virginia "faster than dandelions in the springtime,"<sup>35</sup> and the Commission will have the opportunity to more closely scrutinize applications for such plants to evaluate which facilities best comport with the public interest. If the Commission approves this Application, Virginia will have to live with that decision for 30 to 50 years. The Examiner added that if the Commonwealth is going to be the epicenter of merchant plant production in the mid-Atlantic region, the State "might as well have the most technologically advanced, least polluting electric generating facilities possible."<sup>36</sup> He concluded that the proposed use of fuel oil is contrary to the public interest and should be prohibited by the Commission.<sup>37</sup>

Tenaska objected to the Hearing Examiner's findings and recommendations on the fuel oil on several grounds. First, Tenaska contended that its inability to use fuel oil as a back-up fuel would impact the reliability of the project should interruptions on the Transco natural gas pipeline occur. As such, adoption of this recommendation could set back the development of merchant plants, which would be contrary to the Commonwealth's stated goal of developing a reliable competitive market for generation. According to Tenaska, prohibiting the use of fuel oil in this case may have a chilling effect on communities' ability to attract merchant plants in rural Virginia. Tenaska asserts that a prohibition on using fuel oil would place a burden on the Facility that no other generators in Virginia bear, placing the Facility at a competitive disadvantage.

Moreover, Tenaska argues, there is no empirical support or record evidence to support the Examiner's findings and recommendations regarding the use of fuel oil. It contends that the Hearing Examiner ignored record evidence indicating that the use of low sulfur fuel oil would have an insignificant impact on air quality. Tenaska emphasized that the air quality modeling analysis it conducted, which was approved by the DEQ, showed that the Facility's impact on air quality would be below the significance levels. Tenaska comments that the Hearing Examiner failed to mention that the ultra-low sulfur fuel oil it has proposed to use is the next cleanest fuel, and it has not yet become commercially available. Tenaska states that the proposed use of fuel oil serves the public interest in that it will ensure reliable service while protecting the environment. It further states that there is no record evidence upon which to determine the amount of, or potential disruption by, potential truck traffic due to the Facility's operation.

Finally, Tenaska asserts that the Hearing Examiner's rationale for prohibiting the use of fuel oil usurps the authority of the DEQ, the State agency with the authority to implement the regulations and policies of the State Air Pollution Control Board. Tenaska states that the Commission has deferred to the expertise of the DEQ in assessing the environmental impacts of a proposed generating facility pursuant to Code § 56-46.1 and an interagency agreement ("Agreement") between the Commission and the Secretary of Natural Resources.<sup>38</sup>

Dynergy also opposes the Hearing Examiner's recommendation that the Applicant's proposed use of fuel oil as an alternative fuel be denied. Dynergy argued that the proposed use of fuel oil is an issue that should be left to VDOT and local authorities. Dynergy takes issue with the Hearing Examiner's statement that the air quality analysis is flawed because it does not consider the impact of 4,000 tanker trucks in Fluvanna County; according to Dynergy, such emissions are not covered by the PSD regulations, even in the category of "secondary emissions."<sup>39</sup> In addition, Dynergy states that the Hearing Examiner suggested that the Facility will not use the latest pollution control technology, and responds by stating that federal and Virginia PSD regulations require a rigorous analysis of control options so that the best available control technology is identified and required for the project.<sup>40</sup>

Limitations on the use of fuel oil or prohibiting its usage may, with a proper record and analysis, be a condition imposed under the statutes as desirable or necessary to minimize adverse environmental impacts or as a consideration under the public interest standard. In this case, it appears that the

<sup>35</sup> Report at 22.

<sup>36</sup> *Id.*

<sup>37</sup> *Id.* at 32.

<sup>38</sup> Tenaska Comments at 25. The Agreement, dated August 4, 1992, is Attachment 2 to Tenaska's Comments. Contrary to Tenaska's assertion, the Agreement does not provide that the Commission should "defer" to the DEQ. It provides that the Commission will advise and consult with the Secretary of Natural Resources on issues that will affect the environment in Virginia, and the Commission and the Secretary "shall endeavor to cooperate on such environmental issues." Cooperating and consulting with the DEQ does not equate to never questioning the DEQ or always agreeing with the DEQ. While the Commission greatly appreciates the effort and expertise of the DEQ, we are required to make an independent decision with respect to the impact of the Facility on the environment. In doing so, we are to "receive and give consideration to all reports that relate to the proposed facility by state agencies concerned with environmental protection." Moreover, in several cases, the Commission, pursuant to its statutory obligations, has imposed conditions relating to the environment in addition to conditions imposed by the DEQ. See, e.g., *Application of Appalachian Power Company, For certificates of public convenience and necessity authorizing transmission lines in the Counties of Bland, Botetourt, Craig, Giles, Montgomery, Roanoke and Tazewell: Wyoming-Cloverdale 765 kV Transmission Line and Cloverdale 500 kV Bus Extension*, Case No. PUE970766, Doc. Con. Ctr. No. 010560153 (May 31, 2001).

<sup>39</sup> Dynergy Comments at 27-28.

<sup>40</sup> *Id.* at 28.



Hearing Examiner may not have considered all aspects of this matter in reaching his recommendation. Accordingly, we remand this issue to the Examiner to develop the record more fully, reconsider the matter, and make a recommendation to us.

With respect to the Hearing Examiner's findings and recommendations that relate to water supply, Tenaska's position appears to be that the Commission should not be concerned about the Company's proposals when deliveries of water from the James River may be curtailed or interrupted. It said that: "This Commission need not deal with possible sources of auxiliary water supply in the proceeding."<sup>41</sup> We disagree. The statutes do not simply refer to the Facility but to "associated facilities" as well. The facilities related to water supplies are certainly included. Further, water is an important natural resource, and we should and must consider the impact the Facility will have on water supplies in the Commonwealth as part of our environmental consideration. It is appropriate for these matters to be considered in this proceeding. At the same time, we recognize that it may not be possible to address all contingencies for a plant that may operate for decades. We remand this matter also to the Hearing Examiner to develop the record concerning back-up or alternative sources of water at times of drought and low flow, and to recommend whether any conditions are needed in this area. Any such proposed condition must be drafted carefully so as to achieve a proper balance of protection of our resources and flexibility to allow a proposed plant to operate in a reasonable and prudent manner.

With respect to the emergency response issue and Tenaska's emergency management plan, the Hearing Examiner discussed concerns voiced by several public witnesses who testified that the County's emergency management personnel, volunteer firefighters, and rescue squad may not be sufficiently well equipped and trained to respond adequately to the kind and size of emergencies that could occur at a large gas-fired generator such as the proposed Facility. The Examiner recommended that two conditions be included in any certificate that is approved by the Commission. First, he would require that the plan include procedures for contacting off-duty plant personnel to assist with emergencies at the Facility. Second, the Examiner would require the Company to conduct, at least annually and at its own expense, an emergency response training exercise that would focus on "real world" emergencies.

Tenaska objects to the Hearing Examiner's two recommended conditions. The Applicant contends that adoption of the Examiner's recommendation would usurp the Board of Supervisors' authority for addressing emergency response issues in the County. The Applicant also asserts that the Board of Supervisors has adequately addressed the issue of emergency responses in the SUP; further, the Facility will have an integrated contingency plan that will incorporate various statutory and regulatory requirements regarding emergency responses.

We believe that addressing safety concerns related to the Facility, especially the establishment of an emergency management plan, is critical to evaluating the Facility as part of our consideration of the public interest. Given the concerns expressed by the public witnesses and the lack of information in the record about the facts behind these concerns, we find that the record appears to be incomplete and does not provide a basis upon which to make an informed decision. Accordingly, we will ask the Hearing Examiner, as part of his remand, to more fully develop the record on this matter and reconsider his findings and recommendations concerning this issue.

Finally, the Hearing Examiner recommended that Tenaska be required to consult with the Virginia Department of Forestry ("DOF") and the Virginia Department of Game and Inland Fisheries ("DGIF") to develop a forestry management plan that will provide for the gradual thinning of the pine trees and their replacement with a more biodiverse stand of trees. The Examiner also recommended that we should prohibit clear-cutting of the buffer area. We find that the Company should be required to consult with and abide by, to the extent practicable, the recommendations of the DGIF and DOF to develop and maintain a long term, effective buffer. While we certainly would expect development of a biodiverse stand of trees would be part of the plan and that clear-cutting would be avoided, we should not impose these limits. The plans must be developed by the experts and implemented over time.

Accordingly, IT IS ORDERED THAT this matter is remanded to the Hearing Examiner for further proceedings and recommendations as set forth herein.

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<sup>41</sup> Tenaska Comments at 28.

#### **MORRISON, Commissioner, Dissenting Opinion,**

To this Order, I must respectfully, but strongly dissent. I am confident that my Commission colleagues are motivated by a sincere effort to comply with what they perceive to be this Commission's statutory duty to consider the effect of the proposed generating facility on the environment, as required by Code §§ 56-46.1, 56-265.2B and 56-580D. Additionally, the general policy of the Commonwealth to protect its air, lands and waters "from pollution, impairment or destruction," as set forth in the Constitution of Virginia, is said by the Majority to be a matter for implementation by this Commission, and thus also necessitates this Order. However, I am certain that implementation of this provision of our Constitution is the responsibility of the Legislature, which it has done through the creation of numerous executive branch agencies and the enactment of countless statutes.

The Majority's dedication to these lofty ideals is laudable in the abstract, but in the reality of this case it has led to a result which is plainly wrong, exceedingly unfair to the Applicant, and has far-reaching consequences to interests which were not participants in this proceeding. Worse, it is at variance with the legislative intent underlying provisions of law we are bound to follow, particularly provisions of the Virginia Electric Utility Restructuring Act, Chapter 23 of Title 56, Code of Virginia. It is also violative of our own *Rules of Practice and Procedure* in several serious respects.

Moreover, the Majority Order implies, though probably not intended, an unwarranted distrust of the competence of Department of Environmental Quality (DEQ) and the several agencies it coordinates that are properly charged by the General Assembly with the duty to implement the very constitutional provision held high by the Majority. Just as unfortunate, though hopefully not intended, is the implied distrust of the professional competence of Fluvanna County local officials and emergency response personnel, whether volunteer or employed. Oversight of the quality of performance of these state and local agencies is beyond the authority, resources and expertise of this Commission and is a matter for the legislative and executive branches of government, state or local. As DEQ has stated, a forum distinct from this Commission is the proper place to review its processes and performance.

This is not to say that in every case coming before this Commission the evidence provided by DEQ or any of its constituent agencies cannot be questioned. Although I do not recall it ever having occurred, there could well be a proceeding in which a participant presents evidence by way of qualified experts that conflicts with that of state agencies or their reports, which we are bound to receive and consider as mandated in § 56-46.1 of the Code. Such a conflict may relate to air quality considerations, but could as well be concerned with historic resources, conservation and recreation, game and inland fisheries and marine resources concerns, and a number of other areas pertaining to environmental protection. In such a case, this Commission would arbitrate, as best it can, the disputed issue or issues, deciding the matter, I should hope, on the weight of the evidence. But this is not the case here. In this

case there is no evidence conflicting with DEQ's coordinated review of the potential environmental impacts of the Tenaska facility, and there is no such issue for us to resolve.

As if to justify the sweeping rejection of DEQ's work in this case, the Majority states in footnote 38 that, "Moreover in several cases, the Commission, pursuant to its statutory obligations, has imposed conditions relating to the environment, in addition to conditions imposed by DEQ," citing as an example a major transmission line certificate case decided this year to be routed through seven counties in Virginia. This transmission line case had absolutely nothing to do with air quality matters, and the conditions imposed beyond that of DEQ are quite typical in transmission line cases. Numerous route modifications were made, for example, in order to minimize the impact of the transmission line on landowners and the environment, but such conditions in no wise conflicted with those required by DEQ or other agencies regulating environmental issues.

Those who harbor a perception that this Commission's Staff is but the alterego of one or all Commission members, or that the Staff unfairly, if not improperly, influences our decisions in some ex parte way, should take note that in this case the position of Commission Staff is diametrically at odds with the Majority Order. (See *Post Hearing Brief of the Staff of the State Corporation Commission*).

Little wonder. The two Staff Counsel who very ably managed and conducted the Staff case must have assumed that the case would be processed and heard in keeping with our Scheduling Order of May 4, 2001, the Commission's *Rules of Practice and Procedure*; and that the Staff's position at the end of the day should be based upon the evidentiary record. No doubt the Applicant thought so, as well.

As a result the Staff's brief states this conclusion:

*Tenaska's application meets the statutory requirements of § 56-265.2B of the Code. The Commission should issue a final order approving Tenaska's application for a certificate of public convenience and necessity to construct the proposed generation facility contingent upon the implementation of the conditions agreed to at the hearing in this proceeding, as identified above, the acquisition of all necessary environmental permits, and ECTI's completion of its environmental permitting process. Staff does not object to the Applicant's request for an exemption from Chapter 10, or for interim approval to make financial commitments and undertake preliminary construction work. Staff agrees with Tenaska's proposal that the record remain open and that the certificate itself shall not be issued until Tenaska files the appropriate environmental permits with the Commission. Finally, in its final order, the Commission should provide that the certificate of public convenience and necessity shall expire if construction is not commenced within two years of issuance of the certificate.* (Brief of the Staff of the State Corporation Commission, p.10)

I agree with this conclusion and would grant the application with the requirement that the Applicant comply with the recommendations of Commission Staff.

My sharp disagreement with the Majority Order is not due to a lack of appreciation of the environmental concerns expressed therein, or of those expressed by the public witnesses who testified before the Hearing Examiner. I also appreciate and share, to some extent, the views expressed by the Piedmont Environmental Council (PEC) concerning the cumulative impact on air quality of this proposed facility coupled with existing and proposed generation facilities. Candidly, however, the concerns I have are based on exposure to considerable information concerning environmental matters, air quality issues in particular, and simply the intuitive feeling that the more pollution sources are added, one on another, the greater the total pollution as a result. But I possess no particular expertise akin to that of the fundamental scientists and environmental engineers who presumably influence the regulations, policies and actions of federal and state environmental agencies. Neither is such expertise possessed by my Commission colleagues, and indeed it does not repose in any of our staff.

Our staff has not one environmental engineer, forester, hydrological engineer, water quality chemist, transportation engineer, or emergency management professional. The Office of the State Fire Marshal was removed as a unit from this Commission about two decades ago. All of these disciplines and professions, and more, appear to be involved in the numerous issues attendant this case. Unlike rate cases involving charges by utilities, for example, we have no particular expertise bearing on many of the issues involved in this case. I do not believe this Commission's decision on the environmental issues should be entitled to any deference or wide discretion which often has been afforded Commission decisions by the Virginia Supreme Court. e.g. *Central Telephone Company of Virginia v. State Corporation Commission*, 219 Va. 863, 252 S.E. 575 (1979).<sup>1</sup>

I was a member of this Commission when the Clean Air Act Amendments of 1990 were enacted by Congress. This event, coupled with a heightened concern, nationally and in Virginia, for generation plant air emissions and other environmental protection measures affecting utility facilities presented a challenge to us. Clearly this Commission had to have access to a number of competencies in the environmental sciences, either by adding significant staff, or by gaining access to same by utilizing the services of such professionals as were already in the public service of the Commonwealth. The efficiency of avoiding duplication of staff competencies was obvious. Several weeks of discussions with Executive branch officials led to the Agreement in 1992 signed by members of this Commission and the Secretary of Natural Resources and the Executive Director of the Department of Air Pollution Control. This Agreement is attached to the Applicant's Comments and Objections to the Hearing Examiner's Report. In the years since the Agreement, our Staff has received the invaluable assistance of expert witnesses on environmental issues through the efficient coordination of DEQ. It was through the cooperation framed in the Agreement, for example, that the Staff was able to receive analytical reports concerning this Application prior to the hearing, and present five witnesses employed by State environmental agencies.

I trust that the Majority appreciates the importance and value of the 1992 Agreement to this Commission, and does not intend its decision to signal a unilateral withdrawal therefrom.

<sup>1</sup> Not that this is any consolation to this Applicant in face of the Majority Order. Far from being a final order which would be appealable, the Majority Order consigns the case to remand to the Hearing Examiner who is given a practically impossible task to devise some mechanism to deal with measuring ambient air quality and the future effects on same due to the cumulative impact of various types of emissions by an unknown quantity of new generation facilities and other sources of pollution in an area whose boundaries are unclear. Absolutely impossible is the Hearing Examiner's assignment to predict the effect of this facility on the future price of and transportation capacity for natural gas. The delay these considerations will entail is incalculable. One might suppose that this Applicant would much prefer a final order simply denying the application so that it can be appealed.

Having a responsibility to adjudicate this matter requires that we put aside our subjective opinions and intuitive beliefs and base our findings and conclusions on the evidentiary record presented to us. I find that there is a complete absence of evidence to support the action taken by the Majority.

Strange as it may seem, I believe some discussion of what is and is not evidence and the parameters of "the record" is necessary. Our order initiating this case provided a typical schedule for filing notices of participation in the proceeding, the submission of prefiled testimony, and other matters. Additionally, pursuant to 5 VAC 5-20-80 C. of our *Rules of Practice and Procedure*, written comments in advance of hearing were permitted. Thus allowed, by counsel PEC and a number of individuals residing near the Tenaska site jointly filed comments attacking the project from several directions. Not that they needed to be, but these comments were not under oath; they were simply signed by an attorney. Contending that this Commission has authority to delay the schedule for transition to retail competition in Virginia, the comments urged that the SCC stay all pending applications for power plants while it evaluates the market power problems evident in other deregulated markets to determine the true need and impact from additional power plant construction. The comments went on to detail a present coal-fired generation facility and newer generating facilities built or proposed, concluding that the cumulative impact of these plants on regional air quality and possibly health effects must be considered by the SCC. The commenters urged that the Tenaska application be denied and that "further implementation of energy market deregulation" be delayed.

Comments on behalf of PEC and the Fluvanna residents were filed in compliance with our May 4 scheduling order, but a large number of other letters and comments from various sources have been submitted to this file as late as January of this year. I place particular emphasis on the comments filed on behalf of PEC and the Fluvanna residents because they were the only prehearing comments filed in compliance with our Order, and because the Majority Order seems to give special weight to their value. Indeed, the Majority decision to require consideration of the cumulative impacts of other proposed facilities, together with the Tenaska facility, is a substantial positive response to much of the relief sought by PEC, et al. PEC did not become a participant in the case. Some of the individuals filing comments with PEC appeared as public witnesses and generally expressed a desire for the rural character of their residential areas to remain so. They opposed the plant because of undesirable emissions into the air, traffic problems, noise problems, and on other grounds as well. While their views are important to this Commission and should be considered, I can find no testimony from this group that would rise to the level of such technical expertise as to rebut the analyses provided by documents and witnesses sponsored by Staff Counsel.

I consider comments by PEC, et als. to have value to the extent of alerting the parties, Hearing Examiner and this Commission to various issues involved in the case, and the views of the commenters on those issues. But the comments are not evidence by any conceivable stretch.

Under current and long-existing past *Rules of Practice and Procedure* of this Commission, when we are called upon to hear a case only in our capacity as a court of record, the common law and statutory rules of evidence are followed as observed and administered by the courts of record of the Commonwealth. 5 VAC 5-20-190. These kinds of cases have been called "judicial," and are described as "adjudicatory proceedings" in 5 VAC 5-20-90. This Application, however, is a "regulatory proceeding" under 5 VAC 5-20-80 A. It is one in which we are called upon to exercise an administrative function delegated by the Legislature. As to these kinds of cases, 5 VAC 5-20-190 provides that "evidentiary rules shall not be unreasonably used to prevent the receipt of evidence having substantial probative effect." (emphasis supplied). Most typically, the Hearsay Rule has been relaxed of necessity; otherwise large amounts of financial and technical data would be almost impossible to be received in evidence during the course of our regulatory hearings. But the Rule speaks of evidence having substantial probative weight, and the evidence must still be supplied through the sworn witness, frequently called a "sponsoring witness," who is subject to cross-examination. It is important to notice that both regulatory and adjudicatory cases are entitled "Formal Proceedings" under Part II of our *Rules of Practice and Procedure*. So the comments filed prehearing by PEC, et als. and comments properly filed post-hearing by counsel for the hearing participants are clearly not evidence. Because they were allowed by Commission Order, comments filed jointly by PEC and certain Fluvanna County residents equate to statements or arguments of counsel, and unless sponsored by a sworn witness at hearing, they cannot be more.

The evidentiary record in this case was at first regularly compiled pursuant to our *Rules of Practice and Procedure* and our Order initiating the case. Essentially there were two party participants, the Staff and the Applicant.<sup>2</sup> Tenaska presented two witnesses; the Staff eight.<sup>3</sup> Prefiled direct and rebuttal testimony was sponsored by witnesses who were cross-examined. Through these witnesses various documents and exhibits were received. These witnesses demonstrated an expertise in various disciplines and were thus qualified, I believe, to provide expert opinion evidence. While concerns were expressed about some related facilities to the proposed generation plant, there was a striking unanimity of support generally for the construction of the proposed facility. Obviously this is in stark contrast to the views expressed by the public witnesses who objected to the plant on numerous grounds, most prominently to the proposal to locate the plant in Fluvanna County.

The evidentiary record was closed after the hearing consumed one full day and a portion of the next. As far as an evidentiary record goes, this is it.

The Hearing Examiner filed his Report on October 23, 2001. As is the practice of our Hearing Examiners, his Report concluded with the following:

*The parties are advised that any comments (§ 12.1-31 of the Code of Virginia and 5 VAC 5-20-120 C.) to this Report must be filed with the Clerk of the Commission in writing, in an original and fifteen (15) copies within twenty-one (21) days from the date hereof. . . (omission). Any party filing such comments shall attach a certificate at the foot of such document certifying that copies have been mailed or delivered to all counsel of record and any such party not represented by counsel.*

It should be clear that the only persons entitled to file comments at that point were the parties who participated in the case, a total of three entities, Applicant, Columbia Gas of Virginia and Staff. They each did so. The record coming to us, then, and that which we may properly consider consists of the Prehearing Comments filed by PEC, et als., the Prefiled Testimony received by the Hearing Examiner, the Testimony of Witnesses and Exhibits received all as recorded in the transcript of the evidence, any stipulations and issues statements, the Hearing Examiner's Report and the Comments thereon filed as

<sup>2</sup> Columbia Gas of Virginia filed Notice of Participation and became a party; when its single issue was settled through stipulation at the outset of the case, it was relatively inactive during the hearing. It did file comments to the Hearing Examiner's Report seeking to correct an error in the Report.

<sup>3</sup> Technically, the Staff is not a party under our *Rules 5 VAC 5-20-80 D*. For convenience, Staff has been referred to as a party in this dissent.

prescribed by the Hearing Examiner. Thereafter, unless we violate our own *Rules of Practice and Procedure*, all else is outside the record which we may properly consider. Fundamental fairness to the parties and all interested persons requires that we obey the rules and procedures we announced would be followed.

The Hearing Examiner's Report was like a major weather event, for it touched off a blizzard of paper and facsimiles pouring into various destinations within the John Tyler Building, most all of which comment upon the substance or merits of this Application, or supporting or opposing portions or all of the Hearing Examiner's Report, or urging us to decide this case this way or that, depending on the perspective of the filer or correspondent. Some have been addressed to the Commission Clerk, some to the Hearing Examiner, but many directly to the individual members of this Commission.

It should be understood here that this Commission has experienced many occasions when persons, particularly lay persons, transmit, *ex parte*, written communications to us. Obviously, such communications cannot, and are not, considered by Commission members in the slightest when the proceeding to which such communications are addressed is pending before us. It has been this Commission's practice over many years to have the Counsel to the Commission courteously acknowledge receipt of the communication, explain that members of the Commission cannot respond to same because of the pending matter, and advise that the communication will be "placed in the file." The Commission and Staff well understand that communications outside the scope of the record in a proceeding are well-intended and quite innocent of any knowledgeable intent to improperly influence this Commission, and that these types of extrajudicial communications bear no weight whatsoever insofar as any decision by this Commission is concerned.

Dynergy Power Corp., by counsel, submitted to our Clerk a 29-page document entitled, "Response of Dynergy Power Corp. to the October 23, 2001, Report of Michael D. Thomas, Hearing Examiner." This was received by the Clerk's Office on November 13, 2001, the day before the filing deadline prescribed. Until then Dynergy had not been heard from; and was not a party to the case. Dynergy's document did request "leave to file this response . . .," but no motion was brought on before us concerning such request, and no order granting leave to file was entered. To its credit, Dynergy was a post-record filer which certified the mailing or delivery of the document to counsel for other parties and Staff.

I think it plain that the proper handling of Dynergy's Request for Leave to File its Response would have been the entry of an order inviting a response from counsel for the Applicant within a specified time, so that each would have an opportunity to state an objection and the grounds therefor, requesting a hearing if necessary. It appears probable that Dynergy could have obtained the consent of Staff Counsel and counsel for the Applicant for the filing of its response, but there is no representation that such consent was sought or obtained. Thus, it was likely that the Dynergy response might have been properly considered with a little extra effort.

The Majority Order, not to be bothered by such procedure, simply states, "We will consider Dynergy's comment and the comments filed by others, including the DEQ and the Fluvanna County Board of Supervisors." Dynergy thus became the beneficiary of what appears to be a global sweep-in of all "comments" without limitation. Strangely, Dynergy's response is not at all important to support the Majority Order, for it quotes at length from the Dynergy document with disapproval.

On November 13, 2001, Staff Counsel sought to file "on behalf of DEQ" a six-page letter and a three-page attachment from the Director of the Office of Air Program Coordination of that Department. This was attempted by a covering letter of Staff Counsel to our Clerk with copies indicated to the other parties. Had the DEQ letter been incorporated in the Staff Comments to the Hearing Examiner's Report (called by Staff Counsel its "Post-Hearing Brief") it could be considered as a part of the record but, standing alone, I fail to see how it can be considered.

The Majority Order describes the DEQ letter sought to be filed by Staff Counsel as a part of the "Comments." Further, the Majority expressly recognized ten letters written by individuals and other entities as a part of the "Comments."<sup>4</sup>

Most of these communications are not only *ex parte*, they are secretive insofar as the parties to this case are concerned; copies are not even indicated to Counsel for the Applicant, or anyone else, in most cases.

While many of the communications may hold valuable information, I can conceive of no way in which I and my Commission colleagues may properly consider them, but whatever their content, they are *ex parte* communications. To consider them constitutes, I believe, a serious violation of our *Rule 5 VAC 5-20-50*, which states:

*No Commissioner or Hearing Examiner shall consult with any party or any person acting on behalf of any party with respect to a pending formal proceeding without giving adequate notice and opportunity for all parties to participate.*

I am absolutely certain that the Majority would not consciously violate the Rule respecting *ex parte* communications, or any other. Likely they have understandably drifted into an overly receptive posture due to this Commission's longstanding practice of encouraging citizens, with or without counsel, to attend and testify at our public hearings, and when they do submit all manner of written material. But this is in the courtroom setting, with all other parties and their counsel present. Such public witnesses may be cross-examined, though they rarely are. We have encouraged a relaxed unthreatening atmosphere in cases in which public hearings are conducted, and I am afraid this policy against rigidity has led to the situation here – a record which seems to have no boundaries, indeed no end until transixed by a Commission order.

Perhaps the Majority have not imagined themselves in the position as a counsel for this Applicant. No matter how skilled, no counsel can respond to matters considered by any tribunal if such counsel is not even apprised of same. Counsel for Tenaska has no way of responding to just those extra-record items referenced in the Majority order, assuming counsel somehow gains information that they have been sent to us, for our Rules contemplate no further pleading by a party after the record is complete. After filing his Comments and Objections to the Hearing Examiner's Report, he must be silent, awaiting our decision, but he is entitled to assurance from us that other voices are quiet as well. We simply cannot allow the record to consist of anything beyond the Comments filed by counsel to the Hearing Examiner's Report.

<sup>4</sup> Actually the number of letters and memoranda arriving at our offices is greater than ten. Likely a number of these arrived after the Majority Order was drafted, but presumably they would be considered as a part of the "Comments" as well.

Contrary to the views of the Majority, I believe the record is fully developed and ripe for decision. Thus, I strongly disagree with the Majority in every instance in which it directs the Hearing Examiner on Remand to "more fully develop the record." This amounts to a retrial of the major issues in the case when no party has requested it. In my view, this very elastic record as allowed by the Majority is, if anything, already quite over-developed.

Furthermore, the Majority has gone so far as to consider studies and protocols which are clearly not a part of this record. Much is made over something called a *Protocol for a Cumulative Impact Study* published by the Bonneville Power Administration ("BPA"). Recommendations are quoted from another document called *Virginia Tech Study*. The Majority seems to view these sources as highly important and authoritative, yet they are not a part of this record in any sense of the word. In fact, there is not so much as a pamphlet from either one of them in our official case file. Needless to say, they were not subject to examination by any of the parties. If these far-ranging, extraneous sources are to carry such weight in our decision, it seems to me that the prefiled testimony of witnesses and the efforts of the participating attorneys were pointless, as was the hearing itself. I am most concerned with where this is taking us when I read on p. 25 of the Majority Opinion an excerpt from the *Virginia Tech Study*. That portion states that there needs to be an assessment "to include both the impacts on and impacts by the proposed power plant projects, the existing fossil-fueled power plants, fuel-switching options for already installed industrial and commercial facilities and potential new applications and technologies, such as distributed generation."

This kind of assessment would, it seems to me, to be a study of massive proportions, but its scope receives Majority Order approval. It states that the recommendation "makes sense, both scientifically and intuitively." As has been pointed out, anything approaching such an assessment is quite beyond the capabilities of the Hearing Examiner and any of our Staff. If the Majority have in mind the hiring of consultant services to perform such an assessment, I could not agree to the procurement of such services without a mandate from the Legislature for this Commission to become such a major part of environmental protection implementation. Furthermore, the Staff and financial resources of this Commission are already stretched to their maximums due to the significant time and expenditures we have been required to make, largely in connection with our duties in the implementation of the Virginia Electric Utility Restructuring Act.

Those who adjudicate cases should also subjugate their individual notions of what is good and bad science, as well as their intuitive inclinations, to not only the evidence in the case before them, but perhaps more importantly, to the requirements of law by which they are governed. In this case I believe the Majority holding is unsupported by the applicable statutes and the legislative record revealing legislative intent.

First of all, delaying this case, and probably all others like it, for some indeterminable but probably lengthy time is inconsistent with the General Assembly's expressed goal of developing a reliable competitive market for generation in Virginia, as articulated in the Virginia Electric Utility Restructuring Act. A Staff witness and others testified that the Applicant's proposed facility would further competition. While it is true that the entire output of the plant will be sold into the wholesale market and thus not directly impact retail supply, we do not know absolutely that the wholesale purchaser under the tolling agreement will not in turn make part or all of the significant plant capacity available to competitive retail suppliers. Basic economics suggest that greatly increased supply at the wholesale level will eventually result in greater competition and lower prices at retail. As was pointed out by the Applicant in its Comments and Objections to the Hearing Examiner's Report, the action by the Majority appears to constitute a recission of the Commission's commitment to "make the Commonwealth an attractive market for competitive suppliers." (*STATE CORPORATION COMMISSION, STATUS REPORT: REDEVELOPMENT A COMPETITIVE RETAIL MARKET FOR ELECTRIC GENERATION IN THE COMMONWEALTH OF VIRGINIA, PART 3, 22*)[August 31, 2001]).

Such a radical and unjustified shift in Commission policy may well have the effect of causing, if not this developer then a number of others, to abandon Virginia because it is no longer a state, "open for business." Such a result will doubtless be pleasing to some, but it represents to me a violation of our duty to further competition and the commitments we have made to the Legislature.

Section 56-46.1 of the Code requires that we give consideration to the effect of this facility on the environment and establish such conditions as may be desirable or necessary to minimize adverse environmental impact. But in doing so, that Code section requires that we "receive and give consideration to all reports that relate to a proposed facility by state agencies concerned with environmental protection. . ." This certainly articulates a preferred status of such reports insofar as their introduction into evidence is concerned. I believe it also implies, as well, recognition of the technically authoritative weight such reports are to be given. This does not foreclose the receipt and consideration of other reports and data that may be properly authenticated and introduced into evidence through the sponsorship of sworn witnesses. No such other reports were introduced, nor attempts even made to do so, in this case.

During the 2001 Session of the General Assembly, House Bill 2759 was introduced on January 19. The Bill would have added the following language to ¶ A of § 56-46.1:

*The Commission shall consider the impact of nitrogen oxide emissions, if any, from the proposed facility, and the cumulative impact of nitrogen oxide emissions of the proposed facility and existing facilities in the locality of the proposed facility and any adjacent locality. Any result or report of the environmental impact of the proposed facility shall be available to the public prior to any public hearing held prior to approval of construction of the facility. The Commission shall not approve the construction of any facility where emissions from operation of such facility would result in a violation of national ambient air quality standards.*

In many respects, the objectives of HB 2759 fell far short of what seems to be envisioned by the Majority Order. The Bill required only the consideration of "nitrogen oxide" emissions from the proposed facility cumulative to only existing facilities, not other proposed facilities, as well. It would not have required disapproval of the construction of any such facility unless the emissions from the facility would result in a violation of national ambient air quality standards. There is no suggestion anywhere in this case that the emissions from the Tenaska plant in a worst case scenario modeling will come anywhere close to causing such a violation. Thus, HB 2759 was a comparatively timid venture into the world of cumulative impacts, as compared to what seems to be the objective of the Majority Opinion, although their precise objective is, as yet, unclear to me. This Bill was referred to the Committee on Corporations, Insurance and Banking, where its short legislative life ended on January 30, 2001, when it was passed by on a vote of 25 – 0. This does not indicate to me that there exists some legislative intent that we become involved in measuring cumulative impacts of various emissions over and beyond, and perhaps contrary to, the activities of DEQ. The legislative intent revealed by this legislative record is precisely the contrary.

Another area I believe pertinent in determining the consistency of our action in this case with legislative intent is discussed in the Majority Order on page 16. On Page 16 of that Order the Majority states, "Changes in circumstances and in the law (emphasis supplied) in recent years require that we review our approval of construction and operation of new generating facilities. There has been no change in the law recently with regard to this

Commission's statutory duty to consider the effect of the construction of electrical utility facilities on the environment and to establish such conditions as may be desirable or necessary to minimize adverse environmental impact. That requirement was first enacted as § 56-46.1 of the Code during the 1972 General Assembly Session. It became effective April 8, 1972, and has remained unchanged since that time.

What has changed, as correctly noted by the Majority, is that no longer is there a necessity for establishing that there is a need for new generation capacity to supply the utility's customers. The Majority Order correctly describes the manner in which we have evaluated applications for certificates of public convenience and necessity to construct new generation facilities. The authority of this Commission to approve the construction of electrical generation facilities without establishing such need was first accomplished in 1998 by the enactment of an amendment to § 56-265.2B, and the same authority was also granted in 1999 in § 56-580D of the Code which is a part of the Virginia Electric Utility Restructuring Act. But nothing else in this area of the law changed.

It is extremely difficult for me to believe that the Legislature removed the single most major barrier to the construction of independent power generating plants, or merchant plants, that being the requirement of a showing of need, and at the same time intended that this Commission impose a new regimen of environmental requirements that may pose as great, or greater, barrier to competitive wholesale plant construction than did the old need test. It should be pointed out that the effect of the Majority Order affects not just the facility this particular Applicant wishes to build. I do not see how all other plants, whether constructed by independent power producers or by our traditional incumbent electric utilities, can move forward until this new, but ill-defined, requirement is resolved, either here or, in the words of DEQ, in another forum. There is a Virginia incumbent utility application for approval of generation facility construction existing in our regulatory pipeline at present.

The Majority Order points out that it was only about a month ago when we entered an order adopting new Rules for filing requirements for applications to construct and operate electric generation facilities. In the same order we proposed and published further amendments to those Rules, docketing and assigning the proposed rules Case No. PUE010665. Complying with the requirements of § 12.1-28 of the Code, scheduling dates were specified, such as January 11, 2002, by which any person desiring to participate in a Staff work group concerning the proposed Rules should notify appropriate Staff; April 2, 2002, for persons to file notice of participation as a party; and May 24, 2002, for parties or other interested persons to file comments on the proposed amendments to the Rules. The Commission's Staff was directed to convene one or more work groups of interested parties "to explore the ramifications of the proposed Rules and whether there was any consensus with respect to the issues presented." The Order also recognized ". . . that these proposed Rules will likely be controversial and generate significant debate."

It was with some reluctance that I joined in signing the order proposing further amendments to the Rules we had just adopted. That the proposals would place considerable new burdens on Applicants is self evident. A paramount question in my mind then, as now, is whether those burdens are justified given the practical difficulty and limitations this Commission and its Staff will have in evaluating the new data required, particularly that dealing with environmental matters, some of which would be highly technical in nature. As discussed herein, we simply do not have that type of expertise housed in the Commission. Of particular concern was the proposed amendment to 20VAC5-302-20-12a. That proposed amendment will require that applications for authority to construct electric generating facilities identify "the cumulative impact of Applicant's proposed facility and other proposed facilities on existing overall air quality in any area that may be impacted by the Applicant's proposed facility." "Other facilities" are defined, and the amendment requires assumptions regarding existing air quality be based on the maximum allowed emissions from existing permitted sources and the ambient level of pollutants from non-permitted sources. I agreed to the order because its terms provided ample time for a deliberative process with the invitation to affected interests to participate in work groups in an effort to reach agreement, or at least a wide consensus, as to what the final provisions of reasonable and useful amendments to the Rules might be, if any at all. I agreed that the deliberative, give-and-take approach, in the relative calm of a rulemaking proceeding to deal with environmental concerns, was in order.

While not directly relevant here, it also appeared that the amendments requiring information concerning market power issues do seem consistent with, and useful to, our duty under the Virginia Electric Utility Restructuring Act with regard to matters such as mitigation of market power, nondiscriminatory access to transmission and distribution systems and affiliate relationships.

Now, approximately one month after the entry of the order in PUE010665 proposing new Rules, the Majority Order appears to effectively impose the essence of the unadopted Rule change 20VAC 5-302-20-12a, which requires the cumulative emission impact analysis. This comes as a complete shock to me, and I am sure the Applicant and Staff Counsel in this case. Had I known that this irregular adoption of much of the proposed new Rules was to be the result in this, or any other similar, case, I would not have endorsed the entry of the Order establishing PUE010665. Moreover, since the Majority Order, if left as it is, moots or pre-empts what is likely to be one of the most highly controversial areas of the proposed Rule amendments, there is no point in proceeding further in a significant portion of that rules promulgation process. Otherwise, we will have a two-track and duplicating effort going on at the same time, one being the unfortunate Hearing Examiner in this case wrestling with his unenviable tasks on remand, and the other being the Rules amendment promulgation process itself, including a work group or groups busying themselves with some of the same subject matter with which the Hearing Examiner is dealing.

This state of affairs is made necessary, say the Majority, because "We cannot, however, wait on the final order in that rulemaking to address this matter. As noted above eleven applications are now pending and more are on the way. We must act now." We knew those eleven applications were pending when we entered the order proposing a deliberative rule adoption process in the middle of just last month. I know not what has occurred since that time to override much of that process, but I know that it is unfair to this Applicant and many others who are similarly situated. Again, there has been no change in the law imposing new environmental protection implementation duties upon us. I do not believe that the number of plant applications pending and to come warrant the state of panic, or something similar, that has evidently caused the abrupt and radical change of course.

I am more skeptical than my colleagues about the numbers of generation plants which will actually be constructed in Virginia for a number of reasons. Constraints in the electric transmission and gas pipeline infrastructures in Virginia will be limiting factors in some instances. There is some indication of a degree of retrenchment by some major energy developers concerning merchant plant construction investments. Unlike this Application, other projects will have more difficulty achieving approval of the numerous local and state permit requirements, quite aside from any action we might take on them.

By any comparative measure, the project which the Majority Order may scuttle involves an extremely clean electric generation plant placed in the middle of a 550-acre site. That this Applicant has been able to achieve a high degree of success as to practically all other local and state approval requirements is not surprising, and its success will not likely be shared by anything like all of the other applications for generation facilities which have caused such anxiety as expressed by the Majority Order. I must respectfully disagree with my colleagues and state that we do not have to act now in some

sort of generic response to a perceived emergency, and in an order which is unsupported by the law or the evidence in the case. Furthermore, the Majority Order amounts to a *de facto* adoption of the substance of a significant portion of the proposed amendments to plant construction rules, ignoring altogether spirit, if not the letter, of § 12.1-28 of the Code, which requires reasonable notice of the contents of a proposed Rule to afford interested persons having objections thereto an opportunity to present evidence and be heard.

In 1992 the Supreme Court of Virginia held that Art. IX, § 3 of the Constitution of Virginia and § 12.1-28 of the Code require the State Corporation Commission to follow rules which it has duly adopted, and the same must be followed unless changed in the manner permitted by statute. *Va. Comm. for Fair Utility Rates v. VEPCO*, 243 Va. 320, 414 S.E.2d 834 (1992). With the backdrop of a rules proceeding pending in Case No. PUE010665, so much of the Majority Order, which pre-empts that proceeding as a matter of case decision, seems to violate that holding of the Supreme Court. The several instances discussed in which the Majority Order ignores, or is in conflict with, our duly adopted *Rules of Practice and Procedure* are in clear violation thereof.

Tenaska Virginia Partners, L.P. filed this Application with supporting testimony and exhibits one year ago. It plans to build a nominal 900 mw natural gas fired, combined cycle generation plant on a 550 acre site in Fluvanna County. It plans to begin initial clearing of the site in the spring of 2002, with the foundation installed in the summer of 2002, and commercial operation to begin in the summer of 2004. Although natural gas is its primary fuel, as a backup fuel for the facility, the Company would be able to operate the facility on an ultra-low sulfur distillate fuel oil (0.01% sulfur) limited for a maximum operation on fuel oil of 720 hours per year. This will require on-site storage of approximately 3.6 million gallons of distillate oil, which is enough to support 83 hours of operation at full dispatch.

The generation capacity of this plant is quite large, but the modern technology it utilizes when fired with natural gas results in its environmental consequences to the air to be surprisingly minimal. As described and condemned by a number of the Fluvanna County residents appearing as public witnesses, the VEPCO Bremono plant, a coal-fired facility which has existed for many years, produces significantly higher emissions of various types, yet its capacity is only about one-quarter of the proposed facility.

The use of backup fuel oil to run the facility became a major issue in the view of the Hearing Examiner, for he recommended that the use of fuel oil be denied altogether. It should be noted that the type of fuel oil Tenaska will use contains only about one-fifth of the sulfur content of the industry standard, and is not even yet available on the market at the present time. The evidence was that this ultra-low sulfur content oil was expected to become available in June 2002. If and when the facility is ever run at a maximum rated capacity and burning fuel oil during the worst hypothetical weather and atmospheric conditions, DEQ found on the basis of scientific data and the requirements of the Clean Air Act that the impact from the facility under those conditions would be "diminimus."

However, the Hearing Examiner did recommend that this Commission grant interim approval to Tenaska Virginia, pursuant to § 56-234.3 of the Code to make financial expenditures and undertake preliminary construction work on the facility, and grant preliminary approval to Tenaska Virginia, pursuant to § 56-265.2 of the Code to construct the facility pending receipt and verification of the environmental and other permits necessary to operate. Principally because of the Hearing Examiner's rejection of the use of fuel oil, this Applicant was far from completely satisfied with the recommendations of the Hearing Examiner's Report, but at least, even if the Hearing Examiner's Report were followed by a Commission Order adopting the Hearing Examiner's recommendations, Tenaska might still meet its planned construction schedule.

Obviously, the Majority Order obliterates that schedule and delays construction commencement for an unknown, but lengthy, period of time.

The Applicant's *Comments and Objections of Tenaska Virginia Partners, L.P. to Hearing Examiner's Report* were understandably strenuous, characterizing the adverse recommendations as "arbitrary and capricious." Strong lawyer language, but justified, I believe in this instance.

If the use of fuel oil as a backup to better insure reliability is denied, it will be the first time this has ever occurred in Virginia. In fact, as a matter of historical policy this Commission, through its Staff, has strongly encouraged the contingent availability of alternate fuels to run generation plants in order to enhance reliability. Enhancement of reliability is the result of allowing generation to be fired by fuel oil, as proposed by Tenaska, and is consistent with one of the criteria the applicable statutes require that we consider.

The disposition of the fuel oil issue in the Majority Order leaves it far from clear as to what might ultimately be the fate of this issue. As to the fuel oil backup proposal, the Majority states: "In this case, it appears that the Hearing Examiner may not have considered all aspects of this matter in reaching his recommendation. Accordingly, we remand this issue to the Hearing Examiner to develop the record more fully, reconsider the matter, and make a recommendation to us." This Commission should simply enter an order rejecting the recommendation of the Hearing Examiner as to the denial of the use of fuel oil, if that is what the Majority Order really means to eventually do. Why agonize over such a decision as if the use of fuel oil in an emergency to run a generation plant is a novelty?

There is absolutely nothing more to "articulate" or to consider.

Our largest incumbent electric utility, Virginia Electric and Power Company, or Virginia Power, has in its current control area generation portfolio eight generation plants which burn fuel oil exclusively. These plants total winter net capacity of 2,718 mw. Because of the comparatively high fuel cost of oil and possibly the cost of emission allowances, these plants are the most expensive to run so that in the order of economic dispatch they are typically the last to be operated; but in times of peak demand on the Virginia Power system they are dispatched, thankfully so. Even with these kinds of generation facilities running, Virginia Power did have to institute rolling blackouts when it exceeded its peak demand record during the winter season of 1992.

Virginia Power also owns six other generation stations which can be fired by oil or gas, and in practice the fuel oil is utilized as an emergency backup. These plants represent an additional winter net capacity of 1,687 mw. There are also dispatchable nonutility generators under purchased power contracts with Virginia Power which have oil and gas fuel capabilities. There are six of these having a winter net capacity totaling 1,952 mw. Thus, Virginia Power has in its control area 6,357 mw of generation capacity that can run on fuel oil, none of the fuel oil being of the ultra-low sulfur content of that proposed by this Applicant. With regard to the purchased power contracts between Virginia Power and the nonutility generators, many require fuel oil as a backup to the natural gas primary fuel in order to enhance reliability during emergencies.

As to emergencies, the Hearing Examiner states that he "cannot imagine a single situation where an 'emergency' will require the facility's operation on an alternative fuel to meet the demand for electricity in Virginia." If this is so, one wonders why the Hearing Examiner would deny the use of backup fuel oil, since he cannot conceive of it ever being used. If his principal concern is the use of fuel oil due to a "spike in natural gas prices," like the Hearing Examiner, I have difficulty in imagining such a situation occurring, although when it comes to energy prices in a competitive wholesale market, hardly anything can be said to be impossible.

We do know that during the aberration of greatly increased natural gas prices during the early part of the year 2001, the price structure of petroleum products also rose. Even with a four or five-fold increase in wholesale natural gas prices, the lines did not cross. The considerable oil-fired inventory of Virginia Power, as described above, was not unleashed because dispatching plants running on oil were still not economical.

One need not rely on imagination to evaluate emergency situations which reduce or choke off the supplies of natural gas. I was a member of this Commission on Christmas Eve of the year 1989 when the Commission and key Staff personnel were on the job due to the unavailability of needed natural gas supplies. This occurred because of abnormal, extremely cold weather, which blanketed the eastern half of the country including the deep southern states. Gas supplies did not flow freely because the wellheads were frozen in Texas and Louisiana. Subfreezing weather extended deep into Florida. We were called upon to order termination of gas supplies to low priority customers in order to insure sufficient natural gas to heat hospitals and other critical facilities. Gas-fired generation facilities were not as large a part of the generation stock of our utilities at that time, but those that existed needed to run on fuel oil if they were capable of doing so. We needed critical gas supplies for high-priority human health and safety needs.

Given the tragic events of September 11 last year, and the fact that we are said to be at war with terrorism, it is hardly imaginary to consider the possibility of interruptions in the interstate natural gas pipeline infrastructure. It is quite vulnerable to criminal acts of destruction, and while recovery from such an act could probably be achieved within days, we should wish to have available any type of alternative backup fuel.

In short, backup fuel oil is and has been a commonplace provision in order to enhance the reliability of electric generation resources. The proposal to use ultra-low sulfur fuel oil as a backup fuel at the proposed facility was not an issue raised by the participants at the hearing; it was not even identified as an issue in the Joint Issues Report that was filed at the request of the Hearing Examiner. It surfaced as an issue in the Hearing Examiner's Report, apparently having its origins in the mind of the Hearing Examiner. The Majority Order should not perpetuate further consideration of what was assumed to be a nonissue by the Applicant and Staff.

As previously noted, the Majority Order would have the Hearing Examiner, on remand:

*. . . develop the record and make findings and recommendations on the influence the proposed facility would have on the price and/or availability of natural gas or transportation capacity for natural gas; further he is to make findings with respect to the influence of the facility on 'other utilities such as gas and water.*

This is the extent of the instruction manual to the Hearing Examiner on these global issues. It is an impossible task if it is to mean anything. Professionals who are far more competent to predict the future price and availability of natural gas are sometimes right, but often wrong. It is common knowledge that some make fortunes, and some go bankrupt. To more fully develop the record in this and other instances will, I assume, require further hearings by the Hearing Examiner, but if this matter ever returns to us by another Hearing Examiner's report, any response to this unreasonable request can be nothing more than the rankest speculation.

The Majority's discussion of economic development is completely at odds with the evidence. The Staff's evidence was that the facility will have a positive economic development impact. Even the Hearing Examiner seems to grudgingly find this positive benefit, but gratuitously cautions that the Board of Supervisors of Fluvanna County must plan for the growth that may occur because of the businesses or manufacturing companies that may locate in the county as a result of this facility.

Strangely, based on nothing more than some fanciful scenario, the Majority finds the opposite. The Majority considers that there will be a deterioration of air quality to such an extent that there may be a "corresponding negative repercussion upon economic development." There is no shred of evidence suggesting that this facility will cause Fluvanna County to look like a barren moonscape in a science fiction film production so that "poor air quality would hinder the attraction of new jobs to an area." Fluvanna is an attainment area at present, with good air quality; all of the expert testimony and documents demonstrate that it will continue to be so after this facility is constructed. We have but to consider the fact that the eastern part of Virginia from Northern Virginia through the metropolitan Richmond area and Tidewater is of much poorer air quality. This portion of the state contains the nonattainment areas identified by EPA. If the Majority's speculation is correct, in these areas we should see a rust belt and a dearth of economic activity. Of course, just the opposite is true.

Here again, the Majority would have the Hearing Examiner "consider economic development as a part of his review on remand." The Hearing Examiner did so, giving something of a left-handed approval of the facility on economic development grounds. He had to do so, because that was the evidence before him. What more can he do on remand, unless he, too, is to imagine Fluvanna becoming so choked with noxious gases as a result of this facility that human beings will not wish to inhabit there.

The Majority Order would also have this Commission involve itself with water resource management over and above numerous agencies, federal and state, that are frequently the gatekeepers of water impoundments, discharges and withdrawals. The Hearing Examiner discusses at length the matter of the possibility of a reservoir that might be built by an affiliate of this Applicant, called ECTI. At the time the evidence was taken, it is my interpretation that the lake, possibly created in Buckingham County, was not a certainty. It was to be a backup water resource in times of low levels or low flows in the James River. Although the Hearing Examiner devoted considerable discussion to the water supply and possible lake construction by Tenaska's affiliate, the Hearing Examiner made no recommendation on the issue of water, stating to the effect that the evidence in the record is unclear whether Tenaska requires water from a reservoir proposed for Buckingham County for its operations when water withdrawals from the James River are curtailed, and whether the proposed reservoir would have an impact on the environment. Yet the Majority Report speaks of the Hearing Examiner's "Findings and Recommendations that relate to water supply." With no recommendation that we do so, and with alternative water supply contingencies not completely certain, the Majority also would remand the matter to the Hearing Examiner ". . . to develop the record concerning backup or alternative sources of water. . . and to recommend whether any conditions are needed in this area." Again, this will cause incalculable delay, but worse, the effect of the Majority Order is to set this Commission on a course of possibly regulating over and beyond the permitting requirements of the State Water Control Board, U.S. Army Corps of Engineers and likely other agencies. It seems to me that if a private sector entity, whether a public service company or not, can gain the approvals required



from all federal and state agencies to build a reservoir or lake using private capital, it is in the public interest that it be built, and the public interest in this instance is broader than that which we regulate. I fear that the remand of this issue will be seen as a meaningless meddling into matters which are beyond the responsibility of this Commission. Related somehow to this water issue was the Hearing Examiner's footnote on page 29 of his Report. In the Applicant's Comments and Objections, this footnote is noted as "curious." Footnote 10 on page 29 of the Hearing Examiner's Report discusses the Tenaska ECTI affiliate, a public service corporation, and thus having the power of eminent domain. The Hearing Examiner concludes that, "This is clearly an example of a public service corporation exploiting its right of eminent domain. This loophole in the law should be closed." The footnote is not only curious, it is quite late. As a result of a matter litigated before the Commission several years ago, the Commission did officially alert committees of jurisdiction in the General Assembly that the proliferation of public service companies, mainly telecommunications companies, was thereby greatly increasing the numbers of entities having the power of eminent domain. We did not use the term "loophole." A legislative study was authorized by a joint resolution. The recommendations of that study did not result in a change in the availability of the power of eminent domain, the concern raised by the Hearing Examiner.

The Hearing Examiner recommended that the CPCN issued to Tenaska should require it to incorporate procedures for contacting off-duty personnel in the facility's emergency management plan in the event of an actual emergency. This strikes me as regulatory overreach to the point of utter silliness. What business operation of any size is not going to contact off-duty personnel when needed in case of emergencies? The Applicant objected to a certificate being conditioned on this requirement, as well as a requirement that Tenaska provide annual emergency response training for county emergency management personnel. This Commission has no more expertise than the man on the street in the area of emergency response, and it is presumptuous and ill-advised of us to continue giving life to an issue that is clearly within the official responsibility of Fluvanna County officials and a number of other federal and state agencies as described on page 30 of the Applicant's Comments and Objections to the Hearing Examiner's Report. This is why it is so regrettable that this is another issue to be remanded to the Hearing Examiner by the Majority Order ". . .to more fully develop the record on this matter and reconsider his findings and recommendations concerning this issue." But that familiar refrain is a bit different here, for the Majority says that the record on this emergency response consideration appears to be incomplete and does not provide a basis upon which to make an informed decision. This is because ". . .the concerns expressed by public witnesses and the lack of information in the record about the facts behind those concerns. . ." make it so. It is exceedingly strange to me that when there are no facts to support a concern the Majority does not simply dismiss the concerns as unsupported by the facts. This should be done by simply not remanding the matter to the Hearing Examiner on this issue, for none exists, and deciding as the Applicant urges, attaching no conditions which duplicate, override, or conflict with the responsibilities of other officials.

I am pleased to find that I agree with the Majority Order in its decision not to prohibit clear cutting of the buffer area of the Tenaska site, as was recommended by the Hearing Examiner. Encouraging a biodiverse stand of trees, the objective of the Hearing Examiner, is certainly better left to the forestry management professionals, and this Applicant has committed to cooperate with those agencies having such expertise. Besides, it has been my observation that given time, mother nature herself will produce a biodiverse stand of trees.

As I draw to the end of this overly long dissent, I am compelled to discuss what I believe to be some of the most important testimony produced in the evidentiary record. A Dr. Greg Kunkel testified as an expert witness on behalf of the Applicant. An abbreviated portion of his testimony is mentioned in a short paragraph in the Majority Order, but nothing further is said about it. Because of the long term implications of the information he supplied, I believe it deserves more.

According to Dr. Kunkel, EPA established a "budget" to look at actual fuel use by utilities during three years baseline, 1995, 1996 and 1997, and then used economic modeling to project the growth rates in various states through the year 2007, which was the projected baseline. For electric utilities the reduction in oxides of nitrogen emissions amounts to 65% from that projected 2007 baseline. This EPA rule will come into effect in May of 2004, and for Virginia this means that a reduction of over 20,000 tons in nitrogen oxides emissions must be achieved from the electric generation sector alone. EPA sets the emissions cap, but it is up to the states to determine how allocations of reductions are to be made through what is referred to as "a call for state implementation plans, or SIP." Dr. Kunkel explained that this is a very large comprehensive program involving a regional issue, not just local. The NOx reduction program will also involve allowances similar to that for the fairly successful sulfur dioxide allowance program. Thus, there will be a monetary incentive attached to NOx reductions and NOx emissions that use allowances.

The generation facilities proposed in this Application, including the use of ultra-low sulfur fuel oil represent the best available technology, and when it is run on natural gas its NOx emissions are surprisingly low considering its large capacity. Dr. Kunkel estimated that a coal-fired generation plant would emit oxides of nitrogen on an order of four to five times that of this facility.

Gas-fired generation plants characteristically emit very little sulfur dioxide gas, but NOx emissions are more prevalent; hence the generation plant in this Application is designed with several NOx reduction technologies.

Dr. Kunkel believes that the action by EPA, rulemaking and settlements being negotiated with utilities having large coal-fired generation plants, including Virginia Power, will eventually be quite effective in reducing NOx emissions, just as the Clean Air Act Amendments of 1990 and the staged SO2 emission reductions required thereby have been reasonably effective.

I think it is important to realize the implications of this testimony over a longer term. It means that older plants, many coal-fired, will cost more to operate, either by virtue of the expense of adding NOx emission controls, or running the plants and thus rapidly using NOx emission allowances. It is anticipated that a trading market for NOx allowances will develop, as was the case with SO2 allowances. Thus, there may be an economic incentive to adjust generation plant dispatch if it appears that more revenue can be gained by selling allowances rather than using them for generation. Although not expressly stated, the implication is that starting only two years hence there may be significant incentives for much cleaner generation plants, such as this one, to displace to some extent generation plants that are "dirtier" in their emission characteristics.

I do not interpret this to mean that coal-fired plants are destined to be shut down and decommissioned. They should not be, because diversity of generation fuels is in the public interest, but some coal plants may be dropped from generation portfolios. Advances in clean coal technologies have been made, and it is also in the public interest to see that progress continue.

So it is that I believe that a serious negative impact of the Majority Order, perhaps not perceived by the Majority, is that it tends to deny Virginians a future in which they may enjoy an abundance of electric generation capacity supplied with much cleaner generation resources than we presently have. It is true that much of this new capacity will be generated for supply to the wholesale market, and possibly Virginia will be a state with a "glut" of merchant plant generators, as predicted by one of the public witnesses. It may possibly take a glut here in order to bring wholesale prices down to a level at which competitive retail suppliers can effectively compete with the relatively low rates charged by incumbent distributors. As has been stated and restated

by commentators on the experience in retail competition in California and some other states, a fully functioning, robust wholesale market must be fully developed before effective retail competition can be achieved.

A baseload plant of this design and size, easily able to meet present air quality standards and known future emissions cap requirements, is the type we should be encouraging. It is clearly consistent with the General Assembly's objective to promote competition both at the wholesale and retail levels. I am afraid that the action by the Majority in remanding this case is tantamount to a denial of the Application.

If the Majority Order issues with its remand provisions, it is my hope that upon any motion filed for reconsideration such reconsideration would be granted within twenty-one days from the date of this Order. Upon reconsideration I would urge that the Application be granted as recommended by Staff Counsel, but failing that, and upon request of the Applicant, that the Majority would enter a final order denying the Application if they must, so that this Applicant may appeal, as a matter of right, to the Virginia Supreme Court.

**CASE NO. PUE-2001-00039  
APRIL 19, 2002**

APPLICATION OF  
TENASKA VIRGINIA PARTNERS, L.P.

For approval of a certificate of public convenience and necessity pursuant to Virginia Code § 56-265.2, an exemption from Chapter 10 of Title 56, and interim approval to make financial commitments and undertake preliminary construction work

**FINAL ORDER**

On January 16, 2001, Tenaska Virginia Partners, L.P. ("Tenaska" or "Applicant") filed an Application for approval of a certificate of public convenience and necessity pursuant to § 56-265.2 of Chapter 10.1 of Title 56 of the Code of Virginia ("Code") to construct and operate a 900 MW natural gas-fired electric generating facility ("Facility") in Fluvanna County, Virginia. Tenaska requested an exemption from the provisions of Chapter 10 of the Code (§§ 56-232, *et seq.*). The Applicant also requested interim authority under § 56-234.3 of the Code to allow it to make financial expenditures and undertake preliminary construction work. On April 20, 2001, the Applicant filed additional information necessary for the Commission's environmental assessment of the Facility.

On May 4, 2001, the Commission entered an Order for Notice and Hearing providing an opportunity for interested persons to file comments, directing the Commission Staff ("Staff") to investigate the Application, and setting a hearing in this matter. The evidentiary hearing was held on July 24, 2001, before Hearing Examiner Michael D. Thomas. Richard D. Gary, Esquire, and John M. Holloway, III, Esquire, appeared on behalf of Tenaska. C. Meade Browder, Jr., Esquire, and Kara Austin Hart, Esquire, appeared on behalf of Staff. Kodwo Ghartey-Tagoe, Esquire, appeared on behalf of Columbia Gas of Virginia, Inc. ("Columbia Gas"). Eight public witnesses testified at the hearing.

On October 23, 2001, Hearing Examiner Michael D. Thomas entered his Report in which the Examiner summarized the record, and reviewed and analyzed the evidence and issues in this proceeding.<sup>1</sup> The Examiner recommended that the Commission grant Tenaska interim approval, pursuant to § 56-234.3 of the Code, to make financial expenditures and undertake preliminary construction work on the Facility. The Examiner also recommended that the Commission grant Tenaska preliminary approval, pursuant to § 56-265.2 of the Code, to construct the Facility, subject to certain conditions and pending receipt and verification of environmental or other permits necessary to operate the Facility. In addition, the Examiner found that the Commission should grant Tenaska an exemption from Chapter 10 of Title 56 of the Code.

On January 16, 2002, a majority of the Commission issued an Order remanding the case for further proceedings and recommendations.<sup>2</sup> On January 24, 2002, the Hearing Examiner issued a ruling that established a procedural schedule and hearing date to address the remanded issues. The Examiner's ruling also identified the following areas where additional evidence was required by the Order remanding this case: (1) rates; (2) environment; (3) economic development; and (4) public interest, which included matters attendant to the use of low-sulfur fuel oil, back-up or alternative sources of water, and the emergency management plan. On March 13, 2002, the evidentiary hearing on remand was convened as scheduled by the Examiner. Mr. Gary, Mr. Holloway, and Kevin J. Finto, Esquire, appeared on behalf of Tenaska. William H. Chambliss, Esquire, appeared on behalf of Staff, and Columbia Gas did not participate. Ten public witnesses appeared at the hearing.

On April 3, 2002, Hearing Examiner Michael D. Thomas entered his Report on Remand, in which the Examiner summarized, reviewed, and analyzed the additional evidence submitted on remand.<sup>3</sup> In the Report on Remand, the Examiner recommended that the Commission: (1) grant Tenaska interim approval, pursuant to § 56-234.3 of the Code, to make financial expenditures and undertake preliminary construction work on the Facility; (2) grant Tenaska approval, pursuant to § 56-265.2 of the Code, to construct and operate the Facility; and (3) adopt the findings contained in the Report on Remand.

The Hearing Examiner found, in the Report on Remand, that Tenaska met its evidentiary burden of proving the Facility, and its associated facilities: (i) will have no material adverse effect upon the rates paid by customers of any regulated public utility in the Commonwealth; (ii) will have no material adverse effect upon reliability of electric service provided by any such regulated public utility; and (iii) are not otherwise contrary to the public interest. The Report on Remand also included the following findings:

<sup>1</sup> Report of Michael D. Thomas, Hearing Examiner, Case No. PUE-2001-00039 (Oct. 23, 2001) ("Report").

<sup>2</sup> Application of Tenaska Virginia Partners, LP, For approval of a certificate of public convenience and necessity pursuant to Virginia Code § 56-265.2, an exemption from Chapter 10 of Title 56, and interim approval to make financial commitments and undertake preliminary construction work, Case No. PUE-2001-00039, Order (Jan. 16, 2002).

<sup>3</sup> Report on Remand of Michael D. Thomas, Hearing Examiner, Case No. PUE-2001-00039 (April 3, 2002) ("Report on Remand").

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

- (1) The proposed Facility will have no material adverse effect on the rates paid by Virginia consumers for natural gas, water or sewer service;
- (2) The current level of air quality in Fluvanna County is good, and is in attainment of all National Ambient Air Quality Standards ("NAAQS");
- (3) Tenaska's cumulative impacts analysis employed in this case is reasonable, as it tends to greatly overstate potential ground level concentrations of nitrogen oxides, sulfur dioxide, particulate matter, and carbon monoxide from existing and proposed sources, and potential ground level concentrations of ozone;
- (4) Tenaska's cumulative impacts analysis adequately demonstrates that the Facility's emissions will have an insignificant impact on air quality in Fluvanna County and surrounding counties;
- (5) Tenaska's cumulative impacts analysis adequately demonstrates that the Facility's emissions, when combined with the emissions from 22 other existing or proposed facilities, will have no material adverse effect on air quality in Fluvanna County and surrounding counties;
- (6) Because the cumulative impacts analysis completed by Tenaska shows no significant deterioration of air quality and no exceedence of the NAAQS, the Facility's emissions will have no material adverse effect on economic development in Fluvanna County and surrounding counties;
- (7) The Facility's use of 0.01% low-sulfur fuel oil as a backup fuel for no more than 720 hours during the period October through March is not contrary to the public interest, will have no material adverse effect on traffic in the area surrounding the Facility, will have no material adverse effect on air quality in Fluvanna County and surrounding areas, and will promote the public interest by maintaining system reliability on the electric grid;
- (8) Tenaska established its need for a backup water supply from a reservoir to be constructed by an affiliate in Buckingham County and transported to Tenaska's Facility by East Coast Transport, Inc., and the reservoir and its associated facilities will have no material adverse effect on the environment; and
- (9) The Integrated Contingency Plan that Tenaska, with the assistance of the County, will develop for the Facility adequately addresses: the concerns that the Applicant's emergency management personnel were not up to the task of responding to an emergency at the Facility; procedures for contacting Tenaska personnel in the event of an actual emergency; and the provision of realistic training for the County's emergency management personnel.

NOW THE COMMISSION, having considered the record, the Hearing Examiner's Report, the Hearing Examiner's Report on Remand, and the applicable law, is of the opinion and finds that the Hearing Examiner's findings and recommendations in the Report on Remand are reasonable and should be adopted as set forth below.

The Commission's Order remanding this case identified six general criteria, or areas of analysis, that apply to electric generating plant applications. The six general criteria are as follows: (1) reliability;<sup>4</sup> (2) competition;<sup>5</sup> (3) rates;<sup>6</sup> (4) environment;<sup>7</sup> (5) economic development;<sup>8</sup> and (6) public interest.<sup>9</sup> We have evaluated these six areas. Pursuant to § 56-580 D, we find that the Facility and associated facilities: (i) will have no material adverse effect upon reliability of electric service provided by any regulated public utility; and (ii) are not otherwise contrary to the public interest.

Accordingly, we grant Tenaska approval, and a certificate of public convenience and necessity, to construct and operate the Facility. We note that the Examiner recommended approval under § 56-265.2 of the Code. We take this opportunity, however, to affirm that § 56-580 D supplants §§ 56-234.3 and 56-265.2 of the Code in the Commission's approval process for electric generating facilities on and after January 1, 2002.<sup>10</sup>

The Hearing Examiner also recommended that the Commission grant Tenaska interim approval under § 56-234.3 to make financial expenditures and undertake preliminary construction work. We note, however, that interim approval is not necessary, as today we authorize Tenaska to construct and operate the Facility.

Accordingly, IT IS ORDERED THAT:

- (1) The findings of the Hearing Examiner's April 3, 2002, Report on Remand are hereby adopted.
- (2) Pursuant to § 56-580 D of the Code of Virginia, Tenaska is hereby granted authority, and a certificate of public convenience and necessity, to construct and operate the 900 MW natural gas-fired electric generating facility in Fluvanna County, Virginia, as described in this proceeding.

<sup>4</sup> Va. Code Ann. §§ 56-580 D(i) and 56-46.1 A.

<sup>5</sup> Va. Code Ann. § 56-596 A.

<sup>6</sup> Va. Code Ann. §§ 56-580 D(ii); 20 VAC 5-302-20 14. *See also Ex Parte: In the matter of amending filing requirements for applications to construct and operate electric generating facilities*, Case Nos. PUE-2001-00313 and PUE-2001-00665, Order Adopting Rules and Prescribing Additional Notice at 6 (Dec. 14, 2001).

<sup>7</sup> Va. Code Ann. §§ 56-580 D and 56-46.1 A.

<sup>8</sup> Va. Code Ann. §§ 56-46.1 and 56-596 A.

<sup>9</sup> Va. Code Ann. §§ 56-580 D(ii).

<sup>10</sup> *See, e.g., Ex Parte: In the matter of amending filing requirements for applications to construct and operate electric generating facilities*, Case Nos. PUE-2001-00313 and PUE-2001-00665, Order Adopting Rules and Prescribing Additional Notice at 2 (Dec. 14, 2001); *Ex Parte: In the matter of amending filing requirements for applications to construct and operate electric generating facilities*, Case No. PUE-2001-00313, Order at 5 (Aug. 3, 2001).

(3) The certificate of public convenience and necessity granted herein shall be conditioned upon the receipt of all environmental and other permits necessary to operate the Facility.

(4) As not objected to by Tenaska, the certificate of public convenience and necessity granted herein shall expire in two years from the date of this order, if construction on the Facility has not commenced.

(5) Tenaska shall comply with the Stipulation entered into in this case, which recognizes that Tenaska will construct and own a natural gas lateral from the Transco natural gas transmission line located on the site of the Facility, and that the natural gas lateral will be used solely to provide natural gas to the Facility.

(6) The facilities authorized herein shall be exempt from the provisions of Chapter 10 of Title 56 of the Code of Virginia.

(7) There being nothing further to come before the Commission in this proceeding, this case shall be removed from the docket and the papers transferred to the file for ended causes.

**MOORE, Commissioner, Dissents:**

I respectfully dissent from my colleagues' decision to approve the construction and operation of the Tenaska plant based on the record before us. My disagreement is limited to the majority conclusions with respect to air quality.

In our Order entered January 16, 2002,<sup>1</sup> we remanded this matter to the Hearing Examiner to consider a number of issues. One of our areas of greatest concern was the environment in general and air quality in particular. We required a cumulative impact air analysis. More specifically, we directed that evidence be presented showing the current quality of the air in the area surrounding the proposed Tenaska 900 MW electric generating facility ("Facility") and the impact on that air quality of the Facility and other proposed facilities. We found that it was not enough simply to conclude that the Facility might be adding what was described as an insignificant amount of pollution to the atmosphere. We needed to know where on the continuum of air quality the area falls. We needed to know whether the pollution from these facilities would be added to air where pollution concentration levels were 20% or 80% of the allowed limits.

At the hearing on remand, Tenaska presented data to reflect current air quality in the area surrounding the Facility (Fluvanna County and the surrounding counties) and the impacts of up to 23 proposed power plants (including the Tenaska plant) on this air quality. Tenaska, the Department of Environmental Quality ("DEQ"), and the Commission Staff concluded that the methodologies used to develop the data were reasonable and that it was appropriate to use the data for the cumulative impact air analysis. In his Report issued April 3, 2002,<sup>2</sup> the Hearing Examiner agreed and, based on these methodologies and data, concluded that adding the impact of the Tenaska Facility to up to 22 other proposed plants "will not materially degrade existing air quality in Fluvanna County and surrounding counties, and will not cause a violation of any NAAQS."<sup>3</sup> The Hearing Examiner recommended that construction and operation of the Facility be approved. Without discussion of the air quality issues, the majority adopted the Hearing Examiner's findings and his recommendation to approve the construction and operation of the Facility.

Unfortunately, the analysis upon which the findings and recommendation are based failed to focus adequately on current air quality and the amount of the increase in pollution concentrations. A 2% increase in pollution concentration may not be significant if the current concentration is only 20% of the NAAQS, but it is significant if the current air quality already contains pollution concentrations of 85% to 90% of the allowed limit. That distinction was one of the very reasons we required data on current air quality. We need to know current pollution concentration levels before we can properly evaluate the impact of additional levels. This issue is, essentially, ignored by the Hearing Examiner and the majority who approved the plant based on the fact that increased pollution could be defined as "insignificant" and that a NAAQS was not exceeded under the analyses. In addition, although not stated, the analysis must assume that the environment and the health of Virginia citizens are "safe" as long as pollution concentration levels stay below the currently-enforced NAAQS. Such is not the case; concentration levels below these NAAQS do matter, particularly for several of the pollutants involved here. Further, data was not presented with respect to revised standards for the two pollutants with the highest current concentration levels. For the reasons stated below, the Tenaska Facility should not be approved based on the record that is before us.

Tenaska presented its air quality data through a report prepared by Trinity Consultants.<sup>4</sup> The results of the Trinity study were summarized in a series of tables and graphs.<sup>5</sup> They show the currently-enforced NAAQS and the existing background (or current) air quality that reflects the highest concentrations of the particular pollutant at the monitoring station that best represents the air quality in Fluvanna County and surrounding counties.<sup>6</sup> For

<sup>1</sup> *Application of Tenaska Virginia Partners, L.P., For approval of a certificate of public convenience and necessity pursuant to Virginia Code § 56-265.2, an exemption from Chapter 10 of Title 56, and interim approval to make financial commitments and undertake preliminary construction work*, Case No. PUE-2001-00039, Doc. Con. Cen. No. 020120072 (Order Jan. 16, 2002) ("January 16 Order").

<sup>2</sup> *Application of Tenaska Virginia Partners, L.P., For approval of a certificate of public convenience and necessity pursuant to Virginia Code § 56-265.2, an exemption from Chapter 10 of Title 56, and interim approval to make financial commitments and undertake preliminary construction work*, Case No. PUE-2001-00039, Doc. Con. Cen. No. 020420015 (Report on Remand of Michael D. Thomas, Hearing Examiner April 3, 2002) ("Remand Report").

<sup>3</sup> Remand Report at 27. "NAAQS" refers to the National Ambient Air Quality Standards which, pursuant to the Clean Air Act, the EPA was required to establish for certain pollutants that are deemed to be harmful to public health and the environment.

<sup>4</sup> Tenaska's witness, Dr. Greg Kunkel, filed direct remand testimony which was marked at the remand hearing as Exhibit 16 ("Remand Hearing Exhibit 16"). The Trinity Consultant's Study, entitled "Cumulative Impacts Analysis--Tenaska Virginia Generating Station," was presented as Exhibit 3 of Remand Hearing Exhibit 16 (hereinafter, the "Trinity Report").

<sup>5</sup> Trinity Report, Part 1.

<sup>6</sup> Current air quality and pollution levels were not based on readings in Fluvanna County because no monitoring device was available in the county for the criteria pollutants. A surrogate monitoring station was selected for each pollutant based on whether the monitoring station was in a rural or urban area and the distance between the station and the Facility. See Trinity Report, Part 2; Remand Hearing Exhibit 16 at 11; Tr. 457-59. The adequacy of this method

most pollutants, these tables also show the predicted contributions of the Tenaska facility alone, and of the Tenaska facility along with 22 other proposed plants, to this current, or background, air quality.<sup>7</sup>

The data in these tables are important for several reasons. First, they provide the best available indication of the current air quality in the area that will be impacted by the Facility, or, in other words, where on the continuum of air quality this area falls. Second, the data show the possible impact of the Tenaska plant alone and the cumulative impact of Tenaska, along with certain other proposed plants, on the air quality in the area. The data are telling in several respects. First, current concentration levels in the area for several pollutants appear to be less than 25% of their NAAQS. For example, in Fluvanna and surrounding counties, the NO<sub>2</sub>, SO<sub>2</sub>, and one-hour CO analyses show that current levels are between 15% and 25% of the NAAQS.<sup>8</sup> However, for PM<sub>10</sub> and the eight-hour CO analyses, the background or current air quality is between 55% and 65% of the maximum allowed concentrations.<sup>9</sup> In all cases, the impact of the Tenaska Plant alone is substantially less than 1% of the allowed NAAQS.<sup>10</sup> The Applicant failed to explain why we should not be concerned when concentration levels are 50% to 60% of the allowed limits before the addition of any new facilities. The current concentration level in the area is 57% of the allowed limit under the 24-hour PM<sub>10</sub> analysis, and, under the annual PM<sub>10</sub> analysis, the current level is 64% of the NAAQS.<sup>11</sup> Of further concern is the fact that, according to the Trinity Report, the impact of the 23 plants on the 24-hour PM<sub>10</sub> analysis is to increase the concentration from 86 µg/m<sup>3</sup> to 94.05 µg/m<sup>3</sup>, almost a 10% increase.<sup>12</sup> These issues were not analyzed by the Applicant. Rather than discuss the impact of these data, the focus was limited to the fact that the study showed that the combination of existing air quality and the impact of the proposed plants "**will not cause or contribute to a violation of the NAAQS.**"<sup>13</sup>

The Applicant's analysis and conclusions with respect to ozone are, as they were with other pollutants, that neither Tenaska alone, nor Tenaska and the other proposed plants, will cause a violation of the ozone NAAQS in Fluvanna County or the surrounding counties.<sup>14</sup> Such a conclusion may be correct, but it should not form a basis upon which to approve the Tenaska Facility given the evidence of ozone concentration levels and the impact additional plants may have on those levels. First, areas of Virginia are currently classified as "nonattainment," that is, the concentration levels are above the currently-enforced standard of 120 parts per billion ("ppb") over a one-hour period.<sup>15</sup> The current ozone concentration level for the Fluvanna area was established by Trinity Consultants at 104 ppb.<sup>16</sup> That is approximately 87% of the NAAQS of 120 ppb.<sup>17</sup> According to the Trinity Report, assuming only 16 of the proposed 23 plants are completed, 2.5 ppb would be added, or 2.4% of the current concentration level.<sup>18</sup> This increase would move the concentration level closer to 90% of the NAAQS. If all 23 plants are assumed to be built, then the concentration level would be 90% of the limit.<sup>19</sup>

With respect to ozone and other pollutants, the Applicant stated that we should take into account other factors that could reduce pollution levels such as the NO<sub>x</sub> SIP call/allowance trading, acid rain programs, and other state and federal plans.<sup>20</sup> The Company also reiterated often that all of the data were "worst case" scenarios.<sup>21</sup> In addition, the Company noted that the study assumed 23 plants would be built when perhaps only six or seven will ultimately be constructed.<sup>22</sup> The Company repeatedly reminded the Hearing Examiner how "conservative" all of the data were from almost every point of view. These points are well made and noted by the Hearing Examiner and the majority. We must, however, consider the data. When the data are high, we cannot disregard them because they were "conservative." The Company also repeatedly noted how appropriate and reasonable the data were.<sup>23</sup> Further,

and the resulting data were challenged by public witness Holmes on behalf of the Piedmont Environmental Council. Tr. 343-44. Mr. Holmes, however, had not read the Trinity Report (Tr. 354) and could offer no specifics concerning air quality in the area. (Tr. 343-44). While there may be legitimate issues with respect to the current air quality in the area, based on the record before us at this time, we must work with the data presented.

<sup>7</sup> Trinity Report, Tables 1-3, 1-4 at pp. 1-9, 1-10. Four of the other 22 "proposed" plants have been completed. See Trinity Report at Table 3-1 at pp. 3-3, 3-4 (ID Nos. 13, 19, 20, 21).

<sup>8</sup> Trinity Report, Table 1-3, p. 1-9.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *Id.* at p. 1-8 (bold in original).

<sup>14</sup> *Id.* at p. 4-3.

<sup>15</sup> See Tr. 543.

<sup>16</sup> Trinity Report, p. 4-3. For the Fluvanna area, there was no monitor available so a surrogate was used that Trinity Consultants found was the most appropriate for the area. See *supra* note 6.

<sup>17</sup> Trinity Report, p. 4-3.

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> Tr. 483-91; Remand Hearing Exhibit 16 at 17-21.

<sup>21</sup> See, e.g., Tr. 447-48, 467; Remand Hearing Exhibit 16 at 16; see also Trinity Report at pp. 1-6, 2-7.

<sup>22</sup> Remand Hearing Exhibit 16 at 16; Tr. 481.

<sup>23</sup> See, e.g., Tr. 446-48, 495-96; Remand Hearing Exhibit 16 at 13.

with respect to the number of future plants modeled, four of the 23 "proposed" modeled plants have already been completed; moreover, future industrial pollution will not come solely from power plants. The 23 plants represent a surrogate for industrial pollution in the foreseeable future, not just electric generating plants. While it is likely that not all of these generating plants will be built, other plants will be. Finally, the Applicant presented the data as a basis for our decision and the DEQ, Staff, the Hearing Examiner,<sup>24</sup> and, presumably, the majority agreed that it should be.

While the record contains significant useful information, critical data are not included and important issues were not analyzed. Current pollution concentration levels based on revised NAAQS were not provided for ozone and particulate matter. Also, data for the proposed plants based on these new standards were not presented. Further, there was little or no discussion in the record, the Remand Report, or the majority order with respect to current concentration levels of the criteria pollutants, the background of the standards (NAAQS) relied upon, the dangers of the pollutants being studied, or the revised NAAQS for several pollutants adopted in 1997.

The Clean Air Act requires the Environmental Protection Agency ("EPA") to establish the NAAQS to protect the public from adverse health effects of certain pollutants. According to the EPA, ground-level ozone is dangerous to human health and negatively impacts flora as well. Ozone can irritate lung airways and cause inflammation; repeated exposure to ozone pollution may cause permanent lung damage. Ozone also interferes with the ability of plants to produce and store food which makes them susceptible to disease, insects, other pollutants, and harsh weather.<sup>25</sup> Also, and of particular importance, even at very low levels, ground-level ozone triggers a variety of health problems including aggravated asthma, reduced lung capacity, and increased susceptibility to respiratory illnesses like pneumonia and bronchitis.<sup>26</sup> The EPA has concluded that ozone is a non-threshold pollutant, a pollutant that may cause adverse health effects at any level.<sup>27</sup> It is not possible, according to the EPA, to identify an ozone concentration level at which it can be concluded with confidence that no adverse effects are likely to occur.<sup>28</sup>

The currently-enforced one-hour ozone NAAQS of 120 ppb has been in effect for more than 20 years.<sup>29</sup> Reviews of the standard were completed in 1993 and 1997.<sup>30</sup> In its 1997 review, based on available scientific evidence linking exposure to ozone to adverse health and welfare effects at levels allowed by the current ozone standard, the EPA revised the O<sub>3</sub>, or ozone, standard.<sup>31</sup> The EPA summarized the new eight-hour, 80 ppb standard and its benefits as follows:

The current 1-hour primary standard is replaced by an 8-hour standard at a level of 0.08 parts per million (ppm) with a form based on the 3-year average of the annual fourth-highest daily maximum 8-hour average O<sub>3</sub> concentrations measured at each monitor within an area. The new primary standard will provide increased protection to the public, especially children and other at-risk populations, against a wide range of O<sub>3</sub>-induced health effects, including decreased lung function, primarily in children active outdoors; increased respiratory symptoms, particularly in highly sensitive individuals; hospital admissions and emergency room visits for respiratory causes, among children and adults with pre-existing respiratory disease such as asthma; inflammation of the lung, and possible long-term damage to the lungs.

*Ozone NAAQS Final Rule* at 38,856.

When asked, Company witness Dr. Kunkel discussed the revised standard for ozone briefly.<sup>32</sup> He acknowledged the revised EPA standard, but noted that it had been subject to long legal challenges and it was not certain when it might be implemented.<sup>33</sup> With respect to the revised standard, however, Dr. Kunkel concluded as follows: "There's a general anticipation in the environmental community that it may be implemented and it's expected to be implemented."<sup>34</sup> Shortly after the remand hearing, the Circuit Court of Appeals for the District of Columbia upheld the eight-hour standard.<sup>35</sup> We must assume that the EPA will begin implementation in the near future. Dr. Kunkel also acknowledged that the number of nonattainment areas in Virginia is expected to increase under the new standard.<sup>36</sup> Although the revised standard of 80 ppb is significantly lower than the currently-enforced standard of

<sup>24</sup> Remand Report at 26-27.

<sup>25</sup> See <http://www.epa.gov/air/urbanair/ozone/hlth.html>; <http://www.epa.gov/ttn/oarpg/naaqsfm/o3fact.html>. See also *Nat'l Ambient Air Quality Standards for Ozone; Final Rule* 62 Fed. Reg. 38,855 at 38,856, 38,859-67 (July 18, 1997) (codified at 40 C.F.R. §§ 50.9, 50.10 (1999)) ("*Ozone NAAQS Final Rule*").

<sup>26</sup> *Id.*

<sup>27</sup> *Ozone NAAQS Final Rule* at 38,863, 38,864, 38,867.

<sup>28</sup> *Id.*

<sup>29</sup> See <http://www.epa.gov/ttn/oarpg/naaqsfm/o3fact.html>.

<sup>30</sup> *Ozone NAAQS Final Rule* at 38,857-58. The EPA's 1997 revised standards for ozone and PM were recently upheld by the United States Court of Appeals, District of Columbia Circuit. See *Am. Trucking Ass'n. v. United States*, 283 F.3d. 355 (D.C. Cir., Mar. 26, 2002) (Nos. 97-1440, 97-1548, 97-1553, 97-1441, 97-1551, 97-1555, 97-1546, 97-1552, 97-1559) ("*ATA Remand Decision*").

<sup>31</sup> *Ozone NAAQS Final Rule* at 38,859, 38,864; <http://www.epa.gov/ttn/oarpg/naaqsfm/o3fact.html>. The current ozone standard is the one-hour 120 ppb NAAQS.

<sup>32</sup> Tr. 543-44, 568-70, 582.

<sup>33</sup> Tr. 568.

<sup>34</sup> *Id.*

<sup>35</sup> See generally *ATA Remand Decision*, *supra* note 30.

<sup>36</sup> Tr. 569.

120 ppb, the monitoring period is lengthened to eight hours. The monitored concentration levels over an eight-hour period are expected to be below those for a one-hour period. Although the revised standard was established in 1997 and the environmental community "expected" it to be implemented, Dr. Kunkel did not present current concentration levels under the revised standard for the area in question. He did state that it is not anticipated that Fluvanna or the surrounding counties would be in nonattainment status under the new standard, though he presented no analysis to support his "anticipation."<sup>37</sup>

We cannot simply allow ozone levels in the Commonwealth to continue to climb because this plant or a series of facilities does not cause a "violation" under the currently-enforced limits. According to the Trinity Report, ozone levels in the Fluvanna area are approaching the current limit. We do not know how close we may now be to the revised standard. Certainly we must have this information before we approve a facility that will emit tons of pollutants that contribute to the creation of ozone. There can be no question that the Tenaska plant will increase ozone concentrations; no one even suggested otherwise. Tenaska's witness, Dr. Kunkel, said it well when he said "any emissions are emissions. . . . if you have emissions of volatile organic compounds or oxides of nitrogen, . . . some contribution is made to ozone in the atmosphere under certain conditions."<sup>38</sup> DEQ estimates that the Tenaska Plant will emit some 577 tons of NO<sub>2</sub> into the atmosphere each year,<sup>39</sup> of which 90 tons will be during the ozone season of May through September.<sup>40</sup> Such emissions, which may contribute to an already significant level of ozone, should not be allowed without knowing current concentration levels under the new standard.

Consideration of particulate matter raises concerns similar to those discussed with respect to ozone. First, as noted above, the PM<sub>10</sub> level is already at 57% of the allowed limit under the 24-hour PM<sub>10</sub> analysis<sup>41</sup> and the concentration would increase almost 10% (from 86 µg/m<sup>3</sup> to 94.05 µg/m<sup>3</sup>) if all 23 proposed plants were constructed. That is a significant increase. Second, like ozone, there are new standards that will apply to particulate matter, those dealing with fine particulate matter -- the PM<sub>2.5</sub> standards. These standards, also adopted in 1997 and recently upheld, establish new annual and daily standards for fine particulate matter.<sup>42</sup> In adopting these new standards, the EPA concluded, as it did with ozone, that they were necessary because there were particulate matter-related health effects in areas where the current standards were being met.<sup>43</sup> Further, the EPA stated that it could not determine whether there is a threshold concentration for particulate matter below which PM-associated health risks are not likely to occur.<sup>44</sup> Also, as with ozone, the EPA has determined that particulate matter can contribute to significant health problems. The health effects from fine particulate matter include premature death and increased hospital admissions and emergency room visits; increased respiratory symptoms and disease; decreased lung function; and alteration in lung tissue and structure and in respiratory tract defense mechanisms.<sup>45</sup> It does not appear that the PM<sub>2.5</sub> particulate standards were addressed by the Applicant; nor was it explained why they were not addressed. Yet, like the revised ozone standard, they have been known since 1997, recently upheld, and should be implemented in the near future. We do not know either the current concentration levels of PM<sub>2.5</sub> in the area, or the impact the Tenaska Facility, or any other proposed facility, may have on air quality in the Fluvanna area. We do not know whether this area is already close to the revised NAAQS or whether it might exceed the limits in the near future.

Dr. Kunkel explained how revised ozone standards would be implemented,<sup>46</sup> similar implementation may apply to the new PM<sub>2.5</sub> NAAQS. First, the EPA and Virginia would determine nonattainment areas. For ozone, Dr. Kunkel acknowledges that they will increase in Virginia, though he does not anticipate that the Fluvanna area will be classified as nonattainment. There was, as noted above, no evidence of current concentration levels of PM<sub>2.5</sub> for the area. Once nonattainment areas are established, Virginia must then devise a plan to bring the areas in attainment for a given pollutant such as PM<sub>2.5</sub> or ozone. This might include, for example, regulation of power plant or automobile emissions. After the plan is approved by the EPA, it is then implemented, and the Commonwealth is given time to bring the areas into attainment. The process of designation, planning, and compliance will take years. In the meantime, citizens in nonattainment areas could be exposed to increased, and perhaps, unsafe levels of pollution.

We are required by the statutes to make judgments concerning certain factors in determining whether to approve the construction and operation of the Tenaska Facility. These include considerations related to reliability, competition, rates, economic development, impact on the environment, and whether the facility is otherwise contrary to the public interest.<sup>47</sup> As part of our consideration of the environment, as stated in our January 16 Order, we must be guided by Section 1 of Article XI of the Virginia Constitution:

[I]t shall be the Commonwealth's policy to protect its atmosphere, lands, and waters from pollution, impairment, or destruction, for the benefit, enjoyment, and general welfare of the people of the Commonwealth.

Consideration of the environment involves more than ensuring that all required approvals have been obtained. For example, having a required permit from DEQ or not causing a violation of a NAAQS does not end the inquiry with respect to air quality issues. If such were the case, there would be no

<sup>37</sup> *Id.*

<sup>38</sup> Tr. 480.

<sup>39</sup> Tr. 544.

<sup>40</sup> *Id.*

<sup>41</sup> The current annual PM<sub>10</sub> concentration level is at 64% of the NAAQS. Trinity Report, Table 1-3.

<sup>42</sup> *See Nat'l Ambient Air Quality Standards for Particulate Matter; Final Rule*, 62 Fed. Reg. 38,651 (July 18, 1997) (codified at 40 C.F.R. § 50.7 (1999)) ("Particulate Matter NAAQS Final Rule"); *ATA Remand Decision supra* note 30.

<sup>43</sup> *Particulate Matter NAAQS Final Rule* at 38,652, 38,655-57.

<sup>44</sup> *See Nat'l Ambient Air Quality Standards for Particulate Matter; Proposed Rule*, 61 Fed. Reg. 65,637 at 65,650-53. (Dec. 13, 1996).

<sup>45</sup> *See e.g., Particulate Matter NAAQS Final Rule* at 38,655-57; <http://www.epa.gov/ttn/oarpg/naaqsfin/pmhealth.html>.

<sup>46</sup> Tr. 569-70.

<sup>47</sup> *See* January 16 Order at 11-14.

need for us to consider the effect of the Facility on the environment to any extent. Rather, under the law,<sup>48</sup> we are to weigh the effect of the Facility on the environment along with other factors and determine whether to approve the construction and operation of the plant.

In this case, we must consider the factors prescribed by the statutes. The Tenaska Plant will not harm the reliability of the system and probably will help it, although the help may not be there when it is most needed.<sup>49</sup> Since Tenaska is not affiliated with an incumbent utility, the plant should help competition in the region to some extent.<sup>50</sup> The Facility should not increase rates in Virginia and will bring tax dollars and perhaps some economic development to the Fluvanna County area.<sup>51</sup> This plant, which will last for decades,<sup>52</sup> is not obligated to provide one kWh to anyone in Virginia; indeed, we do not know who will buy the output of the plant or even who the "tolling contract" is with.<sup>53</sup>

The majority has, in effect, checked-off the environmental concerns because the Applicant has a PSD permit from the DEQ, and the cumulative impact study does not show a "violation" under currently-enforced NAAQS. The majority failed to weigh the environmental data against the modest advantages of the Facility. The majority also failed to consider adequately current pollution levels and has ignored EPA's 1997 findings and revised standards. On this record, we cannot approve this plant and discharge our duties under §§56-46.1 A and 56-580 D of the Code of Virginia, and Article XI, Section 1 of the Constitution of Virginia.

While we know more than before the remand, the record does not present a basis to approve the construction and operation of the Tenaska facility. To the contrary, the record raises new concerns with respect to ozone and particulate matter that have not been addressed. Of the pollutants examined in this proceeding, ozone and particulate matter have the highest current concentration levels in the relevant area. Tenaska's data show that, before considering the addition of Tenaska or any other new facility, ozone and particulate matter are already at 87% and 64%, respectively, of current EPA limits. Tenaska and other proposed plants will only increase these concentration levels. Further, the EPA has determined that the current limits are not adequate to protect the health and welfare of the public. It found, based on scientific data, that it could not determine a safe level for these pollutants. The EPA also found adverse health effects from ozone and particulate matter in areas where the current standards were being met. Accordingly, in 1997, to protect the public, the EPA established new tests and standards that are more stringent than those currently enforced. This record contains no data under these new standards. Significantly, there are no data showing that the Fluvanna area is not already exceeding the new limits without considering Tenaska or any other new facility. The record contains no indication of the health risks of current pollution levels based on the EPA's 1997 findings and new standards. This record contains no explanation of why data were not presented.

Before Virginia approves a power plant that will last for decades and each year will put hundreds of tons of pollutants into the atmosphere in an area where pollution levels are already close to current limits, data and information under the new EPA standards should be gathered and examined. That has not happened and, with the majority's action today, it will not happen. As a result, the environment of the Commonwealth and the health of her citizens are at risk.

<sup>48</sup> Sections 56-46.1 A and 56-580 D of the Code of Virginia were amended earlier this year, effective July 1, 2002. Also, the DEQ was specifically authorized to consider the cumulative impact of new and proposed electric generating facilities in the Commonwealth on NAAQS. 2002 Va. ch. 483. With these amendments, approvals or permits by the DEQ and other agencies are deemed to satisfy certain environmental requirements of §§ 56-46.1 A and 56-580 D with respect to matters that are governed by the permit or approval or are within the authority of, and were considered by, the governmental agency, and the Commission is not to impose additional conditions with respect to such matters. These new provisions are not yet effective and are yet to be interpreted. These revisions do not alter our obligations in this proceeding. In addition to the revisions not yet being effective, the DEQ has made clear in this case that it did not consider any cumulative impact analysis in granting the Tenaska PSD permit on January 11, 2002, a week before our January 16, 2002 Order was issued. See Trinity Report, Appendix D, "*Virginia Department of Environmental Quality (VDEQ) Response to Public Comments Regarding Tenaska's Proposed Fluvanna Power Generation Facility*" at 2-5, 7-8. Further, the DEQ concluded in its November 6, 2001 comments to the Hearing Examiner's October 23, 2001 report that considering factors other than modeling significance "would put DEQ in the position of being 'arbitrary and capricious' relative to the equitable application of PSD procedures." Doc. Con. Cen. No. 011120184.

<sup>49</sup> January 16 Order at 14-15.

<sup>50</sup> *Id.* at 15.

<sup>51</sup> See Remand Report at 5-7, 24-27.

<sup>52</sup> The nearby "Bremo" plant is approximately 50 years old.

<sup>53</sup> Remand Report at 10.



**CASE NO. PUE-2001-00072  
MAY 10, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION

v.

AUBON WATER COMPANY,  
Defendant

**ORDER APPROVING EMERGENCY RATES**

By Order entered March 1, 2001, in this docket, the State Corporation Commission ("Commission") found that an emergency existed with regard to Aubon Water Company ("Aubon" or "Company") such that the appointment of a Receiver ("Receiver") was necessary. As that Order noted, the Hearing Examiner's Report filed in Case No. PUE-1998-000628<sup>1</sup> stated at page 1-2 that Aubon

continues to provide inadequate water service to its Alton Park customers and that it has failed to comply with the Special Order of the Department of Health to provide adequate quality of drinking water to its Long Island Estates customers. For these reasons, this Commission concludes that an emergency exists.

Whereupon the Commission appointed a Receiver for the system and endowed the Receiver with authority to take necessary actions as set out in that Order to remedy the emergency conditions.

On March 30, 2001, the Commission extended the appointment of the Receiver, Mr. David G. Petrus, and approved with minor modifications the plan of receivership that Mr. Petrus had submitted.

On September 20, 2001, the Commission entered an Order seeking, as part of the receivership, comment on the transfer of certain Company assets to the Town of Rocky Mount, Virginia, which had agreed to take over the provision of water service to the customers formerly served by Aubon from these assets. The Receiver proposed to acquire certain other assets and continue to provide water service to Aubon's customers himself. The transfer of assets to Rocky Mount was approved by Order dated December 21, 2001.

During this period, the Receiver has been in negotiation with the Virginia Department of Health ("VDH") for funding to make needed repairs to the Long Island Estates system. By letter dated April 9, 2002, the Receiver was notified that such funding as is needed to effect the indicated repairs and replacement of filtering equipment has been approved.

A condition set by the VDH for release of the approved funds is that the Company can demonstrate that it will have sufficient revenues from the customers served by the Long Island Estates system to amortize the loan. Consequently, by letter dated April 15, 2002, Aubon requested an emergency rate surcharge to customers in the Long Island Estates subdivision, pursuant to § 56-245 of the Code of Virginia. Aubon's petition was supplemented with additional information, including a security bond, submitted to the Divisions of Public Utility Accounting and Energy Regulation on April 23, 2002, and on May 9, 2002. Aubon gave notice of the proposed surcharge to customers in Long Island Estates on April 15, 2002.

The Company's petition recites that its customers "have an immediate need to improve their quality of water, which currently does not meet Virginia State Drinking Water Quality Standards." Further, Aubon noted the Company's "inability to self-finance or secure the loan for the construction of this project." The Company desired to commence construction of the improvement project in May 2002.

The Commission directed the previous owner of Aubon Water Company to install these facilities, by Order entered January 13, 1999, in Case No. PUE-1998-000628. The failure of the prior management of the Company to get these facilities installed led to the appointment of the Receiver. Because of this failure, drinking water at Long Island Estates remains below health standards. The Commission concludes that the emergency with regard to Long Island Estates continues to exist.

The Commission is satisfied from a review of the papers filed and submitted, and upon advice of the Commission Staff, that the Company requires the Health Department loan to effect the repairs and filter replacement needed to return water at Long Island Estates to acceptable standards and that the requested surcharge is needed to fund the project. The Commission finds that the utility has made a showing "sufficient to demonstrate a reasonable probability that the increase will be justified upon full investigation and hearing" and that such hearing to determine all issues "will require more than ninety days of elapsed time," as we are obligated to do by Code § 56-245.

Accordingly, IT IS ORDERED THAT:

(1) Aubon's request for imposition of a temporary increase in rates is GRANTED, and Aubon shall forthwith implement the emergency rates contained in its petition for customers in the Long Island Estates development.

(2) Aubon shall make a copy of the emergency rates and this Order available for inspection by the public during regular business hours at its designated office where customer bills may be paid.

(3) The Commission Staff shall forthwith investigate the application and file a report of its investigation on or before July 30, 2002, and Aubon shall cooperate fully in the Staff investigation.

(4) This matter is continued for further orders of the Commission.

<sup>1</sup> *Commonwealth of Virginia, ex rel. State Corporation Commission, Ex Parte: Investigation of Aubon Water Company.*

**CASE NO. PUE010075  
JANUARY 29, 2002**

APPLICATION OF  
WASHINGTON GAS LIGHT COMPANY  
and  
THE SHENANDOAH GAS DIVISION OF WASHINGTON GAS LIGHT COMPANY

For Annual Informational Filings

**ORDER DISMISSING PROCEEDING**

On March 12, 2001, Washington Gas Light Company ("WGL") and the Shenandoah Gas Division of WGL ("Shenandoah") (hereinafter collectively referred to as "Companies"), by counsel, jointly filed a Petition with the State Corporation Commission ("Commission"). In their Petition, the Companies requested that they be permitted to file their respective Annual Informational Filings ("AIFs") for the twelve months ending December 31, 2000, by May 31, 2001, rather than by April 30, 2001.

In its March 19, 2001, Order Authorizing Extension of Time, the Commission docketed the Petition, authorized the Companies to file their respective AIFs for the twelve months ending December 31, 2000, on or before May 31, 2001, and left the captioned docket open to receive the Companies' AIFs and accompanying documents.

On May 31, 2001, the Companies submitted separate AIFs for the test year ended December 31, 2000, to the Commission. However, the AIFs were incomplete because WGL and Shenandoah did not each file a complete Schedule 25 showing affiliate transactions by month and Uniform System of Accounts ("USOA") distribution for the test year. On July 30, 2001, WGL and Shenandoah each filed a revised Schedule 25 with the required information, and the Companies' AIFs were determined to be complete.

On December 21, 2001, the Commission Staff filed its report on WGL's and Shenandoah's AIFs in the captioned docket. This report contained both an accounting and financial analysis for the Companies. Staff analyzed WGL's cost of capital and capital structure. WGL's weighted cost of capital ranged between 8.904% to 9.393% and included a cost rate for its common equity within the range 11.00% to 12.00%. Shenandoah's weighted cost of capital ranged from 8.513% to 9.002% and included a cost rate for its common equity within the range 10.20% to 11.20%.

In its accounting analysis for the Companies, the Staff noted that it had made revisions to WGL's accounting adjustments for payroll, pension, and employee benefits expense and state income tax expense. Staff also revised Shenandoah's accounting adjustments including its normal weather, customer growth rate case expense, depreciation study, and state income tax adjustments.

Shenandoah's depreciation study adjustment reflected estimated depreciation study costs of \$35,000, to be amortized over two years. Staff explained that Shenandoah estimated the costs to total \$30,000 but that Shenandoah had not received an invoice from the consultant that prepared the study and had not requested permission from the Commission to defer the study costs. Staff asserted that the study's unbilled charge was not "known and certain" and removed the depreciation study adjustment of \$17,500 from Shenandoah's fully adjusted rate of return.

After its cost of service revisions, Staff concluded that WGL's fully adjusted return on common equity fell below WGL's currently authorized return on equity range of 11.00% to 12.00% established by the Commission's September 28, 1995, Final Order in WGL's last general rate case, Case No. PUE940031. With regard to Shenandoah's cost of service, Staff concluded that Shenandoah was earning a fully adjusted return on common equity of 11.66%, which was 46 basis points above Shenandoah's currently authorized return on equity range of 10.20% to 11.20% established by the Commission's July 16, 1998, Final Order in Case No. PUE970616.

Staff commented that in Shenandoah's prior AIF, *i.e.*, Case No. PUE000278, the Commission had directed Shenandoah to provide in future filings a fully adjusted rate of return statement that included adjustments like those that would be made in a general rate case. To comply with this directive, Staff recommended that the Commission direct Shenandoah to provide actual updates to customer growth, payroll and related benefits, and rate base in both future filings and during Staff's review process.

Staff also noted that WGL's and Shenandoah's recently filed depreciation studies indicated large reserve deficiencies and the need for substantial increases in depreciation accruals based on a study period ending December 2000. Staff related that the Companies have requested a delay in the implementation of the new depreciation rates until October 1, 2002. Staff stated that it would investigate whether the requested delay would require the establishment of a new regulatory asset or if an earlier implementation of revised depreciation rates would be appropriate in its report on WGL's and Shenandoah's depreciation study filings and in Staff's next review of the Companies' operations.

On January 18, 2002, the Companies, by counsel, filed their joint response to the Staff Report. The Companies commented that they do not accept all of the adjustments proposed by Staff relative to their respective costs of service and that they intend to file a general rate case in 2002 to begin, if not complete, the merger of the rates and terms and conditions of service of said Companies. They asserted that their anticipated rate application will provide an opportunity for the Staff and interested parties to review the Companies' separate and combined costs of service and to propose adjustments to any element of their costs of service. The Companies contended that it would be more appropriate to review the cost of service and the proposed adjustments thereto in the rate case filing anticipated for later this year. Accordingly, they did not request a hearing on the issues raised in the Staff Report and requested that the captioned proceeding be terminated.

NOW, upon consideration of the Companies' AIFs, Staff's Report thereon, and the joint comments on Staff's Report, the Commission is of the opinion and finds that good cause has been shown for the dismissal of this proceeding, particularly in light of Companies' representation that they intend to file a general rate application this year to begin the merger of their rates and terms and conditions of service. We agree that it would be a more efficient use of the Commission's docket and resources to examine the Companies' separate and combined costs of service on both a fully adjusted stand-alone and combined basis when the Companies file their rate application later this year. However, if Shenandoah and WGL subsequently decide not to file a rate application this year, then Shenandoah and WGL must file separate AIF filings wherein Shenandoah shall provide actual updates to its customer growth, payroll and related benefits, rate base, and other significant elements of its cost of service for the calendar year ending December 31, 2001.

Accordingly, IT IS ORDERED THAT:

(1) Based upon the Companies' representation that they will file a general rate application utilizing fully adjusted cost of service data on a stand-alone and combined basis later this year, this matter shall be dismissed from the Commission's docket of active proceedings, and the papers filed herein shall be placed in the Commission's file for ended causes.

(2) In the event WGL and Shenandoah later determine not to file a rate application to begin the merger of their rates and terms and conditions of service, they shall continue to file separate AIFs, which shall include for Shenandoah actual updates to customer growth, payroll and related benefits, and rate base, as well as updates to other significant elements of cost of service for the test year for the twelve months ending December 31, 2001.

**CASE NO. PUE-2001-00154  
JUNE 27, 2002**

APPLICATION OF  
VIRGINIA ELECTRIC AND POWER COMPANY D/B/A DOMINION VIRGINIA POWER

For a certificate of public convenience and necessity for facilities in Loudoun County: Beaumeade-Beco 230 kV Transmission Line and Beaumeade-Greenway 230 kV Transmission Line

**ORDER GRANTING APPROVAL  
AND REMANDING FOR FURTHER PROCEEDINGS**

On March 15, 2001, as revised on March 23, 2001, Virginia Electric and Power Company d/b/a Dominion Virginia Power ("Virginia Power" or "Company") filed an application for approval and certification of electric facilities in eastern Loudoun County. Virginia Power asserts that its existing distribution facilities will be inadequate to serve its projected loads reliably after 2002. Thus, the Company seeks approval and certification, pursuant to §§ 56-265.2, 56-46.1, and related provisions of Title 56 of the Code of Virginia ("Code"), to construct and operate two single-circuit 230 kV transmission lines, which are herein referenced as the Beco Line and the Greenway Line. Virginia Power plans to build two new substations – a Beco Substation and a Greenway Substation. The proposed transmission lines will connect each substation to the existing Beaumeade Substation.

On April 9 and 12, 2001, the Commission issued orders docketing this case, establishing a procedural schedule for the filing of prepared testimony and exhibits, scheduling hearings, directing Virginia Power to provide public notice of its application, and appointing a Hearing Examiner to conduct further proceedings. On July 16, 2001, Virginia Power amended its proposal concerning the Beco Line. On July 19, 2001, a public hearing was convened at the Loudoun County Government Center, 1 Harrison Street, S.E., Leesburg, Virginia, for the purpose of receiving public comment. Twenty-nine public witnesses presented testimony at the hearing. Guy T. Tripp, III, Esquire, appeared on behalf of Virginia Power. Michael J. Quinan, Esquire, appeared on behalf of DuPont Fabros Development ("DuPont Fabros") and Cameron Chase Homeowners Association ("Cameron Chase"). Wayne N. Smith, Esquire, appeared on behalf of Commission Staff.

On October 3, 4, 5, and 9, 2001, public hearings were convened in Richmond for receiving evidence. Guy T. Tripp, III, Esquire, James C. Dimitri, Esquire, Renata Manzo, Esquire, and Jill C. Hayek, Esquire, appeared on behalf of Virginia Power. Michael J. Quinan, Esquire, appeared on behalf of DuPont Fabros and Cameron Chase. Charles L. Shumate, Esquire, appeared on behalf of the City of Fairfax ("City"). Patrick O'Hare, Esquire, appeared on behalf of WorldCom Inc., DullesGateway Associates, LLC, TAB I Associates, LLC, Beaumeade Associates Limited Partnership, North Dulles Retail Associates, LP, Dulles-Berry Limited Partnership, and Boston Properties, L.P. (collectively, "WorldCom group"). Thomas B. Nicholson, Esquire, and Mark C. Looney, Esquire, appeared on behalf of Broadlands Associates ("Broadlands"). Cliona Robb, Esquire, appeared on behalf of the Northern Virginia Regional Park Authority ("Park Authority"). Lawrence E. Kelly, Esquire, appeared on behalf of the Loudoun County Board of Supervisors ("Loudoun County"). Sherry D. Soanes, Esquire, appeared on behalf of the Islamic Saudi Academy, Inc. ("Islamic Academy"). Matthew D. Pethybridge, Esquire, appeared on behalf of Regency Homeowners Association, Inc. ("Regency"). Wayne N. Smith, Esquire, and Rebecca Hartz, Esquire, appeared on behalf of Staff.

The participants subsequently filed briefs and reply briefs. On January 25, 2002, Hearing Examiner Alexander F. Skirpan, Jr., entered a Report in which the Examiner summarized the record, analyzed the evidence and issues in this proceeding, and made certain recommendations, including that the Company's application should be granted pursuant to the findings in his Report. The parties subsequently filed comments on the Examiner's Report.

NOW THE COMMISSION, having considered the record, the pleadings, the Hearing Examiner's Report, the comments filed in response thereto, and the applicable law, is of the opinion and finds as follows.

The Examiner determined that Virginia Power established the need for the proposed transmission facilities. For example, the Examiner explained that the Company's load forecasts are supported by historic results, Loudoun County planning documents, and the development plans provided by various parties to this case. We agree that Virginia Power has established the need for the Beco and Greenway Lines.

We adopt the Examiner's finding that the Beco Line should follow the route proposed by Virginia Power, as revised on July 16, 2001. We find that such route satisfies §§ 56-265.2 A and 56-46.1 of the Code. The route of the Greenway Line engendered significant controversy in this case, and we are mindful of the concerns of those that will be impacted by these lines. There were several routes proposed for the Greenway Line. The Examiner's Report discusses these routes and narrows the choice to two options, which are referred to as Segment 19 and Segment 20-a.

We will require the Greenway Line to follow Segment 20-a, as discussed herein. We note that Virginia Power originally supported Segment 19, but now accepts the Examiner's recommendation of Segment 20-a. WorldCom group, however, strongly opposes Segment 20-a. WorldCom group asserts, among other things, that Segment 19 is shorter and less costly, will have no impact on wetlands or other waters of the United States, and will have no impact on the Washington and Old Dominion Trail ("W&OD Trail"). WorldCom group explains that Segment 20-a will adversely impact certain commercial properties. WorldCom group also claims that the Examiner ignored the impact of Segment 20-a on WorldCom group's properties.

The Examiner found, however, that Segment 20-a best satisfies the legal standards of §§ 56-265.2 A and 56-46.1 of the Code. The Examiner explained that Segment 20-a is supported by the Loudoun County Board of Supervisors and is more consistent with local planning and zoning. The Examiner also stated that Segment 20-a will follow existing easements.<sup>1</sup> The Examiner concluded that Segment 20-a reasonably minimizes adverse impact on scenic assets, historic districts, and environments of the areas concerned. The Examiner determined that Segment 19 will have a significant and detrimental visual impact on existing homes and businesses, but Segment 20-a will not impact any existing homes and should be able to take advantage of terrain and vegetation to lessen its impact on scenic assets.

Although we will not discuss here all of the concerns expressed by each party regarding the proposed routes, we have considered and weighed the relevant factors raised in this proceeding. We also have considered and weighed the factors set forth in §§ 56-265.2 A and 56-46.1, factors that are, to a large extent, interrelated and overlapping. We have reviewed all alternative proposals. We have fully considered the adverse impact of Segment 20-a, including its impact on the WorldCom group.

Likewise, we have considered the impact of Segment 19 on existing homes and businesses. As found by the Examiner, Segment 19 will have a significant and detrimental visual impact on existing homes and businesses. Segment 20-a will not impact any existing homes and should be able to take advantage of terrain and vegetation to lessen its impact on scenic assets. Contrary to the WorldCom group's suggestion, however, the selection of Segment 20-a does not represent an inherent bias in favor of residential property owners over commercial property owners.

Rather, consistent with the Examiner's finding, we conclude that Segment 20-a best meets the Company's need to maintain adequate reliability of service, while best satisfying the legal standards of §§ 56-265.2 A and 56-46.1 of the Code. WorldCom group notes that Segment 19 is shorter and less expensive. Such individual criteria, however, are not dispositive. We have considered each statutory criterion on an individual basis and as part of the whole, in light of all the relevant statutory criteria and with regard to other concerns raised by the parties and public witnesses. In addition, as noted by the Examiner, Segment 20-a is more consistent with local planning and zoning, reasonably utilizes certain existing easements, and reasonably minimizes adverse impact on scenic assets, historic districts, and environments of the areas concerned.

Having approved Segment 20-a for the Greenway Line, including routing this segment along the W&OD Trail, we now address the specific placement of facilities along the W&OD Trail. The Park Authority requests that Virginia Power: (1) utilize a looping structure; or (2) place facilities south of the existing transmission lines that currently are on the W&OD Trail. The Examiner found that the Company should choose one of these two options, and that these options would mitigate the impact on the W&OD Trail. Virginia Power, in its comments on the Examiner's Report, recommends a third alternative for the W&OD Trail. This alternative would place the new poles approximately twenty (20) feet inside the northern boundary of the Company's existing right-of-way. Virginia Power claims that this will provide greater reliability of service and better utilize the existing right-of-way. The Company also explains that this third alternative is virtually identical to the route for this portion of the line to the Beco Substation as originally proposed by the Company.

The City supports placing transmission facilities south of the existing transmission lines along the W&OD Trail. The City requests that the Commission preclude consideration of any new alternative proposed by Virginia Power that was not fully the subject of these proceedings; the City asserts that to permit otherwise would make the time-consuming and costly exercise over the past several months somewhat pointless. The Park Authority opposes placing transmission facilities along the northern portion of the W&OD Trail, explaining that this is much more likely to harm the City's water transmission main and the interests of the Park Authority. The Park Authority further states that if the Commission finds insufficient evidence in the record as to the looping option or construction south of the existing lines, then the Commission should remand this case for further proceedings.

We find that the parties should more fully address the alternatives for placement of transmission facilities along the W&OD Trail. Accordingly, we will remand this case to the Hearing Examiner for further proceedings to address the specific placement of transmission facilities for the Greenway Line along the W&OD Trail. We agree with Virginia Power and reject a looping option for the Greenway Line. Although we grant approval today for the construction and operation of new transmission lines, including along the W&OD Trail, Virginia Power shall not construct, enlarge, or acquire any transmission facilities along the W&OD Trail pending further order of the Commission that determines the specific placement of such facilities.

Loudoun County requests that the Commission's approval of the Greenway Line be made subject to the County's approval of the Greenway Substation. Broadlands also argues that the Commission should not give final approval to the Greenway Line until the County approves the substation. Virginia Power opposes this condition. The Examiner found that the Commission's approval of the Greenway Line should be subject to the condition that Virginia Power obtain approval for the Greenway Substation from Loudoun County. Virginia Power acknowledges that County approval is required for the substation, and that there is no reason to build the Greenway Line without the substation. Accordingly, the certificate that we are ordering herein for the Greenway Line will be subject to the condition that Virginia Power obtain approval for the Greenway Substation from Loudoun County.

The Park Authority requests that Virginia Power work with the Park Authority to minimize the impact of the proposed lines, and Virginia Power has agreed to confer with the Park Authority. As a condition of the certificate, we will require Virginia Power to confer with the Park Authority to minimize the impact of the Beco and Greenway Lines.

The City requests that the Commission's final order incorporate the letter agreement between the City and Virginia Power, dated October 2, 2001 (Fairfax Exhibit 38). The City's water pipeline is located along the proposed transmission route. In the letter agreement Virginia Power agrees, among other things: (a) to conduct no blasting operations; (b) to provide the City with copies of all construction and installation plans and schedules; (c) to provide the City fifteen business days' notice before commencing construction; (d) to permit the City to monitor construction; (e) to permit no heavy equipment to cross over the water line, except on public roads; and (f) to engage in no excavation or grading over the water line. We will require, as a condition of the certificate, that Virginia Power comply with the letter agreement.

<sup>1</sup> Virginia Power, in its comments on the Examiner's Report, asks the Commission to clarify that we are not requiring a deviation from the published route for Segment 20-a. Specifically, Virginia Power is concerned that the Examiner's discussion of Segment 20-a may reflect a deviation related to the route along a sewer easement. As requested by the Company, we clarify that the Commission is not requiring a deviation from the published route for Segment 20-a related to the referenced sewer easement.

The Department of Environmental Quality ("DEQ") prepared a report that includes recommendations designed to mitigate the environmental impact of the proposed transmission lines. The Examiner noted that, generally, Virginia Power agreed to the DEQ's recommendations. The Company, however, objected to the DEQ's request that the Department of Conservation and Recreation ("DCR") assist in the Company's inventory of rare plant species and develop specific recommendations for minimizing impacts to these rare plants. Virginia Power claims that it routinely surveys for state and federally protected plant and animal species, but that the DEQ's request goes beyond the scope of such surveys. The Examiner found that the DEQ's recommendations, including the assistance of DCR, should ensure that the proposed transmission lines minimize adverse environmental impact as required by § 56-46.1 A. The Examiner determined that Virginia Power should contact DCR for assistance in conducting a survey for rare plants prior to construction. The Examiner noted that the Commission has directed surveys of rare plants in other Virginia Power cases (citing Case No. PUE-1996-00115, where the Commission approved Virginia Power's transmission facilities from Chickahominy-Darbytown to the White Oak Substation). Consistent with the Examiner's findings, we will require Virginia Power to comply with the DEQ's recommendations to the extent practicable, and to consult with DCR prior to construction regarding the survey of rare plant species.

Broadlands requests the Commission to continue this matter until the Company completes studies of the additional facilities required in eastern Loudoun County, in that it is the Company's stated goal and part of its overall plan to extend its transmission network into eastern Loudoun County from the Company's existing transmission network west of Goose Creek. Broadlands contends that the record conclusively demonstrates that this case is interrelated and interdependent with the Company's anticipated Phase II transmission facility application for this area. Broadlands also states that the Commission should not give final approval in this case until the Company has presented its Phase II application and the Commission has had an opportunity to evaluate the impact of the Greenway Line on that application. The Examiner rejected the request to stay this proceeding. The Examiner found that the design and placement of transmission lines in this case does not limit the options available for future facilities the Company may propose. We reject Broadlands' request to continue this case. As discussed above, Virginia Power has established sufficient need to warrant construction of the Beco and Greenway Lines.

Broadlands requests the Commission to direct Virginia Power not to design the Beco Substation so as to limit a possible network configuration later through Beco. In this regard, we note that our approval of transmission facilities in this case is not intended to limit options in any subsequent proceeding involving additional transmission lines. Any issues that arise in a future case will be addressed therein. Broadlands also requests that the Commission direct Virginia Power to preserve all studies and underlying documents for any of the Company's positions stated at the hearing in this case, for future consideration in a subsequent proceeding. We find that this requirement is unnecessary; we fully trust that Virginia Power will preserve all relevant documents.

Finally, under § 56-46.1 C of the Code, Virginia Power is required to provide adequate evidence that existing rights-of-way cannot adequately serve its needs. In this regard, the Examiner found that existing rights-of-way cannot adequately serve the needs of the Company. We agree.

Accordingly, IT IS ORDERED THAT:

(1) This case is remanded to the Hearing Examiner for further proceedings limited to the specific placement of transmission facilities for the Greenway Line along the W&OD Trail.

(2) Virginia Power is authorized to construct and operate two single-circuit 230 kV transmission lines in Loudoun County as provided for in this Order. The route for each line shall be as set forth in this Order, and the placement of transmission facilities along the W&OD Trail will be determined by subsequent order of the Commission in this proceeding.

(3) Virginia Power shall not construct, enlarge, or acquire any transmission facilities along the W&OD Trail pending further order of the Commission in this proceeding.

(4) Pursuant to §§ 56-265.2, 56-46.1, and related provisions of Title 56 of the Code of Virginia, Virginia Power's application for a certificate of public convenience and necessity to construct two single-circuit 230 kV transmission lines in Loudoun County is granted as set forth in this Order, and otherwise is denied.

(5) Pursuant to the Utility Facilities Act, Chapter 10.1 (§§ 56-265.1 et seq.) of Title 56 of the Code of Virginia, Virginia Power is issued the following certificate of public convenience and necessity:

Certificate No. ET-91n which authorizes Virginia Electric and Power Company under the Utility Facilities Act to operate presently constructed transmission lines and facilities in Loudoun County, all as shown on the detailed map attached to the certificate, and to construct and operate facilities as authorized in Case No. PUE-2001-00154; Certificate No. ET-91n will cancel Certificate No. ET-91m issued to Virginia Electric and Power Company on March 22, 1989.

(6) Within thirty (30) days from the date of this Order, Virginia Power shall file with the Commission's Division of Energy Regulation two copies of an appropriate map that shows the routing of the transmission lines approved in this Order. Upon final order of the Commission in this case, which will determine the placement of the facilities along the W&OD Trail, Virginia Power will be directed to submit a more detailed map or other document showing the location of facilities along the W&OD Trail.

(7) The certificate granted in this case for the transmission line connecting the existing Beaumeade Substation to the proposed Greenway Substation is conditioned on Virginia Power's receipt of approval from Loudoun County to construct the Greenway Substation.

(8) As a condition of the certificate granted in this case, Virginia Power will confer with the Northern Virginia Regional Park Authority to minimize the impact of the transmission lines. Any matters that these parties are unable to resolve shall be referred to the Director of the Commission's Division of Energy Regulation.

(9) As a condition of the certificate granted in this case, Virginia Power will comply with the letter agreement, dated October 2, 2001, entered into by Virginia Power and the City of Fairfax (Fairfax Exhibit 38).

(10) As a condition of the certificate granted in this case, Virginia Power will comply with the recommendations prepared by the Department of Environmental Quality to the extent practicable, and this includes consulting with the Department of Conservation and Recreation prior to construction regarding the survey of rare plant species. If Virginia Power determines that any recommended action is not practicable, it shall refer such matter to the Director of the Commission's Division of Energy Regulation.

(11) As a condition of the certificate granted in this case, the transmission lines must be constructed and in-service by January 1, 2006; however, Virginia Power is granted leave to apply for an extension for good cause shown.

(12) This matter is continued.

**CASE NO. PUE-2001-00169  
APRIL 29, 2002**

APPLICATION OF  
CINCAP MARTINSVILLE, LLC

For a certificate of public convenience and necessity for electric generation facilities in the City of Martinsville

**ORDER**

On March 27, 2001, CinCap Martinsville, LLC ("CinCap" or "Applicant") filed an Application with supporting testimony and exhibits requesting that the Commission grant it a certificate of public convenience and necessity under the Utility Facilities Act to construct, own, and operate a 330 MW natural gas-fired electric generating facility ("Facility") at the Commerce Court Industrial Park in the City of Martinsville, Virginia. The Applicant also seeks an exemption from the provisions of Chapter 10 of Title 56, pursuant to Va. Code Ann. § 56-265.2 B, and interim approval to make financial expenditures and undertake preliminary construction work, pursuant to Va. Code Ann. § 56-234.3. The Application was supplemented on May 10, 2001.

On May 18, 2001, the Commission entered an order requiring CinCap to provide public notice of its Application, establishing a procedural schedule for the filing of testimony and exhibits, scheduling an evidentiary hearing, and appointing a Hearing Examiner to hear this case. The evidentiary hearing was held on September 18, 2001, before Chief Hearing Examiner Deborah V. Ellenberg. Stephen H. Watts, II, Esquire, appeared on behalf of CinCap. Guy T. Tripp, III, Esquire, appeared on behalf of Southwestern Virginia Gas Company. Wayne N. Smith, Esquire, appeared on behalf of the Commission Staff. Dr. Mark A. Crabtree, Mayor of the City of Martinsville, appeared as a public witness to support the Application. On January 31, 2002, Chief Hearing Examiner Deborah V. Ellenberg entered a Report in which the Examiner summarized the record, analyzed the evidence and issues in this proceeding, and made certain recommendations, including that the Application should be granted with conditions.

NOW THE COMMISSION, having considered the record, the Hearing Examiner's Report, the comments filed in response thereto, and the applicable law, is of the opinion and finds as follows. This case, at this juncture, must be remanded to the Hearing Examiner for further proceedings with respect to consideration of the environment. We ask the Hearing Examiner to expedite this matter consistent with the need to develop an appropriate record as discussed below. We also find that CinCap may make financial expenditures and undertake certain preliminary construction work on electric generating facilities without prior approval from the Commission.

The Environment

As set forth in *Tenaska*,<sup>1</sup> the Code of Virginia establishes six general criteria, or areas of analysis, that apply to electric generating plant applications.<sup>2</sup> The six criteria are as follows: (1) reliability;<sup>3</sup> (2) competition;<sup>4</sup> (3) rates;<sup>5</sup> (4) environment;<sup>6</sup> (5) economic development;<sup>7</sup> and (6) public interest.<sup>8</sup> The Hearing Examiner's Report addressed these six criteria. As discussed below, we find that the record is incomplete with respect to the consideration of the environment.<sup>9</sup> In this regard, the Hearing Examiner concluded that the Facility will have only a minimal impact on the environment. The Hearing Examiner also noted that although there are other generation projects proposed in the surrounding area, no witness raised any concern with cumulative air impacts.

<sup>1</sup> *Application of Tenaska Virginia Partners, LP, For approval of a certificate of public convenience and necessity pursuant to Virginia Code § 56-265.2, an exemption from Chapter 10 of Title 56, and interim approval to make financial commitments and undertake preliminary construction work*, Case No. PUE-2001-00039, Order (Jan. 16, 2002) ("*Tenaska*").

<sup>2</sup> *Id.* at 13-14.

<sup>3</sup> Va. Code Ann. §§ 56-580 D(i) and 56-46.1 A.

<sup>4</sup> Va. Code Ann. § 56-596 A.

<sup>5</sup> Va. Code Ann. §§ 56-580 D(ii); 20 VAC 5-302-20 14. See also *Tenaska* at 15-16, n.15; *Ex Parte: In the matter of amending filing requirements for applications to construct and operate electric generating facilities*, Case Nos. PUE-2001-00313 and PUE-2001-00665, Order Adopting Rules and Prescribing Additional Notice at 6 (Dec. 14, 2001).

<sup>6</sup> Va. Code Ann. §§ 56-580 D and 56-46.1 A.

<sup>7</sup> Va. Code Ann. §§ 56-46.1 and 56-596 A.

<sup>8</sup> Va. Code Ann. §§ 56-580 D(ii).

<sup>9</sup> We recognize that the *Tenaska* decision was issued subsequent to the hearing in this case.

As found in *Tenaska*, we interpret Virginia law as requiring us to consider the cumulative impacts of other facilities, together with the Applicant's Facility, on the existing air quality in the area that may be impacted by the Facility. Though the issue of cumulative air impacts was not raised at the hearing, the requirement that we consider such impacts remains. In *Tenaska*, we explained that changes in circumstances and the law in recent years required that we review our approval of the construction and operation of new generating facilities. We concluded, as we do here, that we cannot comply with our statutory obligations, implement constitutional policy, and consider properly the impact of the Facility on the environment without addressing the cumulative impact issue.

Accordingly, for us to consider adequately the environmental impacts of the proposed Facility, we must consider cumulative impacts. An appropriate record, however, has not been developed on this issue. For example, the record does not address the existing air quality with respect to various criteria pollutants, or the cumulative impact on existing air quality for criteria pollutants from the Facility and other proposed facilities that will add to such pollutants. As we found in *Tenaska*, we must first know where on the continuum of air quality the area impacted by the Facility falls for each criteria pollutant. General terms such as "attainment" are not sufficient; we need to know, for example, how close current air quality is to "nonattainment." We also need to know what impact the Facility and other facilities, including proposed electric generating units and other major facilities, may have on the area.

Consistent with our explanation in *Tenaska*, for purposes of such analyses, decisions must be made as to which proposed facilities to consider and how a study should be structured and implemented. As also discussed in *Tenaska*, our hope remains that interested parties, Staff, and the Department of Environmental Quality ("DEQ") could help establish how these issues might be best addressed as promptly as practicable.

We emphasize that we do not desire to delay construction. Rather, we must address the important issues discussed in this order and carry out our statutory obligations. As noted above, we request the Hearing Examiner to expedite this matter consistent with the need to develop an appropriate record as discussed herein so that the Hearing Examiner can make meaningful recommendations on these issues.

#### Senate Bill No. 554

We also recognize that the General Assembly recently passed Senate Bill No. 554 ("SB 554"), which places additional requirements and limitations on this Commission's review of proposed electric generating facilities. SB 554 requires the Commission to enter into a memorandum of agreement with the DEQ regarding the coordination of reviews of environmental impact of electric generating plants and associated facilities. The Commission looks forward to working cooperatively with the DEQ to conclude the agreement as soon as practicable.

SB 554 also requires the Commission, in order to avoid duplication of governmental activities, to defer to other governmental entities in certain circumstances. Though SB 554 is not yet effective, we emphasize that matters referenced in SB 554 that (i) are governed by a permit or approval, or (ii) are within the authority of and were considered by the governmental entity issuing a permit or approval, are relevant to the Commission's review of the Facility and will be fully considered in our determination. Indeed, § 56-46.1 A requires us to give consideration to all reports that relate to a proposed facility by state agencies concerned with environmental protection. It is not our intent to duplicate activities already undertaken by other governmental entities.

#### Interim Approval

The Hearing Examiner also recommended that the Commission grant CinCap interim approval under § 56-234.3 to make financial expenditures and to undertake preliminary construction work, if such approval is deemed necessary. We take this opportunity to affirm that Va. Code Ann. § 56-580 D supplants §§ 56-234.3 and 56-265.2 in the Commission's approval process for electric generating facilities on and after January 1, 2002.<sup>10</sup> Indeed, in recently ruling on an issue of first impression, we concluded that an applicant may commence certain preliminary construction work on electric generating facilities without prior approval from the Commission.<sup>11</sup> We did not, however, permit construction of any permanent structure absent prior approval from the Commission.

Likewise, we find that CinCap may make financial expenditures and undertake preliminary construction work on electric generating facilities without prior approval from the Commission. No construction of a permanent structure, however, may be undertaken without Commission approval. Any financial expenditures or preliminary construction is at the sole risk of the Applicant. The Applicant still must comply with any statute, ordinance, rule, or regulation affecting its proposed activity. The Applicant also proceeds at the risk that subsequent orders by the Commission, if warranted and supported by the record developed in this proceeding, may adversely affect any action taken by the Applicant prior to receiving a certificate.

Accordingly, IT IS ORDERED THAT:

- (1) CinCap may make financial expenditures and undertake certain preliminary construction work on electric generating facilities without prior approval from the Commission.
- (2) This matter is remanded to the Hearing Examiner for further proceedings and recommendations as set forth herein.

<sup>10</sup> See, e.g., *Ex Parte: In the matter of amending filing requirements for applications to construct and operate electric generating facilities*, Case Nos. PUE-2001-00313 and PUE-2001-00665, Order Adopting Rules and Prescribing Additional Notice at 2 (Dec. 14, 2001); *Ex Parte: In the matter of amending filing requirements for applications to construct and operate electric generating facilities*, Case No. PUE-2001-00313, Order at 5 (Aug. 3, 2001).

<sup>11</sup> *Application of Chickahominy Power, LLC, For authority to construct and operate an electric generating facility in Charles City County*, Case No. PUE-2001-00659, Order for Notice and Hearing (Feb. 7, 2002).

**Morrison, Commissioner, DISSENTING OPINION.**

I must respectfully dissent to the Majority's decision to remand this case for further proceedings before the Hearing Examiner in order to give more consideration to the impact of this facility on the environment.<sup>1</sup> The Majority relies upon its decision in the Tenaska Case, decided January 16, 2002, and concluded ". . .that we cannot comply with our statutory obligations, implement constitutional policy, and consider properly the impact of the facility on the environment without addressing the cumulative impact issue."

In Tenaska, I authored a lengthy Dissenting Opinion, and much of its content is applicable here in explanation of this Dissent. With that reference, I shall not add to the length of this order by repeating in such detail my reasons for objecting to the Majority's decision to remand this case.

As was the case in the Tenaska Remand, here the Majority imposes the requirement that "cumulative impacts" of air emissions be "considered." This is a substantial additional and, I believe, different standard for adjudication of this Application, and its imposition comes long after the hearing and the close of the evidentiary record. It occurs with no change in the statutory law, nor a change in any regularly promulgated Rule or Regulation of this Commission. It is in this sense that I consider the Order of the Majority to be contrary to the law. Moreover, it is obviously entered without evidence to support it, for the issue of cumulative air impacts was not raised by a single participant or public witness in the case. Participants in this case and the two other similar cases decided today may understandably feel victimized by this sort of retroactive judicial rulemaking, a misadventure which strikes me as offending due process and the provisions of § 12.1-28.<sup>2</sup>

In this case and the two others decided today, there is a striking similarity in the universality of support within the respective communities. That support includes the enthusiastic reception by the respective units of local government. The locations of the facilities are in areas of the Commonwealth that have experienced considerable economic stress, which will be ameliorated by the economic benefits derived from their construction. The records show that the resulting increase in the local property tax base is badly needed. Assuming that all three facilities are eventually constructed in the face of the consequences caused by the Majority Remand, the delays in construction may well cause economic loss to be suffered not only by the Applicants, but also by the respective local economies, both in the public and private sectors.

This degree of economic loss might well be justified if this facility and the two others like it threatened any significant harm to the environment. The Hearing Examiners found that the evidence in these cases showed no such threat to the air quality in the Commonwealth.

What then is the overarching mandate felt by the Majority to cause either delay or abandonment of these proposed natural gas-fueled facilities? It is simply the Majority Order in the Tenaska Remand and its underlying interpretation by my colleagues that Virginia law requires this Commission ". . .to consider the cumulative impacts of other facilities, together with the Applicant's facility, on the existing air quality in the area that may be impacted by the facility." Obviously, I continue to disagree with such interpretation. So did the General Assembly.

Senate Bill 554 passed by the Legislature during its most recent Session (*Acts of Assembly 2002*, Ch. 483) amended §§ 56-46.1 and 56-580 of the Code, the sources of the recently discovered requirements devolving upon us to consider the cumulative impacts of an Applicant's facility with other facilities on existing air quality. I believe it is clear that the thrust of the 2002 Amendments is that we are not to duplicate the functions of environmental agencies by involving ourselves with environmental issues that are subsumed by permits or approvals issued or to be issued by appropriate agencies as are within their authority and considered by them.

The Majority Order discusses SB 554 as if it is something of a balancing mechanism to divide the consideration of environmental issues between this Commission and environmental agencies of the Commonwealth. The Majority states that the bill ". . .places additional requirements and limitations on this Commission's review of proposed electric generating facilities." I find no additional requirements for environmental consideration in the language of the Bill; the requirement on this Commission is that it enter into the Memorandum of Agreement with the Department of Environmental Quality, as stated by the Majority; otherwise, the Bill largely eviscerates the mandate of the Tenaska Remand decision by its limitations on this Commission's actions with regard to environmental issues properly, and more appropriately, falling within the purview of other agencies.

The Majority's discussion of SB 554 omits any recognition of one of its portions bearing directly on the cumulative impact issue. In addition to amending the two Code Sections in Title 56, the Bill created a new Code Section, § 10.1-1186.2:1. Paragraph A. of that Section provides as follows:

The Department and the State Air Pollution Control Board have the authority to consider the cumulative impact of new and proposed electric generating facilities within the Commonwealth on attainment of the national ambient air quality standards.

It would be implausible to suppose that DEQ and the Air Pollution Control Board would not have the authority to consider the cumulative impact of proposed generating facilities without this new statute. Rater than a delegation of new powers to these agencies, it is a delineation of functions between them and this Commission, being necessary, I am afraid, because of our recent quixotic appropriation of their functions signaled by our Rules proceeding, PUE-2001-00665, and executed by the Tenaska Remand Order.

With such a clear statement of legislative intent that this Commission stay out of the cumulative impact issue, it is difficult to understand why the Majority stubbornly clings to a recently invented requirement that we consider the cumulative impacts of various facilities when probably we will be foreclosed from doing so in about two months hence when SB 554 becomes effective.

The Remands of this Case and the two others like it raise a number of questions. If the Applicants continue to pursue the projects, will the limiting nature of SB 554 be observed? Will the answer to that question depend upon when the remand hearings are held? At remand hearings, should the

<sup>1</sup> The Majority Order remanding this case has been entered coincidentally with orders remanding Case Nos. PUE-2001-00430, Application of Mirant Danville, LLC, and PUE-2001-00423, Application of Kinder Morgan Virginia, LLC. Because all three orders are substantially identical, this Dissenting Opinion is likewise filed in those cases.

<sup>2</sup> See Dissenting Opinion, Jan. 16, 2002 in Application of Tenaska Virginia Partners, LP, Case No. PUE-2001-00039 for discussion of application of § 12.1-28 in the context of the pending Rules proceeding, PUE-2001-00665.



Applicant attempt to satisfy the cumulative impact issue as demanded by the Majority, or as may be hereafter required by the State Air Pollution Control Board by virtue of new Code § 10.1-1186.2:1, or both? Is the answer to these questions in part dependant upon the terms of the working agreement to be entered into by this Commission and DEQ, even though there is not even a first cut draft for Applicants to review at this time? Since the Majority expects the Hearing Examiners in these cases to expedite the matters, will the Hearing Examiners be so lenient as to postpone the all-important "...development of an appropriate record" until after July 1, 2002, if requested by an Applicant or Applicants? Even in such a case, will a majority of this Commission decide a case coming back from Remand under the law as it existed at the time the Application was filed, or as it has been changed by SB 554 during the course of the proceedings? Would one or more of these Applicants be well advised to consider seeking a dismissal of the Application without prejudice in order to start again with a new Application clearly governed by the provisions of SB 554?

I believe these imponderables further illustrate how unfair it is to Applicants in these cases to remand at this time. No one can seriously contend that any of these projects will have more than a minimal effect on ambient air quality, whether measured by current Air Control Board procedures or on some cumulative impact basis. One might wonder if this Commission in its Majority Order fully appreciates the large capital expense to the Applicants involved in the development of the projects to this point, in processing the Applications thus far, and how much more costly it will be because of this unnecessary delay.

The better course, I submit, is to approve these three Applications coincidentally decided.<sup>3</sup> I would also use this opportunity to announce that any pending applications for electric generation facilities, and any such applications hereafter filed before July 1, 2002, will be considered consistent with the provisions of SB 554. Although there may not be an occasion for such policy to apply, it would ensure that the kind of uncertainty and confusion described herein would occur no more.

In addition to its supposed "statutory obligations," the Majority claims it is duty bound to "implement constitutional policy" by addressing the cumulative impact issue.

I must reiterate that this represents to me a complete misunderstanding of this Commission's role with respect to Article XI of the Virginia Constitution. Section 1 of Article XI states that "...it shall be the policy of the Commonwealth to conserve, develop, and utilize its natural resources, its public lands, and its historical sites and buildings." The last sentence of that Section provides:

Further, it shall be the Commonwealth's policy to protect its atmosphere, lands and waters from pollution, impairment or destruction for the benefit, enjoyment and general welfare of the people of the Commonwealth.

If this Section were self-executing, read literally, no amount of pollution or impairment from any source could be permitted. Not only could generation facilities not be permitted, prosecuting attorneys should seek to enjoin the operation of all generation plants. Indeed, no internal combustion engine should be permitted to operate.

This Section has been held not to be self-executing.<sup>4</sup> Moreover, the provisions of the succeeding Section avoid the apparent absurdity of a literal interpretation of that policy. Section 2 of Article XI provides that such policy is to be implemented by the General Assembly. As I attempted to explain in my Dissenting Opinion in Tenaska, the General Assembly has enacted innumerable statutes and created various agencies in the implementation of the conservation policies broadly set forth in § 1 of Article XI. In fact, SB 554 is yet another example. It is so fundamental as to warrant no citation that the State Corporation Commission has no inherent power. To the extent we are required to consider environmental matters, that duty is delegated to us by the General Assembly, not directly to us from the Constitution.

The Majority Order speaks of a need to develop "an appropriate record" from which "we must first know where on the continuum of air quality the area impacted by the facility falls for each criteria pollutant." The Majority also thinks it is necessary to know "how close current air quality is to 'nonattainment'."

I am puzzled to know just what we are to do with this information. As I have stressed before, we have no particular expertise among ourselves or our staff to evaluate air quality matters, much less the authority to do so. If this facility and others under consideration do not violate air quality standards, as set by federal and state environmental agencies, by what measurement is the Majority prepared to impose a different standard? It seems to me that any denial based upon standards other than those determined by other appropriate agencies necessarily will be arbitrary and capricious.

<sup>3</sup> I would approve the Application in Case No. PUE-2001-00430, even though the Applicant has filed Notice that it is attempting to find a suitable developer for the project. If another entity acquires Mirant Danville, LLC, it will succeed to its rights under a CPCN; if Mirant itself is not purchased, any successor would be required to obtain a CPCN for the construction or operation of the facility.

<sup>4</sup> *Robb v. Shockoe Slip Foundation*, 228 Va. 678, 324 S.E. 2<sup>d</sup> 674 (1985).

## CASE NO. PUE-2001-00169 JUNE 5, 2002

APPLICATION OF  
CINCAP MARTINSVILLE, LLC

For a certificate of public convenience and necessity for electric generation facilities in the City of Martinsville

### ORDER ON MOTION

On March 27, 2001, CinCap Martinsville, LLC ("CinCap" or "Applicant") filed an Application with supporting testimony and exhibits requesting that the Commission grant it a certificate of public convenience and necessity under the Utility Facilities Act to construct, own, and operate a 330 MW natural gas-fired electric generating facility ("Facility") at the Commerce Court Industrial Park in the City of Martinsville, Virginia. The Applicant also

seeks an exemption from the provisions of Chapter 10 of Title 56, pursuant to § 56-265.2 B of the Code of Virginia ("Code"), and interim approval to make financial expenditures and undertake preliminary construction work, pursuant to § 56-234.3 of the Code. The Application was supplemented on May 10, 2001.

On May 18, 2001, the Commission entered an order requiring CinCap to provide public notice of its Application, establishing a procedural schedule for the filing of testimony and exhibits, scheduling an evidentiary hearing, and appointing a Hearing Examiner to hear this case. The evidentiary hearing was held on September 18, 2001, before Chief Hearing Examiner Deborah V. Ellenberg. On January 31, 2002, Examiner Ellenberg entered a Report that summarized the record, analyzed the evidence and issues in this proceeding, and made certain recommendations, including that the Application should be granted with conditions.

On April 29, 2002, a majority of the Commission entered an order that: (1) permitted CinCap to make financial expenditures and undertake certain preliminary construction work without prior approval from the Commission; and (2) remanded this case to the Hearing Examiner for further proceedings with respect to consideration of cumulative air impacts, and asked the Hearing Examiner to expedite this matter. On May 17, 2002, CinCap filed a Motion for Reconsideration ("Motion") of that order, requesting the Commission: (1) to reconsider and reverse its April 29, 2002, order; and (2) to grant CinCap authorization to construct, own, and operate the Facility in accordance with the findings and recommendations in the Hearing Examiner's Report.

NOW THE COMMISSION, having fully considered all of the arguments in CinCap's Motion, hereby denies CinCap's request to reverse our April 29, 2002, remand order. Contrary to CinCap's assertion, the remand order does not violate due process. The Commission possesses the discretion to determine that we must evaluate cumulative air impacts in this proceeding to carry out our obligations under the statutes and policy of the Commonwealth. Such a decision is not a rulemaking. Rather, the Commission has the authority to identify the factual matters that we must consider in performing our statutory duties in this proceeding. Further, we are providing CinCap a full opportunity to introduce evidence and be heard on cumulative air impacts. The remainder of this order addresses specific arguments included in the Motion.<sup>1</sup>

CinCap contends that we have erred by considering Article XI, § 1, of the Constitution of Virginia. More specifically, CinCap suggests that the main, if not sole, basis for our requirement of a cumulative air impact analysis in Tenaska<sup>2</sup> and the instant case is Article XI, § 1, of the Constitution. CinCap states that the constitutional provision is not self-executing and that, "[a]ccordingly, the means and criteria for its implementation must be found in the specific statutes which delegate the jurisdiction to enforce it."<sup>3</sup> In other words, CinCap asserts that the Commission should not and cannot consider the policy enunciated in the Constitution as we carry out our obligations under § 56-46.1 of the Code.

CinCap is incorrect with respect to the basis of our actions in Tenaska and this case, as well as the law. First, we agree that Article XI, § 1, is not self-executing. We have never suggested otherwise. This constitutional provision was neither the sole, nor main, basis for the cumulative air impact analysis. Rather, we required such analysis in carrying out our obligations under § 56-46.1. This provision requires the Commission to "give consideration to the effect of [the] facility on the environment." Further, we are obligated thereafter to "establish such conditions as may be desirable or necessary to minimize adverse environmental impact."

In carrying out those obligations, we considered and were guided by the policy of the Commonwealth set forth in the Constitution. Contrary to the arguments of CinCap, the Supreme Court of Virginia has explicitly recognized that such consideration and guidance is proper in cases such as this. In Rappahannock League for Envtl. Protection, et al. v. Virginia Elec. and Power Co., 216 Va. 774 (1976) ("Rappahannock League"), Virginia Electric and Power Company requested approval, under the Utility Facilities Act and § 56-46.1 (the same statutory scheme under which CinCap filed its application herein), to construct electric transmission facilities. The Court found that the issues in the case were developed under Article XI, § 1, and under the foregoing statutes. Specifically, the Court stated the following:

"Under the applicable constitutional provision, Va. Const. art. XI, § 1, and the foregoing statutes [(i.e., §§ 56-46.1 and 56-265.1 et seq.)], three broad issues developed in this case ...."<sup>4</sup>

Accordingly, the Court explicitly acknowledged that the policy set forth in Article XI, § 1, is relevant to our evaluation of such applications under Virginia statutes.<sup>5</sup>

We also reject CinCap's assertion that § 56-46.1 prohibits this Commission from evaluating cumulative air impacts as part of our consideration of the effect of the Facility on the environment, and as part of our evaluation of conditions that may be desirable or necessary to minimize adverse environmental impact. To the contrary, our consideration of the effect of the Facility on the environment, and of possible conditions to minimize adverse

<sup>1</sup> CinCap also requests confirmation that the remand order "is limited to requiring evidence of cumulative impacts on air quality only." Motion at 8, n.16. We believe that our remand order clearly explains that the case was remanded to consider cumulative air impacts only; to the extent clarification is necessary, we confirm this as requested by CinCap.

<sup>2</sup> Application of Tenaska Virginia Partners, LP, For approval of a certificate of public convenience and necessity pursuant to Virginia Code § 56-265.2, an exemption from Chapter 10 of Title 56, and interim approval to make financial commitments and undertake preliminary construction work, Case No. PUE-2001-00039, Order (Jan. 16, 2002) ("Tenaska").

<sup>3</sup> Motion at 10.

<sup>4</sup> Rappahannock League at 777.

<sup>5</sup> In addition, our consideration of this constitutional policy in implementing our statutory obligations is far different from the situation in Robb v. Shockoe Slip Foundation, 228 Va. 678 (1985) ("Robb"), which is relied upon by CinCap. In Robb, the Supreme Court reversed the chancellor below, finding that the chancellor in effect ruled Article XI, § 1 – standing alone – required an environmental impact statement. Robb at 683. To the contrary, and as discussed above, we have not found that Article XI, § 1, requires a cumulative air analysis. Rather, it is our obligations under § 56-46.1 that led us to require the cumulative impact analysis.

environmental impact, should take into account factors that are relevant to those evaluations. Section 56-46.1 does not require us to perform our mandates under that statute in a vacuum. Further, § 56-46.1 does not prohibit us from evaluating the Facility's potential impact, in conjunction with other facilities, on the environment – nor does it prohibit us from evaluating cumulative impacts in determining conditions that may be desirable or necessary to minimize adverse environmental impact. Indeed, we have determined that such evidence is necessary for us to properly carry out our statutory obligations in this case.

CinCap also states that the record fully addresses impacts on air quality, and that the issue of cumulative air impacts was not raised by any participant in this case. CinCap asserts that the record in this case is more than sufficient to satisfy the standards applied by the Commission in previous merchant plant certification cases, in which no evidence of cumulative impacts on air quality was considered necessary. Thus, CinCap suggests that our remand violates due process. The nature of this case, however, is not "plaintiff v. defendant." The Commission's statutorily mandated consideration of the Facility is not limited to matters that the participants choose to raise in the first instance. Moreover, the Commission has discretion such that its views may evolve with respect to the matters it must consider to properly implement our statutory obligations in evaluating proposed facilities. For example, the factors warranting our determination that cumulative impact evidence is necessary in this case include the significant number of generating plant applications before us (of which we can take judicial notice), and the fact that Virginia statutes have changed to no longer require a showing of any need for, or any obligation to provide, the plant's output for use by Virginia's businesses and citizens.

CinCap further asserts that the remand order violates the Virginia Constitution, Virginia statutes, the Commission's rules, and the basic due process provisions of the United States and Virginia Constitutions. CinCap states that the Commission violated these provisions by converting the Tenaska remand order into a general rule of retroactive application. Our decision in Tenaska, however, is not a rule of general application under Article IX, § 3, of the Constitution of Virginia or § 12.1-28 of the Code. Rather, in our order remanding this case, as in our Tenaska remand, we found that to comply with our obligations, we need to consider cumulative air impacts. These decisions clearly are within the Commission's discretion in carrying out our statutory duties.

In this regard, CinCap attempts to distinguish Roanoke Gas Co. v. State Corp. Comm'n, 225 Va. 186 (1983) ("Roanoke Gas"), but it cannot. In Roanoke Gas, the Supreme Court held that the Commission's imposition of a new threshold test for its Financial Operating Review program was not a rule or regulation, but rather "nothing more than a discretionary method of determining whether a rate change is needed."<sup>6</sup> Likewise, the Commission clearly has the discretion, without a rulemaking, to determine that a record before it is deficient with regard to a component of its duties and to permit the applicant an opportunity to supplement that record.

CinCap's reliance on Virginia Elec. and Power Co. v. State Corp. Comm'n, 226 Va. 541 (1984) ("VEPCO") also is misplaced. Indeed, our April 29, 2002, remand order is fully consistent with procedural requirements affirmed by the Supreme Court in that case. In VEPCO, the applicant filed for a change in rates. Three weeks after the filing, the Commission: (1) summarily denied an increase in equity return based on the pre-filed evidence and the Commission's own knowledge of the cost of capital; and (2) severed a second rate component, regarding the cancellation of a nuclear unit, into a separate investigation. The Supreme Court found that: (1) the summary denial of an increase in equity return did not afford the applicant procedural due process, and should be reversed and remanded to the Commission;<sup>7</sup> and (2) the order severing the nuclear unit issue for further proceedings was constitutionally sufficient, afforded a full opportunity to subsequently introduce evidence and be heard, and should be upheld.<sup>8</sup> In the instant case, the Commission has not summarily denied CinCap's request to construct facilities. Rather, we have afforded the Applicant a full opportunity to introduce evidence and be heard on the issue of cumulative air impacts. Such a procedure, which provides a full opportunity to be heard, was expressly upheld by the Supreme Court in VEPCO.

CinCap also asserts that the pending case on filing requirements for generating facility applications prohibits the Commission from considering cumulative air impacts in CinCap's proceeding.<sup>9</sup> CinCap relies upon "the Commission's statement in the Rulemaking Order that cumulative impacts would be addressed on a case-by-case basis in those cases where the issue had been raised."<sup>10</sup> Such a "statement" by the Commission simply does not exist. Rather, that order recognized that a "number of applications are presently pending before the Commission."<sup>11</sup> The order explained that "[i]ssues in those cases may relate to ... matters included in the proposed rules we offer for publication and comment today."<sup>12</sup> Finally, that order expressly stated that "[n]either the adopted nor proposed rules limit what we may consider in those pending cases; such matters or issues will be considered on a case-by-case basis in each proceeding."<sup>13</sup> There is no "statement" in that order limiting our review, as to matters in the proposed filing requirements, only to cases "where the issue had been raised." To the contrary, our remand of this case to consider cumulative air impacts is fully consistent with our statements in the Order Adopting Rules and Prescribing Additional Notice. We also reject any suggestion by CinCap that filing requirements, either proposed or adopted, place a limit on the evidence that the Commission may find relevant and necessary in cases before it.

<sup>6</sup> Roanoke Gas at 189-190.

<sup>7</sup> Deciding that cumulative air impact evidence is needed in this proceeding, and providing an opportunity to present evidence and be heard, is not the equivalent of denying an increase in equity return without an opportunity to be heard. Nor is the remand to the Hearing Examiner to receive evidence on cumulative air impacts a denial of "an opportunity to introduce evidence and be heard" prior to entering "any finding, order, or judgment" against the Applicant. See Article IX, § 3, of the Constitution of Virginia; § 12.1-28 of the Code; and Motion at 16.

<sup>8</sup> VEPCO at 549.

<sup>9</sup> See Ex Parte: In the matter of amending filing requirements for applications to construct and operate electric generating facilities, Case Nos. PUE-2001-00313 and PUE-2001-00665, Order Adopting Rules and Prescribing Additional Notice (Dec. 14, 2001) ("Order Adopting Rules and Prescribing Additional Notice").

<sup>10</sup> Motion at 15-16 (emphasis added).

<sup>11</sup> Order Adopting Rules and Prescribing Additional Notice, at 7.

<sup>12</sup> Id.

<sup>13</sup> Id.

Finally, our discussion herein is based on the law as it currently stands. As noted in our remand order in this case, § 56-46.1 obligates us to receive and give consideration to reports from the Commonwealth's environmental agencies. Chapter 483 of the Acts of Assembly, (2002 Va. Acts 483 ("Chapter 483")), modifies the statutory scheme under which we will receive and give consideration to the environmental impacts of applications such as CinCap's. Chapter 483 both establishes authority in the DEQ to conduct cumulative impact analyses as well as requires the Commission to defer to other governmental entities, and it is not our intent to duplicate activities already undertaken by other governmental entities. Chapter 483 is not effective until July 1, 2002, and we have not received information developed as envisioned therein in this case. Accordingly, our remand order established a procedure by which CinCap could proceed under existing law. If CinCap, however, wishes to comply with Chapter 483 and have this case considered under the new statute on or after July 1, it may choose to do so.

Accordingly, IT IS ORDERED THAT:

- (1) CinCap's Motion for Reconsideration is denied.
- (2) This matter is continued.

**Morrison, Commissioner, Dissenting Opinion.**

I respectfully dissent from the Majority's decision to deny reconsideration and reversal of the April 29, 2002, Order remanding this proceeding to the Hearing Examiner.

I find nothing in the Majority Order denying reconsideration to cause me to alter my views as set forth in my Dissenting Opinion to the Remand Order. I also reference my Dissenting Opinion in the Application of Tenaska Virginia Partners, L.P., Case No. PUE-2001-00039, for a more detailed discussion of subject matter having relevance to this case.

The Motion for Reconsideration is well reasoned and persuasive, a conclusion which will come as no surprise to anyone. Section IV of the Motion demonstrates how extremely unfair it is to an applicant for this Commission to preempt its own rulemaking process and retroactively install the 2002 vintage cumulative impact requirement with no opportunity whatsoever to the applicant to respond before the remand order. I do not think that Roanoke Gas Co. v. State Corp. Comm'n, 225 Va. 186 (1983) ("Roanoke Gas"), can possibly support such free-ranging course changes. That case was essentially a rate setting matter, the type in which appellate courts give wide discretion to utility regulatory bodies when they endeavor to establish just and reasonable rates. It was a case in which Roanoke Gas was not blind-sided by a new and substantially more onerous requirement after the evidentiary hearing was closed. In Roanoke Gas the dispute was essentially the matter of the accounting system the Commission chose to recognize, and that recognition was not done against the backdrop of a pending rules proceeding dealing with the same subject matter.

In this case we are dealing with an entirely different regulatory animal. This is an application for a Certificate of Public Convenience and Necessity, a valuable property right, and I find that the Motion for Reconsideration is correct in its characterization of Roanoke Gas being distinguishable.

On July 1 of this year, by virtue of a new code section, § 10.1-1186.2:1, executive branch agencies will consider the cumulative air impact of new and proposed electric generating facilities to the exclusion of such consideration by this Commission. That day will come in less than one month now, and it is quite difficult to understand why the Majority does not take this opportunity to allow this peaking plant project to proceed without further delay.

**CASE NO. PUE010171  
MARCH 27, 2001**

APPLICATION OF  
LOUDOUN COUNTY POWER COMPANY, LLC

For a certificate of public convenience and necessity for electric generation facilities in Loudoun County

**FINAL ORDER**

On March 28, 2001, as supplemented on May 15, 2001, Loudoun County Power Company, LLC ("Loudoun County Power" or "Company"), applied to the State Corporation Commission ("Commission") for a certificate of public convenience and necessity authorizing construction and operation of electric generation facilities in Loudoun County. Loudoun County Power proposed to build a combined-cycle facility of up to 1,400 megawatts net generation capacity to be located east of the Town of Leesburg and adjacent to the Washington & Old Dominion Railroad Regional Park. In the alternative, the Company proposed to construct a combustion turbine facility of 535 megawatts net generation capacity.

By Order for Notice and Hearing issued May 25, 2001, the Commission docketed this case, assigned the matter to a Hearing Examiner, established a procedural schedule for interested persons to participate and for the filing of certain documents, and scheduled hearings to receive public witness testimony and evidence on the Company's application.

On September 11, 2001, Counsel for Loudoun Power filed a letter with the Commission requesting a postponement of the evidentiary hearing in this matter, then scheduled for September 13, 2001. The Hearing Examiner issued a ruling on September 12, 2001, holding that the hearing scheduled for September 13, 2001, be convened for the sole purpose of receiving comments from public witnesses; and postponing the evidentiary hearing until further ruling by the Examiner.

By ruling entered on October 2, 2001, the Hearing Examiner rescheduled the evidentiary hearing for December 6, 2001. An evidentiary hearing on the Company's application was held in the Commission's courtroom on December 6, 2001, and December 7, 2001. By oral ruling at the evidentiary hearing on December 7, 2001, the Hearing Examiner continued the matter generally in order for counsel for the parties to find a mutually agreeable date to continue the evidentiary hearing and to further agree on a schedule for filing additional testimony and exhibits. On January 24, 2002, the Hearing Examiner issued a ruling establishing a procedural schedule for the filing of additional testimony and exhibits and rescheduling the hearing for March 6, 2002.

On February 22, 2002, Loudoun Power filed a Motion to Suspend Further Proceedings. In its Motion, the Company requested that the Commission suspend and continue all further proceedings in this case, including the hearing scheduled to begin on March 6, 2002. The Company stated in its Motion that certain recent events and market developments had caused it to conduct a review of the proposed project that may result in significant changes in its proposal. By ruling entered on February 26, 2002, the Hearing Examiner granted the Company's motion continuing the hearing scheduled for March 6, 2002, generally.

On February 27, 2002, the Company filed a Motion to Withdraw Application and Terminate Proceeding. In its Motion, the Company stated it would no longer pursue the proposed power generation project that is the subject of this proceeding. The Company requested leave to withdraw its Application, and requested that this proceeding be terminated.

The Hearing Examiner issued a Report on February 28, 2002, recommending that the Commission enter an order dismissing this matter from its docket of active cases and passing the papers herein to the file for ended causes. Comments to the Hearing Examiner's Report from parties were to be filed with the Clerk of the Commission within twenty-one (21) days from the date the Report was issued, or on or before March 21, 2002. On March 8, 2002, the Company advised the Clerk of the Commission that it would not file any comments. No comments were filed by any of the parties.

NOW THE COMMISSION, upon consideration of the foregoing, is of the opinion and finds that this case should be dismissed.

Accordingly, IT IS ORDERED THAT:

- (1) The recommendations in the February 28, 2002, Report of Michael D. Thomas, Hearing Examiner, are adopted in full.
- (2) This matter is dismissed and, there nothing further to come before the Commission, the papers herein are passed to the file for ended causes.

**CASE NO. PUE-2001-00241  
MAY 2, 2002**

APPLICATION OF  
COLUMBIA GAS OF VIRGINIA, INC.

For an Annual Informational Filing

**ORDER ACCEPTING OFFER OF STIPULATION**

On May 31, 2001, Columbia Gas of Virginia, Inc. ("Columbia" or the "Company"), filed its Annual Informational Filing ("AIF") for the test period for the calendar year ending December 31, 2000, with the State Corporation Commission ("Commission"). On July 3, 2001, Columbia filed a motion with the Commission requesting a waiver of certain requirements of the Commission's Rules Governing Utility Rate Increase Applications and Annual Informational Filings, relating to Schedule 25 of the Company's AIF.

In its Order entered on July 12, 2001, the Commission granted Columbia's request for waiver and continued the matter pending further order of the Commission.

On December 7, 2001, the Staff filed its Report in this matter. Among other things, the Staff noted that Columbia had received approximately \$1.4 million from Columbia Gas Transmission Company ("TCo") and Columbia Gulf Transmission Company ("Columbia Gulf") as a result of a stipulation and agreements filed with and accepted by the Federal Energy Regulatory Commission ("FERC") in certain proceedings before FERC.<sup>1</sup> Staff recommended that these proceeds received by Columbia be returned through the Company's purchased gas adjustment mechanism ("PGA").

On January 17, 2002, Columbia filed its Response to the Staff Report ("Response"). In its Response, among other things, the Company disagreed with the Staff's recommendation that the \$1.4 million constituted "supplier refunds" that should be returned through Columbia's PGA. The Company requested the Commission to direct Staff to continue discussions on the issues related to the \$1.4 million and to report to the Commission on the status of these discussions within thirty days of the same.

On February 4, 2002, Staff filed its Reply to the Company's Response. In its Reply, among other things, Staff agreed to meet with Columbia at a mutually convenient time to discuss the issues raised by the Company in its Response. Staff committed to report on the status of its discussions with Columbia within thirty days of its meeting with the Company.

On April 2, 2002, Staff filed its Status Report in this proceeding, noting that discussions between Columbia and Staff had occurred and that progress had been made during those discussions.

On April 25, 2002, the Staff filed a "Motion Requesting Approval of Offer of Stipulation" ("Motion"), together with an "Offer of Stipulation" that the Staff requested the Commission to accept. In its Motion, the Staff noted that it had reached agreement with Columbia on the issues related to the disposition of the disgorgement and settlement value monies at issue in the Staff Report.

<sup>1</sup> According to the Staff, the "settlement value" portion of the \$1.4 million at issue resolved a dispute pending before FERC in Docket No. RP95-408 (Phase II) related to the rate treatment of certain costs associated with environmental remediation incurred by TCo and recovered in transportation and storage rates. The "disgorgement amount" of the \$1.4 million were returned to the Company as a result of the entry of an October 25, 2000, FERC Order Approving Stipulation and Consent Agreement entered in FERC Docket No. IN01-1-000. That docket involved an investigation of TCo and Columbia Gulf relating to their participation in unauthorized gas imbalance transactions.

As explained by the Staff, the Offer of Stipulation provides for the refund of \$696,446, an amount equivalent to the \$671,943 disgorgement payment paid by TCo and the \$24,503 disgorgement amount paid by Columbia Gulf, through Columbia's PGA mechanism to the Company's customers. As proposed by the Company and Staff, these amounts would bear interest from November 20, 2000, the date that Columbia received these monies as a result of FERC's Order, until fully refunded, at 8% interest per annum. Staff and the Company proposed that the \$696,446 be accounted for by debiting the sub-account of Uniform System of Account No. 242 (Miscellaneous Liabilities) and by crediting a sub-account of Uniform System of Account No. 242 (Provision for Rate Refunds).

As to the "settlement value" portion of the \$1.4 million, Staff and the Company proposed that \$755,988, the jurisdictional portion of the settlement value, be used as an offset to the Company's unamortized environmental regulatory asset balance, an asset estimated by the Company to be approximately \$20 million. The Offer of Stipulation proposed that the Company account for this amount by debiting Uniform System of Account No. 242 (Miscellaneous Current Accrued Liability) and by crediting Uniform System of Account No. 182.3 (Other Regulatory Assets) by \$755,988.

Further, in the Offer of Stipulation, the Company agreed that in subsequent AIFs, it would restate its per books utility income tax expense to a jurisdictional basis before making its ratemaking and pro forma adjustments.

NOW UPON consideration of the April 25, 2002, Motion and Offer of Stipulation, the Commission is of the opinion and finds that the April 25, 2002, Motion should be granted; that the Offer of Stipulation represents a reasonable resolution of the issues raised in the captioned AIF; and that this matter should be dismissed from the Commission's docket of active proceedings.

Our decision to permit the Company to offset \$755,988 against Columbia's unamortized environmental regulatory balance does not constitute approval of the recovery of the environmental regulatory cost through Columbia's rates. That issue is more properly decided in a proceeding, following notice to Columbia's customers and an opportunity for hearing.

Accordingly, IT IS ORDERED THAT:

- (1) The April 25, 2002, Motion is granted.
- (2) The April 25, 2002, Offer of Stipulation is hereby accepted.
- (3) The \$696,466 portion of the disgorgement amounts received by Columbia shall be refunded through the Company's PGA to Columbia's customers. This refund shall bear interest from November 20, 2000, until fully refunded, at 8% per annum. Columbia shall account for these funds by debiting the sub-account of Uniform System of Account No. 242 (Miscellaneous Liabilities) and by crediting a sub-account of Uniform System of Account No. 242 (Provision for Rate Refunds).
- (4) Consistent with our findings herein, Columbia shall record on its regulatory books \$755,988 on a jurisdictional basis as a credit to its unamortized environmental regulatory asset balance. The Company shall account for this amount by debiting Uniform System of Account No. 242 (Miscellaneous Current Accrued Liability) and crediting Uniform System of Account No. 182.3 (Other Regulatory Assets).
- (5) Consistent with its representation, the Company shall restate its per books utility income tax expense to a jurisdictional basis before making ratemaking and pro forma adjustments.
- (6) There being nothing to be done further in this matter, this case shall be dismissed from the Commission's docket of active proceedings, and the papers filed herein placed in the Commission's drawer for ended causes.

**CASE NO. PUE-2001-00297  
MAY 28, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION

Ex Parte: In the matter of establishing rules and regulations pursuant to the Virginia Electric Utility Restructuring Act for consolidated billing services

**ORDER**

On May 24, 2002, the Staff of the State Corporation Commission ("Staff") filed in this proceeding its Staff Report and proposed rules implementing the competitive billing services provisions, including consolidated billing, found in § 56-581.1 of the Virginia Electric Utility Restructuring Act, § 56-577 *et seq.* of the Code of Virginia ("Code").

The Commission directed the Staff to conduct an investigation, with input from a work group, and to file proposed rules as may be necessary to implement the offering of consolidated billing service by licensed competitive service providers to local distribution companies and retail customers. The Staff invited representatives of interested parties to participate in the work group to facilitate the development of the required regulations. The proposed rules are the result of extensive work group meetings identifying and evaluating consolidated billing issues.

Proposed amendments to 20 VAC 5-312-90 of the Commission's Rules Governing Retail Access to Competitive Energy Services are attached hereto as Attachment A. The proposed rules reflect the possibility of consolidated billing by a competitive service provider. Among other things, the proposed rules include the requirements that a competitive service provider must meet to offer consolidated billing services. A competitive service provider would be required to provide written advance notice to the local distribution company and the Commission's Division of Energy Regulation and Division of Economics and Finance prior to an initial offering of consolidated billing service. In addition, a competitive service provider would be required to establish such financial security as the Commission may require for such competitive service provider's estimated liability associated with the collection and

remittance of state, local, and special regulatory consumption taxes. Other proposed rules address disconnection for nonpayment of regulated service charges to the local distribution company where the competitive service provider is the billing party as well as certain state, local, and special regulatory consumption tax collection processes.

NOW UPON CONSIDERATION of the Staff Report and the proposed rules, the Commission is of the opinion and finds that the proposed rules should be submitted to the Registrar of Regulations for publication in the Virginia Register of Regulations. We will direct that the Staff Report, this Order and Attachment A hereto be available for public inspection. As provided by previous orders issued in this proceeding, interested parties are afforded an opportunity to file written comments or to request a hearing on the proposed rules and the Staff Report on or before June 27, 2002.

Accordingly, IT IS ORDERED THAT:

(1) The Commission's Division of Information Resources shall forward this Order and Attachment A hereto to the Registrar of Regulations for publication in the Virginia Register of Regulations.

(2) A copy of the Staff Report and this Order and Attachment A hereto shall be made available for public review between the hours of 8:15 a.m. and 5:00 p.m., Monday through Friday, at the State Corporation Commission's Document Control Center, located on the first floor of the Tyler Building, 1300 East Main Street, Richmond, Virginia. This Order and Attachment A hereto shall also be made available on the Commission's website, <http://www.state.va.us/scc/caseinfo/orders.htm>. Interested persons may request a copy of the Staff Report by making a written request to Katharine A. Hart, Attorney, Office of General Counsel, State Corporation Commission, 1300 East Main Street, Richmond, Virginia 23219.

(3) Interested parties shall file written comments or requests for hearing in accordance with Ordering Paragraph (8) of the Commission's May 15, 2001, Order Establishing Proceedings, as amended by the Commission's February 14, 2002, Order Granting Motion for Extension.

(4) This matter is continued for further orders by the Commission.

NOTE: A copy of Attachment A entitled "Chapter 312. Rules Governing Retail Access to Competitive Energy Services" is on file and may be examined at the State Corporation Commission, Clerk's Office, Document Control Center, Tyler Building, First Floor, 1300 East Main Street, Richmond, Virginia.

**CASE NO. PUE-2001-00297  
AUGUST 21, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION

Ex Parte: In the matter of establishing rules and regulations pursuant to the Virginia Electric Utility Restructuring Act for consolidated billing services

**ORDER ADOPTING RULES AND REGULATIONS**

On May 24, 2002, the Staff of the State Corporation Commission ("Staff") filed in this proceeding its Staff Report and proposed rules for implementing consolidated billing services by licensed competitive service providers ("CSPs"), consistent with § 56-581.1 of the Virginia Electric Utility Restructuring Act, § 56-577 *et seq.* of the Code of Virginia ("Code").

Pursuant to prior orders of the Commission, the Staff conducted an investigation, with input from a work group, and developed proposed rules as may be necessary to implement the offering of consolidated billing services by licensed CSPs to local distribution companies ("LDCs") and retail customers. The Staff invited representatives of interested parties to participate in the work group to facilitate the development of the required regulations. The Staff's proposed rules were the result of extensive work group meetings identifying and evaluating consolidated billing issues.

On May 28, 2002, the Commission issued an order, which attached the Staff's proposed amendments to 20 VAC 5-312-90 of the Commission's Rules Governing Retail Access to Competitive Energy Services ("Retail Access Rules"). The proposed rules addressed consolidated billing by CSPs. Among other things, the proposed rules included the requirements that a CSP must meet to offer consolidated billing services. A CSP would be required to provide written advance notice to the LDC and the Commission's Division of Energy Regulation and Division of Economics and Finance prior to an initial offering of consolidated billing service. In addition, a CSP would be required to establish such financial security as the Commission may require for such CSP's estimated liability associated with the collection and remittance of state, local, and special regulatory consumption taxes. Other proposed rules addressed disconnection for nonpayment of regulated service charges to the LDC where the CSP is the billing party, as well as certain state, local, and special regulatory consumption tax collection processes.

The order of May 28, 2002, also directed that the proposed rules be published in the Virginia Register of Regulations and permitted interested parties to file written comments and requests for hearing on the proposed rules and the Staff Report. On or before June 27, 2002, interested parties filed written comments. The Commission received no requests for hearing.

NOW THE COMMISSION, upon consideration of the record established herein, the filed comments, and the applicable law, is of the opinion and finds that the rules governing consolidated billing services attached hereto should be adopted as final, effective on and after January 1, 2003. We commend the participants for their efforts in addressing amendments to these rules governing competitive consolidated billing services. The remainder of this Order will discuss certain issues raised in the written comments.

The Virginia Municipal League/Virginia Association of Counties ("VML/VACO") requests that the Commission delay for one year (from January 1, 2003, to January 1, 2004) the effective date of consolidated billing by CSPs. Section 56-581.1 B of the Code provides that, effective January 1, 2003, CSPs may offer consolidated billing services. VML/VACO notes that the Commission, upon its own motion pursuant to § 56-581.1 C of the Code,

may delay consolidated billing by one year. We conclude, however, that VML/VACO has not established, as we must find under § 56-581.1 C, that a delay is necessary at this time to resolve issues related to billing accuracy, timeliness, quality, consumer readiness, or adverse effects upon the development of competition.

We have not included in the attached rules additional requirements requested by VML/VACO that each CSP: (i) agree to a procedure with each locality to assure that the CSP knows the proper amount of tax to collect and the proper amount to remit to each affected local jurisdiction; and (ii) agree with each locality to collect and remit the proper tax amounts. Local utility consumer taxes are subject to various local jurisdictional requirements, and each CSP must collect and remit local utility consumer taxes based on existing law. In addition, the Retail Access Rules currently require that CSPs undertake coordination efforts with each affected locality regarding the obligation to collect and remit taxes (20 VAC 5-312-90 A 1 d).

VML/VACO also requests that the proposed rules on financial security be modified to encompass local utility consumer taxes. We reject VML/VACO's request to require each CSP to enter into a separate agreement with each locality, in the form each locality may require, for reasonable financial security; such a requirement would place an unreasonable burden on CSPs attempting to provide competitive billing services. Rather, we have adopted VML/VACO's alternative proposal and modified 20 VAC 5-312-90 A 2 as follows:

The competitive service provider shall establish such financial security as the State Corporation Commission may require for such competitive service provider's estimated liability associated with the collection and remittance of state, local, and special regulatory consumption taxes and local utility consumer taxes.

VML/VACO and American Electric Power ("AEP") separately request modifications to 20 VAC 5-312-90 H 2 b. This rule addresses a CSP's obligation to remit local consumption and consumer taxes and reports to each locality. VML/VACO requests that the rules require CSPs: (i) to use a standardized tax report format to be developed by the localities; and (ii) to submit to reasonable audit requests by local governments. We will not modify the rules to address the localities' authority to audit CSPs, or to mandate that CSPs follow a specific reporting format that is yet to be developed. We encourage the localities and CSPs, however, to develop a standardized reporting format to aid both parties in this regard.

AEP asserts, among other things, that requiring payment to each locality on a specified day may conflict with local ordinances on tax remittance. We find that the rule should be modified to avoid this potential conflict. We have modified 20 VAC 5-312-90 H 2 b as follows:

Submit simultaneously, ~~on or before the last day of the succeeding month of collection in accordance with the Code of Virginia and local ordinance,~~ to each local government in whose jurisdiction the taxes have been collected, the payment of ~~the preceding month's~~ local consumption taxes and local utility consumer taxes and associated ~~monthly tax remittance~~ reports.

The Virginia Electric Cooperatives ("Cooperatives") request that 20 VAC 5-312-90 B be modified to reference explicitly the statutory exemption for municipalities and cooperatives regarding competitive billing. We find, as explained by the Cooperatives, that the requested reference may help inform CSPs of the statutory exemptions. We have therefore modified 20 VAC 5-312-90 B as follows:

~~A~~Subject to the exemptions applicable to municipal electric utilities and utility consumer service cooperatives set forth in § 56-581.1 J of the Code of Virginia, a competitive service provider shall coordinate the provision of the customer-selected billing service with the local distribution company by any means specified by VAEDT or as otherwise provided by the local distribution company's tariff approved by the State Corporation Commission.

Dominion Virginia Power requests a change to 20 VAC 5-312-90 C 5. Specifically, Dominion Virginia Power requests that the rule be modified to explicitly require a CSP to "comply with," rather than "accommodate," the LDC's normal billing and credit cycle requirements for distribution service. We will adopt this request. While it is always important to avoid billing errors and customer confusion, it is particularly important as the Commonwealth transitions to retail competition. The requested change clarifies that full compliance is expected from the CSPs in this regard. We also note that this rule does not preclude a CSP from entering into unique arrangements with the customer for supply service billing. We have modified 20 VAC 5-312-90 C 5 as follows:

~~Accommodate~~Comply with the local distribution company's normal billing and credit cycle requirements for distribution service.

AEP asserts that the rules should be restructured to ensure that only the LDC sends a disconnection notice – *i.e.*, the customer should not receive a disconnection notice from the CSP as well. Although we do not adopt the particular changes suggested by AEP, we have modified 20 VAC 5-312-90 I 7 to clarify that CSPs do not send disconnection notices:

In the event a disconnection notice for nonpayment is included on a customer bill issued by the local distribution company, the notice shall appear on the first page of the bill and be emphasized in a manner that draws immediate attention to such notice. The notice shall clearly identify the amount that must be paid and the date by which such amount must be paid to avoid disconnection.

Washington Gas Light requests that CSPs provide LDCs additional numeric fields and text characters on a CSP's consolidated bill. We will not make the requested modification at this time. The rules currently require the billing party to provide the non-billing party with six numeric fields and 240 text characters. This appears reasonable. If actual experience shows this to be unworkable, however, then possible changes could be addressed at a later date.

Finally, the LDCs propose to implement an interim electronic data interchange ("EDI") workaround approach. This workaround approach is not part of the rules. Rather, the workaround approach recognizes that standardized business practices and EDI protocols, outside the scope of these rules, will be needed to implement consolidated billing on a sufficient scale. The LDCs explain that the workaround approach is necessary at this time due to, among other things, the nascent stage of competitive billing and the costs involved in establishing a permanent approach. We find that the LDCs' EDI workaround proposal is reasonable on an interim basis and should be coordinated with the Virginia Electronic Data Transfer Working Group. A permanent approach,



however, will be needed at some point as the market for these services develops. Thus, the interim EDI workaround will need to be replaced with standardized business practices and EDI protocols as the competitive market develops and the volume of competitive billing increases.

Accordingly, IT IS HEREBY ORDERED THAT:

(1) Regulations amending 20 VAC 5-312-90 of the Rules Governing Retail Access to Competitive Energy Services are adopted as set forth in Attachment A to this Order, effective January 1, 2003.

(2) A copy of this Order and the rules attached hereto shall be forwarded promptly for publication in the Virginia Register of Regulations.

(3) Local distribution companies shall file revised supplier tariffs and/or agreements as necessary to reflect the rules adopted herein at least 60 days in advance of implementation of competitive service provider consolidated billing within the local distribution company's respective service territory.

(4) There being nothing further to come before the Commission in this case, it shall be removed from the docket and the papers filed herein placed in the file for ended causes.

NOTE: A copy of Attachment A entitled "Chapter 312. Rules Governing Retail Access to Competitive Energy Services" is on file and may be examined at the State Corporation Commission, Clerk's Office, Document Control Center, Tyler Building, First Floor, 1300 East Main Street, Richmond, Virginia.

**CASE NO. PUE-2001-00298  
AUGUST 19, 2002**

AT THE RELATION OF THE  
STATE CORPORATION COMMISSION

Ex Parte: In the matter of establishing rules and regulations pursuant to the Virginia Electric Utility Restructuring Act for competitive metering services

**ORDER ADOPTING RULES**

Pursuant to the provisions of the Virginia Electric Utility Restructuring Act, § 56-576 *et seq.* ("Act") of the Code of Virginia, specifically, § 56-581.1, and the Commission's December 21, 2001, Order issued in this docket, the Staff filed a report on February 14, 2002 ("Report"), with the State Corporation Commission ("Commission") presenting proposed rules for competitive electric metering services. On February 19, 2002, the Commission issued an Order Inviting Comments ("Order") providing interested parties an opportunity to comment and/or request a hearing on Staff's proposed competitive metering rules. Pursuant to the Order, we received comments on the proposed competitive metering rules from the following eight parties: the AG, AEP-VA, AP, Virginia Power, NewEnergy, AEI, and, together, BA/EC.<sup>1</sup> No party requested a hearing on the proposed rules.

The majority of the parties' comments generally supported Staff's proposed rules. Many of the parties' comments expressed their agreement with Staff that the proposed rules address the most critical element of electricity metering – accessibility to data. Pursuant to the provisions of Va. Code § 56-581.1 and the Commission's December 21, 2001, Order, the Commission is to implement the provision of competitive metering services by licensed providers for large industrial and large commercial customers of investor-owned distributors on January 1, 2003.<sup>2</sup>

The market for competitive metering services continues to be in the early stages of development. Staff and the parties who filed comments in this proceeding, some of whom are electricity marketers ready to participate in the market for competitive generation, have impressed upon us that customers' accessibility to usage data is a critical element to the development of a well-functioning competitive generation market. We believe that Staff's proposed rules, as amended herein, take a thoughtful and deliberate approach that is consistent with the Act and appropriate at this stage of development of the market for these competitive services.

The proposed competitive metering rules seek to ensure electric customers access to their meter data. Meter data are important tools in customers' decisions to enter – and marketers' efforts to entice them into – the market for electric generation. We agree with those parties and Staff who assert that access to timely meter data may boost the development of the competitive generation market because such information can assist in providing improved price signals and competitive energy management services to customers.

Virginia Power expressed concern in its comments that Staff's proposal for implementing competitive metering for large industrial and large commercial customers is inconsistent with the enabling statute for competitive metering, Va. Code § 56-581.1 E. Virginia Power argues that the plain language of the statute indicates that the implementation of the provision of competitive metering services must include the provision of such services by "licensed providers" and that the term "competitive metering services by licensed providers" implies something more than the provision of interval meters and metering data by a single market participant, the local distribution company ("LDC"). The Staff has taken the position that its proposed rules, which provide for customer access to data through the LDC are consistent with Va. Code § 56-581.1.

<sup>1</sup> The Division of Consumer Counsel, of the Office of the Attorney General ("AG"), Appalachian Power Company d/b/a American Electric Power-Virginia ("AEP-VA"), Allegheny Power Company ("AP"), Virginia Electric and Power Company ("Virginia Power"), AES NewEnergy, Inc. ("NewEnergy"), American Energy Institute ("AEI"), and, together, Brayden Automation, Inc. and Energy Consultants, Inc. ("BA/EC").

<sup>2</sup> Also, in our December 21, 2001, Order, we found it premature to rule on requests to delay implementation for residential and small business customers.

Virginia Code § 56-581.1 E provides:

The Commission shall implement the provision of competitive metering services by licensed providers for large industrial and large commercial customers of investor-owned distributors on January 1, 2002, and may approve such services for residential and small business customers of investor-owned distributors on or after January 1, 2003, as determined to be in the public interest by the Commission.<sup>3</sup> (Emphasis added.)

This section goes on to state that:

Such implementation and approvals shall:

1. Be consistent with the goal of facilitating and development of effective competition in electric service for all customer classes;
2. Take into account the readiness of customers and suppliers to buy and sell such services;
3. Take into account the technological feasibility of furnishing any such services on a competitive basis;
4. Take into account whether reasonable steps have been or will be taken to educate and prepare customers for the implementation of competition for any such services;
5. Not jeopardize the safety, reliability or quality of electric service;
6. Consider the degree of control exerted over utility operations by utility customers;
7. Not adversely affect the ability of an incumbent electric utility authorized or obligated to provide electric service to customers who do not buy such services from competitors to provide electric service to such customers at reasonable rates;
8. Give due consideration to the potential effects of such determinations on utility tax collection by state and local governments in the Commonwealth; and
9. Ensure the technical and administrative readiness of a distributor to coordinate and facilitate the provision of competitive metering services for its customers. (Emphasis added.)

We believe that the language in the statute is clear that the nine criteria apply to both the implementation for large industrial and commercial customers, and the approval for residential and small business customers. The language in Va. Code § 56-581.1 E states specifically that the nine criteria are to apply to "[s]uch implementation and approvals" listed in the statute. Virginia Code § 56-581.1 E mandates implementation of competitive metering services for large industrial and commercial customers and allows the Commission to approve these services for residential and small business customers. In addition, Staff's proposed rules oblige both the LDCs and competitive suppliers to provide customers access to interval meter data, and therefore, begin the implementation of competitive metering. Thus, we find that the proposed rules are consistent with the Act, including Va. Code § 56-581.1.

In its comments, AEP-VA requests that the Commission extend approval of its tariff provisions permitting the Company to offer fully unbundled competitive metering services that will expire at the end of 2002. The Company requests the Commission extend approval of the tariff provisions until full implementation of competitive metering services is achieved. We granted approval of AEP-VA's tariff for the calendar year 2002 in anticipation that final rules for full, unbundled competitive metering services would be approved and in place by January 1, 2003. The rules we adopt herein do not address fully unbundled competitive metering services. As we directed in previous orders issued in this docket, the Staff, with the assistance of the competitive metering work group, continues to meet to examine further additional elements of competitive metering services and is to submit a report addressing these issues on or before August 30, 2002. Based on the current and foreseeable environment of competition in metering services, we cannot predict with certainty when final rules addressing fully unbundled competitive metering services will be in place. We will grant AEP-VA's request and extend the approval of AEP-VA's competitive metering tariff until such time the Commission adopts rules providing for full implementation of competitive metering services or until the Commission determines otherwise.

The majority of the comments generally supported Staff's recommendation for a measured approach and a gradual movement toward implementing full competitive metering services. We agree that, at this time, a thoughtful and deliberate approach to implementing these services is appropriate. Consistent with the Act, we agree with Staff that the proposed rules implement competitive metering services on January 1, 2003, by providing for meter functionality choices and data access choices, including access to meter data on a near real-time, on-command basis.

The market for competitive metering services is expected to develop gradually. The proposed rules provide customers initial options for accessing their meter data. We believe the proposed rules take appropriate steps that will advance the efforts toward the implementation of unbundled competitive metering services. We have directed the competitive metering work group to continue to meet to address additional implementation efforts, and the Staff to file a report, now due August 30, 2002, relative to those issues.<sup>4</sup> We request that the work group continue to meet to determine a schedule for implementation of additional elements of competitive metering services.

In its comments, the AG continues to support implementing fully unbundled competition in these services as soon as practicable. NewEnergy supports competitive metering options being made available to consumers. Virginia Power proposes in its comments a target date of January 1, 2004, for the competitive provision of all metering services to large commercial and industrial customers. The competitive metering statute provides for an earlier implementation of these services for large customers than for small customers. Many large customers already have interval meters, and it is these customers that will most likely realize any potential benefits from initial implementation efforts. We also believe that implementation efforts may be advanced if, in addition to having access to interval meter data, customers are given additional meter functionality options. Accordingly, we direct the work group to examine the issue of implementing meter ownership for large customers, as soon as practicable.

<sup>3</sup> As discussed above, and as provided for in Va. Code § 56-581.1, in its December 21, 2001, Order, the Commission delayed the implementation of competitive metering services for one year.

<sup>4</sup> In our December 21, 2001, Order, we directed the Staff to file a report addressing additional implementation efforts on or before June 30, 2002. On June 17, 2002, the Staff filed a motion requesting to extend the time for filing its report from June 30, 2002, until August 30, 2002. On June 19, 2002, we issued an order granting the Staff's Motion.

With regard to residential and small business customers, in its comments, AEI asked Staff to make a recommendation, and the Commission to consider any Staff recommendation, regarding the desirability of competitive metering for residential and small business customers. AEI believes that competitive metering for residential and small business customers is not economically viable and would thwart the provision of advanced meters to those customers.

The Act provides that the Commission may approve competitive metering services for residential and small business customers, as determined to be in the public interest. In our adoption of the proposed rules, these customers will get the advantages that result from access to interval meter information. What is not clear at this time, however, is whether implementing competition in metering services now will bring additional benefits to residential and small business customers. The work group has examined and continues to study this issue. We believe that full competitive metering services should be offered to residential and small business customers if it appears that implementation, carefully considering the nine criteria as required by 56-581.1, is in the public interest. We ask the work group to continue to examine whether the implementation of full competitive metering services for residential and small business customers would be in the public interest, and ask the members of the work group to respond to this key issue.

In its comments, BA/EC, a manufacturer of energy management equipment, discusses the issue of implementation of competitive metering in the context that any initiative should empower customers to gain more control over their electricity costs. This is accomplished, BA/EC asserts, through the combination of real-time access to electricity usage information and real-time rate structures that allow customers to impact their electricity costs. BA/EC proposes that the LDC should be required to offer a rate with a demand reduction incentive, and that rate should be compatible with the competitive suppliers' offer of real-time price signaling.

In addressing BA/EC's stated concerns, we believe that Staff's proposed rules take initial steps for customers to gain more control over their electricity costs by providing customers options to access meter data. We understand, however, that economic barriers may exist to residential and small business customers purchasing interval data meters; in contrast, many large customers already use interval data meters. We agree that customers cannot take advantage of competitive offers utilizing time-of-use rates without access to real-time usage information. Some utilities' tariffs on file with the Commission include time of use rate schedules available to both large and small customers. Thus, we believe that the work group should study the possibility of the utilities establishing voluntary and/or expanding time-of-use rate programs for residential and small business customers. We have not seen yet in Virginia, a list of suppliers offering competitive generation services to residential and small business customers. We believe that providing customers access to time-of-use rates may be an effective way to promote retail competition.

#### Rules Adopted

After consideration of the parties' comments and the Staff Report, we adopt Staff's proposed rules as amended herein. Most of the parties who filed comments had few if any substantial objections to Staff's proposed rules. We will not discuss in detail every change made, but we discuss below certain key provisions identified in the various comments.

Several parties stated that the language in proposed Rule 20 VAC 5-312-120 B needed to be clarified. AP wanted the language clarified to reflect that all applicable up-front costs should be paid by the customer prior to the LDC completing the work. NewEnergy sought clarification that the term "net incremental cost" should include cost savings associated with any avoided costs that the advanced meter may provide, such as avoided manual meter read costs, avoided operational costs or avoided costs as a result of enhanced meter reliability. AEP-VA supported the rule as an interim solution and believes it should be removed as soon as an orderly transition to competition in metering services will allow because the rule adopts a cost methodology that provides too little cost recovery for the charges for LDC interval metering.

The Commission notes the concerns expressed by AP, NewEnergy and AEP-VA relative to net incremental costs, but we find that no change is necessary to the rule. We believe the language in the rule as written is adequate to address parties' concerns. The rule requires customers to pay the net incremental cost above the basic metering service provided by the LDC. We suggest that AP may propose in its tariff compliance filing to include a prerequisite for customers to pay certain costs up front in its statement of prerequisites for completing the work.

In addition, NewEnergy requests that the Commission reexamine and reduce the 45-day time period for the utility to complete the customer request. AEP-VA requests that the rule be clarified to reflect that the 45-day period begins once the customer has met all of the prerequisites. Virginia Power, similarly, wants that calculation of the 45-day period to start after the customer completes the required prerequisites. The Staff stated in its Report that it anticipated that the work in many cases will be completed much sooner but may take longer than 45 days in unusual cases.

The Commission agrees with AEP-VA and Virginia Power with respect to establishing completion of the prerequisites as a necessary condition to the beginning of the 45-day period. We have added language to the rule to reflect that condition. We also agree with NewEnergy's position that the utilities should not consider the 45-day limit the acceptable norm. The utilities shall endeavor to complete installation of the meters as soon as feasible, with the goal of completing the request well in advance of the maximum time allowed of 45 calendar days.

With regard to 20 VAC 5-312-120 C, AP would like clarification that there will be customer costs associated with all three options provided for in the rule. AEP-VA similarly recommends that language be added to the rule reflecting that the customer shall pay the cost of providing such options. In its Report, the Staff stated its position that to the extent that any of the required options cost more than the basic metering service provided by the LDC, the customer would be expected to pay the net incremental cost of providing the service.

We believe that the requirements in rule C are considered part of "interval metering service," and, therefore, subject to the net incremental costs provisions of Rule B. Thus, we do not believe additional language relative to cost assignment is necessary. In addition, AEP-VA believes the rule should be clarified to state that the LDC is required to provide only LDC-approved equipment that is consistent with its communication protocol. We agree with this recommendation, and have amended the rule to reflect that change. AEP-VA also recommended that the last sentence of the rule listing the interval metering service options the LDC must make available be amended to replace the word "and" with "or." We disagree. The word "and" is appropriate because the clear intent of rule is to require the LDC to make available to customers all three interval data options.

Finally, several of the utilities requested that clarifying language be added to rule 5 VAC 5-312-20 E addressing LDC processing of customer requests for special meter functionality. Virginia Power requested that the rule be modified to give the LDC five days to acknowledge the request and 30 days to identify the cost, prerequisites and process for completing the work, and that the 45 day clock would not begin until the customer has satisfied all prerequisites. AP indicated that the five business day period may not be sufficient time for the LDC to identify all of the necessary costs. AP also requested

the rule be clarified to reflect that the work shall be completed within 45 days after all applicable costs have been paid. AEP-VA suggested language that would specify the work to be performed, and that the LDC will be permitted to recover its costs.

We will amend rule E to reflect the various recommendations providing the LDCs additional time to determine costs and completion of the work after the customer has completed all applicable prerequisites. We find additional language is not needed relative to the customer cost issue; the rule indicates that there are costs associated with the special meter functionality implying that the customer shall pay those costs.

Accordingly, IT IS ORDERED THAT:

- (1) Regulations for competitive metering services are hereby adopted as set forth in Attachment A to this Order.
- (2) On or before September 30, 2002, each incumbent electric utility in Virginia shall file tariffs for competitive metering services reflecting the adopted regulations.
- (3) A copy of this Order and the rules adopted herein shall be forwarded promptly for publication in the Virginia Register of Regulations. The rules shall be effective as of January 1, 2003.
- (4) The Commission Staff shall proceed with the assistance of the work group to address those issues identified in this Order, issues we have identified in previous orders, as well as issues that arise during the efforts of the work group.
- (5) Approval of AEP-VA's tariffs for competitive metering services is extended until such time the Commission adopts rules for full implementation of competitive metering services or until the Commission determines otherwise.
- (6) This matter shall be continued for further proceedings consistent with this Order.

NOTE: A copy of Attachment A entitled "Chapter 312. Rules Governing Retail Access to Competitive Energy Services." is on file and may be examined at the State Corporation Commission, Clerk's Office, Document Control Center, Tyler Building, First Floor, 1300 East Main Street, Richmond, Virginia.

**CASE NO. PUE-2001-00303  
JULY 17, 2002**

APPLICATION OF  
OLD DOMINION ELECTRIC COOPERATIVE

For a certificate of public convenience and necessity for electric generation facilities in Louisa County

**FINAL ORDER**

On May 17, 2001, as supplemented on June 19, 2001, Old Dominion Electric Cooperative ("ODEC" or "Cooperative") applied for a certificate of public convenience and necessity authorizing construction and operation of electric generation facilities in Louisa County. ODEC proposes to locate generation facilities on a site in Louisa County, near the county line and the Orange County community of Gordonsville. The Cooperative plans to build combustion turbine facilities that will produce a summer rating of approximately 463 MW when fired by natural gas at 94°F, and 604 MW when fired by oil at 0°F. The facilities will be owned by Louisa Generation, LLC, a not-for-profit cooperative whose only member is ODEC. Commercial operation is proposed to begin by May 1, 2003. The facilities will supply the electric power needs of ODEC's twelve distribution cooperative members – ten in Virginia, one in Delaware, and one in Maryland.

On July 12, 2001, the Commission entered an order docketing this proceeding, requiring ODEC to provide public notice of its application, establishing a procedural schedule, and appointing a Hearing Examiner to hear this case. On August 15, 2001, Columbia Gas of Virginia, Inc. ("Columbia"), filed a Notice of Participation. Columbia holds certificates of public convenience and necessity issued by the Commission to provide natural gas distribution service in Louisa County where the facilities are proposed to be located. On September 24, 2001, the Piedmont Environmental Council ("PEC") filed comments on the application.

A public hearing was convened on November 14, 2001. John A. Pirko, Esquire, and T. Borden Ellis, Esquire, appeared as counsel for the Cooperative. Rebecca W. Hartz, Esquire, and C. Meade Browder, Jr., Esquire, appeared as counsel for the Commission's Staff. Kodwo Ghartey-Tagoe, Esquire, appeared as counsel for Columbia. Two public witnesses presented testimony: Daniel Holmes on behalf of PEC, and John H. Snyder. All prefiled testimony was offered into evidence without causing the witnesses to take the witness stand.

On February 6, 2002, the Hearing Examiner issued a ruling identifying certain environmental issues, providing ODEC an opportunity to file supplemental evidence on those issues, and scheduling a hearing to receive the supplemental evidence. On February 28, 2002, the Cooperative filed a Motion for Reconsideration, maintaining that each of the issues identified in the Examiner's ruling was adequately addressed in the existing record. On March 6, Staff filed a response to ODEC's Motion for Reconsideration. On March 8, 2002, the Hearing Examiner issued a ruling canceling the hearing to receive supplemental evidence.

On March 29, 2002, ODEC filed a Motion to Supplement the Record ("Motion"). ODEC sought to supplement the record to include: (1) a copy of its Stationary Source Permit to Construct and Operate issued by the Department of Environmental Quality ("DEQ"); (2) an environmental analysis and a supplemental analysis for a water supply line prepared in August and September 2001; and (3) a cumulative environmental impact analysis prepared by Trinity Consultants, Inc. ("Trinity"). No party objected to the Motion. PEC submitted a letter registering its concern with the introduction of new

information and suggesting a hearing should be convened to provide public witnesses a chance to comment on the new material. The Examiner explained that PEC, as a public witness, cannot cross-examine ODEC on the additional information, and that PEC previously provided oral and written comments on the issues covered by the supplemental testimony. The Examiner found that the Motion should be granted, and that a hearing on the supplemental testimony was not necessary.

On May 9, 2002, Columbia filed a letter advising that it expected to be the owner of the gas lateral that will supply natural gas to the facility, but that it was still negotiating with ODEC over its interest in partial ownership of the gas facilities. On June 4, 2002, the DEQ filed a letter commenting on the supplemental material prepared by Trinity. The DEQ advised that the approach taken by Trinity was a reasonable way to address the cumulative impact issue. It affirmed that Trinity's report contains detailed information and the results show that there would be only minimal increases in air quality levels of SO<sub>2</sub>, NO<sub>x</sub>, CO, PM<sub>10</sub>, and ozone. The DEQ also observed that the Trinity report included the latest version of the DEQ's analysis to estimate the impact of a number of proposed facilities on ozone levels around the Commonwealth.

On June 28, 2002, Chief Hearing Examiner Deborah V. Ellenberg entered a Report in which the Examiner summarized the record, and reviewed and analyzed the evidence and issues in this proceeding. The Examiner's Report included the following findings:

- (1) ODEC's March 29, 2002, Motion to Supplement the Record should be granted;
- (2) The facility will have no material adverse effect upon the reliability of electric service provided by regulated public utilities, and will enhance the reliability of service to Virginia cooperatives that are ODEC members;
- (3) The current level of air quality in Louisa County is good, and is in attainment of all National Ambient Air Quality Standards ("NAAQS");
- (4) ODEC's cumulative impact analysis in this case is reasonable, tends to overstate potential ground level concentrations of nitrogen oxides, sulfur dioxide, particulate matter, and carbon monoxide from existing and proposed sources, and potential ground level concentrations of ozone;
- (5) The cumulative analysis adequately demonstrates that the facility's emissions, when combined with the emissions from 22 other existing or proposed facilities, will have no material adverse effect on NAAQS in Louisa County and surrounding counties;
- (6) The facility will have no other adverse environmental impact;
- (7) The facility's emissions will have no material effect on economic development in Louisa County and the surrounding counties, because the analysis shows no significant deterioration of air quality and maintenance of levels below the NAAQS;
- (8) The evidence supports a finding that the facility will have no adverse effect on competition;
- (9) ODEC established a need for the additional capacity;
- (10) The facility will have no greater impact on the rates of ODEC member cooperatives than other alternatives that address the capacity need;
- (11) The facility will have no material adverse effect on the rates paid by consumers of any regulated natural gas, water or sewer public utility in Virginia;
- (12) ODEC should comply with the DEQ's recommendations, except for the recommendations of the Department of Game and Inland Fisheries to which the DEQ will give full consideration in processing an application for a Virginia Water Protection Permit; and
- (13) The facility is not otherwise contrary to the public interest.

The Examiner also found that ODEC should file additional information related to traffic concerns and an emergency response plan. The Examiner recommended that the Commission grant ODEC authority and a certificate of public convenience and necessity pursuant to § 56-580 D of the Code of Virginia to construct and operate a generation facility in Louisa County as described in this case. The Examiner also recommended that the certificate be conditioned on the receipt of all environmental and other permits necessary to operate the facility, and that receipt of those permits be verified by filing a list of all such permits and notification when each was received. Finally, the Examiner recommended that the certificate expire two years from the date of a final order if construction has not commenced by that date.

On July 3, 2002, the Cooperative filed comments on the Examiner's Report. ODEC accepts and supports the recommendation that its application be granted. ODEC requests that the Commission grant it authority and a certificate of public convenience and necessity to construct and operate the generation facilities, subject to the conditions recommended by the Examiner. ODEC also contends that the record does not need to be supplemented to address traffic concerns and an emergency response plan. Rather, ODEC commits that it will: (1) develop a site plan and traffic analysis, in coordination with the Virginia Department of Transportation ("VDOT") and Louisa County, to address construction traffic, operational traffic (including fuel oil delivery), and all steps required to comply with VDOT standards; and (2) develop an emergency response plan acceptable to the Louisa County Emergency Services Coordinator, as required by the Conditional Use Permit issued by Louisa County.

NOW THE COMMISSION, having considered the record, the pleadings, the Examiner's Report, and the applicable law, is of the opinion and finds as follows. As set forth in prior orders,<sup>1</sup> the Code of Virginia establishes six general criteria, or areas of analysis, that apply to electric generating plant applications. The six criteria are as follows: (1) reliability;<sup>2</sup> (2) competition;<sup>3</sup> (3) rates;<sup>4</sup> (4) environment;<sup>5</sup> (5) economic development;<sup>6</sup> and (6) public interest.<sup>7</sup> We have evaluated these six areas.

<sup>1</sup> See, e.g., *Application of Tenaska Virginia Partners, LP, For approval of a certificate of public convenience and necessity pursuant to Virginia Code § 56-265.2, an exemption from Chapter 10 of Title 56, and interim approval to make financial commitments and undertake preliminary construction work*, Case No. PUE-2001-00039, Final Order (April 19, 2002).

<sup>2</sup> Va. Code Ann. §§ 56-580 D(i) and 56-46.1 A.

Pursuant to § 56-580 D of the Code of Virginia, we find that the proposed facilities: (i) will have no material adverse effect upon reliability of electric service provided by any regulated public utility; and (ii) are not otherwise contrary to the public interest. We have evaluated the application pursuant to § 56-46.1 of the Code of Virginia and have given consideration to the effect of the proposed facilities on the environment. We note that, effective July 1, 2002, § 56-46.1 A provides, among other things, that permits regulating environmental impact and mitigation of adverse environmental impact shall be deemed to satisfy the requirements of such section with respect to all matters that are governed by the permit. ODEC filed a copy of its Stationary Source Permit to Construct and Operate issued by the DEQ, which governs air emissions by the proposed facilities. We grant ODEC approval, and a certificate of public convenience and necessity, to construct and operate its proposed facilities.

Accordingly, IT IS ORDERED THAT:

- (1) Pursuant to § 56-580 D of the Code of Virginia, ODEC is hereby granted authority, and a certificate of public convenience and necessity, to construct and operate electric generation facilities in Louisa County, Virginia, as described in this proceeding.
- (2) The certificate of public convenience and necessity granted herein shall be conditioned upon the receipt of all environmental and other permits necessary to operate the facilities.
- (3) As a condition of the certificate granted in this case, ODEC shall develop a site plan and traffic analysis, in coordination with the Virginia Department of Transportation and Louisa County, to address construction traffic, operational traffic (including fuel oil delivery), and all steps required to comply with Virginia Department of Transportation standards.
- (4) As a condition of the certificate granted in this case, ODEC shall develop an emergency response plan acceptable to the Louisa County Emergency Services Coordinator, as required by the Conditional Use Permit issued by Louisa County.
- (5) As a condition of the certificate granted in this case, ODEC shall comply with the recommendations of the DEQ, except for the recommendations of the Department of Game and Inland Fisheries to which the DEQ will give full consideration in processing an application for a Virginia Water Protection Permit.
- (6) The certificate of public convenience and necessity granted herein shall expire in two years from the date of this order, if construction of the facilities has not commenced.
- (7) There being nothing further to come before the Commission in this proceeding, this case shall be removed from the docket and the papers transferred to the file for ended causes.

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<sup>3</sup> Va. Code Ann. § 56-596 A.

<sup>4</sup> Va. Code Ann. §§ 56-580 D(ii); 20 VAC 5-302-20 14. See also Ex Parte: In the matter of amending filing requirements for applications to construct and operate electric generating facilities, Case Nos. PUE-2001-00313 and PUE-2001-00665, Order Adopting Rules and Prescribing Additional Notice at 6 (Dec. 14, 2001).

<sup>5</sup> Va. Code Ann. §§ 56-580 D and 56-46.1 A. This includes scenic assets and historic districts.

<sup>6</sup> Va. Code Ann. §§ 56-46.1 and 56-596 A.

<sup>7</sup> Va. Code Ann. §§ 56-580 D(ii).

**MOORE, Commissioner, Concurs:**

I concur with my colleagues in the decision to approve the construction and operation of the ODEC facility. I do so because the Applicant has been issued a permit by the DEQ that governs certain emissions of the proposed facility. The permit is specific in addressing the matters that would cause me to deny the application without further data and analyses.<sup>1</sup>

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<sup>1</sup>Current pollution levels in the ODEC plant area and the impacts of the proposed facility alone and in combination with other proposed facilities were shown to be similar to or greater than those in the Tenaska and Buchanan cases. In this proceeding, the current maximum background concentration of PM10 on an annual basis was shown to be 64% of the National Ambient Air Quality Standards ("NAAQS"), while the 24-hour PM10 background concentration level was 44% of the NAAQS. The proposed plant alone equals 5% of the total allowed limit and increases the current level by more than 11% under the PM10 24-hour analysis. Hearing Examiner Report at 16. With respect to ozone, the background concentration level was shown to be 104 ppb under the one-hour standard and, considering the cumulative impact, the total predicted concentration would increase to 108 ppb or 90% of the currently enforced NAAQS. See Figure 1-9 attached to Hearing Examiner Report. Also, here, as in Tenaska and Buchanan, the revised EPA standards have not been addressed. This is particularly disturbing in light of the relatively high levels of ozone found to be present in the ODEC plant area under the currently enforced standards and the fact that data on the DEQ's Internet site indicate that exceedences under the revised standard for ozone could be as much as 15 times greater than under the current standard. For these and other reasons, I could not have approved the proposed facility without additional data, analyses, and satisfactory explanations. See also Commissioner Moore dissent, Application of Tenaska Virginia Partners, L.P., For approval of a certificate of public convenience and necessity pursuant to Virginia Code § 56-265.2, an exemption from Chapter 10 of Title 56, and interim approval to make financial commitments and undertake preliminary construction work, Case No. PUE-2001-00039, Final Order, Doc. No. 271123 (April 19, 2002) and Commissioner Moore dissent, Application of Buchanan Generation, LLC, For permission to construct and operate an electrical generating facility, Case No. PUE-2001-00657, Final Order, Doc. No. 676869 (June 25, 2002).

**CASE NO. PUE-2001-00306**  
**MAY 24, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

Ex Parte: In the matter of considering requirements relating to wires charges pursuant to the Virginia Electric Utility Restructuring Act

**ORDER**

By Order entered on March 27, 2002, the State Corporation Commission ("Commission") combined the outstanding fuel adjustment clause issues contained in Case Nos. PUE-2000-00583, PUE-2000-00746, PUE-2000-00748, PUE-2000-00749, PUE-2001-00001, PUE-2001-00002, PUE-2001-00004, PUE-2001-00005, PUE-2001-00006, PUE-2001-00007, PUE-2001-00008, and PUE-2001-00009 and the market price issues contained in the Virginia electric distribution cooperatives'<sup>1</sup> ("Cooperatives") Comprehensive Wires Charge Proposal ("Comprehensive Proposal") filed in the above-captioned case, and found that they should be addressed together in Case No. PUE-2001-00306.

Briefly summarized, the Cooperatives propose that each cooperative's capped generation rate under § 56-582 of the Virginia Electric Utility Restructuring Act<sup>2</sup> ("Restructuring Act"), be comprised of the base generation rate approved in each functional separation case, together with factors (plus or minus) reflecting wholesale power adjustments that each cooperative has been permitted to apply for decades. For purposes of simplicity in this Order, we will utilize the term "wholesale power adjustments" to refer to those adjustments the Cooperatives currently may make on a monthly basis through the application of wholesale power cost adjustment ("WPCA") or power cost adjustment ("PCA") clauses. It is these wholesale power adjustments that the Cooperatives propose to make to their base generation rates approved in their respective functional separation cases.<sup>3</sup>

In addition, the Cooperatives propose that for customers choosing alternative generation suppliers, the annually established market prices for generation would also be adjusted each month by the same increment as the monthly wholesale power adjustments described above. By making these two adjustments in parallel, the Cooperatives would keep their wires charges constant, thus avoiding conflict with the literal requirements of § 56-583 A while minimizing financial risk relative to the volatility of the wholesale market or the fuel components of purchases from that market. Section 56-583 A prohibits wires charges from being adjusted any more frequently than annually, and absent approval of the Cooperatives' proposal herein, the monthly wholesale power adjustments to these utilities' unbundled generation rates would run afoul of the provisions of § 56-583 A by causing monthly fluctuations in the wires charge.

Put simply, the Cooperatives' proposal is aimed at reconciling apparent tension between the provisions of § 56-582 B (generally permitting electric cooperatives' capped rates to be adjusted to reflect all or part of the changes in wholesale power costs) with that of § 56-583 A's requirement that wires charges be adjusted "not more frequently than annually." Section 56-583 A also directs this Commission to "seek to coordinate" annual adjustments to wires charges with adjustments to capped rates under § 56-582.

In accordance with § 56-583 A, wires charges must be determined annually by subtracting each cooperative's Commission-determined generation market price from that cooperative's then current unbundled generation rate that reflects those adjustments to wholesale power costs permitted under § 56-582 (See, footnote 3). However, as net purchasers of generation from the wholesale power market, each distribution cooperative's wholesale power costs may change on a monthly basis and these wholesale power adjustments are flowed through to retail customers on a monthly basis as well. These monthly adjustments effectively give each cooperative a floating capped generation rate, which might suggest that each cooperative's wires charges could or should be recalculated on a monthly basis as well because of the wires charge formula. As discussed above, however, § 56-583 A prohibits wires charges from being recalculated more frequently than annually.

Thus, the dilemma presented by the Cooperatives' unique circumstances is establishing for them the mandatory "annual" wires charges required by the Restructuring Act while simultaneously ensuring their ability to flow through wholesale power adjustments as authorized under that same act. At the same time, this Commission must consider the effect of the Cooperatives' proposed resolution of this problem on the development of competition within their service territories (a requirement imposed by the General Assembly under the provisions of § 56-596 A). Some might argue that if we allow the Cooperatives' market prices of generation to float in tandem with monthly adjustments to the Cooperatives' capped, unbundled generation rates, competitive entry into such markets would be difficult since the "price to compare" in each cooperative's service territory would be a continually moving target.<sup>4</sup>

The March 27, 2002, Order permitted interested parties to file comments and/or requests for hearing on the Cooperatives' Comprehensive Proposal, including any comments on the Cooperatives' possible transition from a monthly fuel cost adjustment (embodying wholesale power adjustments)

<sup>1</sup> A&N Electric Cooperative, BARC Electric Cooperative, Central Virginia Electric Cooperative, Community Electric Cooperative, Craig-Botetourt Electric Cooperative, Mecklenburg Electric Cooperative, Northern Neck Electric Cooperative, Inc., Northern Virginia Electric Cooperative, Powell Valley Electric Cooperative, Prince George Electric Cooperative, Rappahannock Electric Cooperative, Shenandoah Valley Electric Cooperative, and Southside Electric Cooperative, Inc.

<sup>2</sup> Chapter 23 (§ 56-576, et seq.) of Title 56 of the Code of Virginia.

<sup>3</sup> The Cooperatives' proposal does not distinguish between those cooperatives that are power supply cooperative members (e.g., members of Old Dominion Electric Cooperative, or ODEC), and those that are not (e.g., the Craig-Botetourt, Central Virginia and Power Valley electric cooperatives). However, it is important to make that distinction for purposes of applying the capped rates provisions in § 56-582 of the Restructuring Act. In the case of distribution cooperatives that are members of power supply cooperatives, § 56-582 B(v) permits the adjustment of these cooperatives' capped rates to reflect changes in the fuel component of their wholesale power cost adjustment (WPCA) clauses. Cooperatives that are not members of power supply cooperatives, however, may flow any changes in the cost of purchased wholesale power through their capped rates under the authority of § 56-582 B(iv).

<sup>4</sup> By comparison, Virginia's investor owned utilities' "prices to compare" provide fixed targets for competitive entry since fuel factor adjustments to their capped rates under § 56-582 B(i) are made no more frequently than annually.

to an annual fuel factor. Additionally, the Order directed the Staff to file a report addressing the Comprehensive Proposal, its recommendation on possible transition to an annual fuel factor, and any comments received by interested parties; the Order also permitted the Cooperatives to respond to these filings.

On April 5, 2002, the Commission received comments from the Division of Consumer Counsel, Office of the Attorney General, ("Consumer Counsel"), Michel A. King on behalf of Old Mill Power Company ("Old Mill Power"), and AES NewEnergy, Inc. ("AES NewEnergy").

Consumer Counsel states that if the Commission finds that the monthly rate adjustments proposed by the Cooperatives in the Comprehensive Proposal are not in conflict with the Restructuring Act, it would not oppose the Cooperatives' use of this approach during the early stages of retail choice in Virginia. Consumer Counsel urges the Commission, however, to seek an alternative solution that will limit customer confusion and complexity so as to foster the development of a competitive market, without placing undue financial risk on the Cooperatives.

In its comments, Old Mill Power states that it: (i) supports the Cooperatives' approach for determining generation market prices except for the proposed adjustments for transmission and ancillary expenses; (ii) supports the Cooperatives' request to adjust capped generation rates monthly, while keeping wires charges constant, as a method for recovering wholesale power costs and fuel costs from customers who receive bundled service without improperly charging these costs to customers who receive service from CSPs, on the condition that the Cooperatives agree to forego minimum stay provisions; (iii) opposes the Cooperatives' proposal to set wires charges at the time customer choice begins by adding the WPCA then in effect to the base generation rate approved by the Commission in each cooperative's functional unbundling case before subtracting base market prices; (iv) does not oppose the Cooperatives' proposal to present members with prices-to-compare that vary monthly; and, (v) opposes the collection of wires charges by the Cooperatives during any period in which they anticipate purchasing wholesale power under any type of agreement other than a "minimum take" agreement with unaffiliated third parties.

AES NewEnergy supports the Cooperatives' proposal to continue their current fuel adjustments on a monthly basis, but recommends that any minimum stay provisions for large customers be rejected until such time as the Cooperatives can demonstrate that "seasonal gaming" has occurred, and that the cooperatives serving that customer suffered financial harm as a result. Regarding the impact of the WPCA, AES NewEnergy recommends that a separate calculation of appropriately determined wires charges should be conducted each year, using forward prices for fuel and wholesale costs for the applicable forward period in order to eliminate any distortion of wires charge calculations. AES NewEnergy further recommends that the Cooperatives not be permitted to collect wires charges until 50% of their load has switched to competitive suppliers. Finally, AES NewEnergy recommends that any appropriate market pricing should be approved three months prior to July 1 of a given year, so that current market prices could be used in such calculations. According to AES NewEnergy, a revised filing should be made annually every January 1 reflecting forward market prices for 10 days over a six to eight week period prior to January 1, so that by March 1, the Commission would approve these market rates, to be effective July 1 for the subsequent year. This timeline, states AES NewEnergy, provides an orderly transition to the July 1, 2007, date for elimination of any stranded cost recovery.

On April 12, 2002, the Staff filed its Report concerning the Cooperatives' Comprehensive Proposal and the comments received by the aforementioned parties. Staff stated that, at this stage in the development of competition in the electric industry, it supports the continued use of the monthly wholesale power adjustments as proposed by the Cooperatives. The Staff believes that the benefits of retaining this cost recovery mechanism for the cooperatives and their members outweigh disadvantages associated with a variable monthly price to compare. For the ODEC cooperatives,<sup>5</sup> the Staff believes that the Cooperatives' proposal to use a current fuel factor as the fuel adjustment to generation for computing the annual wires charge should be modified to incorporate the current wholesale fuel adjustment from ODEC rather than the individual cooperative's current WPCA adjustment.

While the Staff's suggestion regarding the ODEC cooperatives may have merit, there are obstacles to its implementation. Staff's recommended use of ODEC fuel charges instead of individual cooperative WPCA factors is designed to place the calculations of Cooperatives' market prices and wires charges on a projected, forward-looking basis. However, and as discussed below, in its application this suggestion could be inconsistent with the requirements of the Restructuring Act's provisions governing wires charges (§ 56-583).

Section 56-583 A provides that each incumbent electric utility's capped rates (as further adjusted for fuel, taxes, etc. under § 56-582 B) may not exceed the sum of such utility's wires charges (as determined annually), unbundled charges for transmission and ancillary services, distribution rates, and Commission-established market prices for generation. Critical to the application of that formula, wires charges must be calculated using the same, unbundled, fuel-adjusted generation rate as that contained in the capped rate. Staff's proposal, however, would entail the use of different wholesale power adjustment indices (ODEC's for shopping customers, and WPCA factors for non-shopping ones), likely resulting in different unbundled generation rates for these two classes of customers—except in those instances when the two indices' wholesale power adjustments are, by happenstance, identical. In all likelihood, the use of different fuel indices would result in the capped rate being more or less than the sum of wires charges, unbundled charges for transmission and ancillary services, distribution rates, and Commission-established market prices for generation. Consequently, for that reason, it is our view that we cannot adopt the approach suggested by the Staff.

Taking all of the commenting parties' views into consideration, and with due regard to the Staff's conclusions and recommendations, for the purposes of concluding the Commission's first attempt at reconciling the many competing practical and policy issues presented by the Cooperatives' proposal, the Cooperatives' proposal to continue their current wholesale power adjustments on a monthly basis is approved. In addition, for the purpose of establishing wires charges for those cooperative customers choosing alternative generation suppliers, the annually established market prices for generation shall be adjusted monthly by the same increment as these monthly wholesale power adjustments, thereby maintaining each cooperative's wires charges at their approved annual levels. We note, as does the Consumer Counsel, that the Cooperatives' proposal comes in the early stages of Virginia's transition to retail choice. Consequently, this Commission and the Virginia General Assembly will have ample opportunity to assess its impact, if any, on competitor entry into the Cooperatives' respective service territories.

In reaching this decision we have given due regard to the detailed comments of the parties participating in this proceeding, most of whom while generally supporting the Cooperatives' proposals, suggested certain conditions for this Commission's approval. In the case of AES NewEnergy, for example, support was offered for the proposal, with the recommendation that minimum stay provisions for large customers be rejected until such time as a cooperative demonstrates that "seasonal gaming" has occurred with resultant financial harm to the cooperative. However, the minimum stay rules we adopted last year<sup>6</sup>

<sup>5</sup> All of Virginia's electric cooperatives except Central Virginia, Craig-Botetourt and Powell Valley Electric Cooperatives.

<sup>6</sup> *Commonwealth of Virginia, ex. rel. State Corporation Commission, Ex Parte: In the matter of establishing rules and regulations pursuant to the Virginia Electric Utility Restructuring Act for customer minimum stay periods.* Case No. PUE010296, Final Order dated October 9, 2001.



require no showing of "gaming" or harm as a prerequisite to the initial implementation of minimum stay requirements. We will not seek to alter that policy as it concerns the Cooperatives in this Order.

In a similar vein, we will not adopt the recommendation of AES NewEnergy that no wires charges be collected by any cooperative until at least half of its customers have switched to competitive suppliers. The Virginia General Assembly in enacting § 56-583 established no such precondition, and we will not impose it by Order in this proceeding. With regard to AES NewEnergy's additional recommendations with respect to filings concerning forward market prices, etc., we will give them due consideration as we continue through the transition period that ends on July 1, 2007.

We have also considered the comments of Old Mill Power which offered many recommendations concerning the issues before us. Among other things, Old Mill Power suggests that the Commission's approval of the Cooperatives' proposal to adjust capped rates be conditioned on the Cooperatives' agreement to forego the minimum stay requirements established under our rules. These rules are not before us in this proceeding. As stated above, we will not seek to alter these rules as they pertain to the Cooperatives via this Order.

Old Mill Power also asks us to take actions that are not consistent with the provisions of § 56-583 with respect to its suggestion that Cooperatives be prohibited from collecting wires charges during any period in which they purchase wholesale power from any unaffiliated third parties except on a "minimum take" basis. Section 56-583 establishes no such limitation, and we will not seek to do so in this docket. We note, however, that Old Mill Power is generally supportive of the Cooperatives' position with respect to the monthly adjustment of generation rates to reflect changes in wholesale power costs (to the extent permitted by statute), and the corresponding proposal to modify the market price by identical increments.

We would also note that ideally, the Cooperatives would inaugurate retail choice in their respective service territories on the first day of a calendar year (i.e., January 1). This would place all of Virginia's incumbent electric utilities on the same schedule for purposes of establishing wires charges and "prices to compare"—a uniformity that could be valuable to competitive suppliers determining whether to enter or remain in the Virginia market. Neither the Restructuring Act nor our Order establishing the phase-in of retail choice<sup>7</sup> for each incumbent utility imposes such a requirement. Consequently, each cooperative will determine when to open its retail market until January 1, 2004, when all incumbents' service territories must be open to retail choice.

As a starting point, those Cooperatives choosing to inaugurate retail choice mid-year, will be placed on their own, unique schedule for purposes of determining wires charges—at least initially. Under § 56-583 A, wires charges cannot be changed any more frequently than annually. Consequently, if a cooperative inaugurates retail choice on July 1, 2002, for example, the first opportunity to adjust such charges would likely be July 1, 2003. Thus, it may be necessary to allow the initial wires charge to stay in place for periods greater than 12 months in order to place all utilities on a calendar year adjustment cycle. This should simplify marketers' decisions concerning whether to enter or remain in the Virginia market.

For purposes of calculating the Cooperatives' generation market prices, we will approve, at this time, the Cooperatives' proposal that this Commission utilize the basic methodology for calculating such prices approved for Virginia Power and AEP-Virginia in our Order in this docket dated November 19, 2001. Additionally, we note, as pointed out by the Cooperatives, that it may be appropriate to develop a modified methodology for purposes of setting such market prices for A&N Electric Cooperative in light of its location on the Delmarva Peninsula and its interconnection with PJM. However, the market price methodology we approve herein, generally, is subject to our continued review, and may be modified in the future.

Finally, and as discussed above, the Cooperatives' proposal we approve today, reflects wholesale power adjustments calculated on an historic basis (via WPCA clauses), and market prices determined on a projected, forward-looking basis. In the longer term, these two components of the Cooperatives' wires charge calculations should be synchronized. We agree with Consumer Counsel that ultimately our goal is to find a solution limiting customer confusion, reducing complexity, and fostering the development of a competitive market, without placing undue financial risk on the Cooperatives. To that end, the Cooperatives, interested parties and the Staff are directed to continue their examination of the use of wholesale power adjustments based on projected (versus historic) costs for the Cooperatives and to address this issue once again as and when the Cooperatives' market prices and wires charges are under consideration.

Accordingly, IT IS ORDERED THAT:

(1) The Cooperatives' capped, unbundled generation rates shall, in the case of those cooperatives that are not members of power supply cooperatives, be adjusted monthly to reflect the cost of purchased wholesale power pursuant to the provisions of § 56-582 B(iv).

(2) The Cooperatives' capped, unbundled generation rates shall, in the case of those cooperatives that are members of power supply cooperatives, be adjusted monthly to effect the recovery of fuel costs through the application of their wholesale power cost adjustment clauses of their respective tariffs, pursuant to the provisions of § 56-582 B(v).

(3) For purposes of calculating wires charges pursuant to § 56-583, for those Cooperative customers selecting alternative generation suppliers, the projected market price for generation shall be simultaneously adjusted by an increment equal to any monthly adjustments authorized under Ordering Paragraphs (1) or (2) herein, thereby maintaining such wires charges at their authorized levels.

(4) The Cooperatives' market price for generation shall be that established by the Commission consistent with the methodology approved by this Commission for Virginia Power and AEP-Virginia in our November 19, 2001, Order in this docket, subject to such changes in the future as may be warranted. Such methodology may, however, be modified to address special circumstances, as discussed in this Order.

(5) For Cooperatives commencing to offer retail choice at times other January 1, 2003, or January 1, 2004, such cooperatives' market price for generation shall be that established by the Commission consistent with the methodology set forth in Ordering Paragraph (4), subject to such updating as the Commission may require. Additionally, for such cooperatives that are members of power supply cooperatives, the initial wholesale power adjustment to their approved, unbundled generation rate shall be their then current WPCA factor. For cooperatives that are not members of power supply cooperatives, the initial wholesale power adjustment to their approved, unbundled generation rates shall be their then current wholesale power cost adjustment ("WPCA") or

<sup>7</sup> *Commonwealth of Virginia, ex. rel. State Corporation Commission, Ex Parte: In the matter concerning a draft plan for phase-in of retail electric competition*, Case No. PUE000740, Final Order dated March 30, 2001.

power cost adjustment ("PCA") factor. Subsequent wires charges as then initially established will remain in effect for at least twelve months thereafter in accordance with the provisions of § 56-583 A.

(6) This case is continued for further orders of the Commission.

**CASE NO. PUE-2001-00306  
OCTOBER 11, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

Ex Parte: In the matter of considering requirements relating to wires charges pursuant to the Virginia Electric Utility Restructuring Act

**FINAL ORDER**

On November 19, 2001, the State Corporation Commission ("Commission") entered an Order ("November 19, 2001, Order") in this docket establishing generation market price methodologies for purposes of establishing wires charges for Dominion Virginia Power ("DVP"), and Appalachian Power Company, d/b/a American Electric Power ("AEP-VA"). Subsequently, on May 24, 2002, the Commission also entered an order establishing wires charge methodologies for Virginia's electric distribution cooperatives<sup>1</sup> ("Cooperatives").

The November 19, 2001, Order, *inter alia*, directed in Ordering Paragraph five (5) thereof, that incumbent electric utilities seeking to impose wires charges in calendar year 2003 and beyond make annual filings by July 1 of each year for any proposed revisions in their fuel factor, "and corresponding changes in capped rates, and for market price proposals." Ordering Paragraph six (6) of that Order kept this docket open for consideration of other matters concerning market price determinations and wires charges, as they may arise.

On July 1, 2002, DVP and AEP-VA both caused to be filed in this docket, their proposals and testimony of several witnesses for revisions to market prices for generation and resulting wires charges for calendar year 2003. The Cooperatives also made a filing in this docket on July 1, 2002, addressing market price methodologies for purposes of calculating market prices and resulting wires charges pursuant to § 56-583 of the Virginia Electric Utility Restructuring Act (the "Act").<sup>2</sup>

On July 16, 2002, the Commission issued an Order setting a procedural schedule and hearing date for the determination of market prices in conjunction with the establishment of wires charges for incumbent electric utilities in calendar year 2003. Cogentrix Energy Inc., the Virginia Committee for Fair Utility Rates ("VCFUR"), the Division of Consumer Counsel of the Office of the Attorney General, and the Virginia Independent Power Producers, Inc., filed notices of participation as respondents in the case. Only VCFUR filed direct testimony and exhibits on August 12, 2002. On August 28, 2002, DVP and AEP-VA filed rebuttal testimony.

On August 23, 2002, AEP-VA filed a Motion to Strike portions of the prepared testimony submitted by VCFUR's witness, Jeffrey K. Pollock. VCFUR responded to the motion on August 30, 2002, and AEP-VA filed its reply on September 3, 2002.

The hearing to receive evidence on the market price determination issues was convened at the Commission on September 4, 2002. Upon commencement of the hearing, the Commission denied AEP-VA's Motion to Strike. Appearances were made by counsel for the Commission's Staff, DVP, AEP-VA, the Cooperatives, VCFUR, and the Division of Consumer Counsel. Testimony was received from Mr. David F. Koogler, Mr. Gregory J. Morgan, and Mr. Kurt W. Swanson for DVP; Mr. Kelly Pearce and Mr. Bruce Braine for AEP; Mr. Mark K. Carsley for the Staff; and Mr. Jeffrey C. Pollock for VCFUR.

Witnesses for DVP and AEP-VA testified that the Commission should continue to base the determination of market prices on forward market data with minor modifications necessitated by changing industry circumstances. In his rebuttal testimony filed on August 28, 2002, DVP Witness Koogler also proposed the inclusion of a capacity component into the projected market prices for generation ("capacity adder"), with corresponding changes to DVP's Competitive Service Provider Coordination Tariff ("CSP Coordination Tariff"). VCFUR Witness Pollock testified that the Commission should require DVP and other utilities to project market prices at the retail level, since such prices include the value of capacity needed to meet reliability needs. However, Pollock stated that if the Commission elects to rely on a wholesale market price projection, then additional capacity costs should be imputed so that the projected price is at least equal to the incremental cost of new generation capacity. Pollock also testified that the Commission should docket a proceeding to quantify the stranded costs of each regulated electric utility that is either proposing, or has previously implemented, a wires charge.

NOW THE COMMISSION, upon consideration of the record and the applicable statutes and rules, is of the opinion and finds that the wires charge proposals of DVP and AEP-VA should be adopted, as modified herein, for the 2003 calendar year period.

<sup>1</sup> A&N Electric Cooperative, BARC Electric Cooperative, Central Virginia Electric Cooperative, Community Electric Cooperative, Craig-Botetourt Electric Cooperative, Mecklenburg Electric Cooperative, Northern Neck Electric Cooperative, Inc., Northern Virginia Electric Cooperative, Powell Valley Electric Cooperative, Prince George Electric Cooperative, Rappahannock Electric Cooperative, Shenandoah Valley Electric Cooperative, and Southside Electric Cooperative, Inc.

<sup>2</sup> Title 56, Chapter 23 (§ 56-576 et seq.) of the Code of Virginia, hereinafter referred to as "the Act" or "the Restructuring Act".

This matter concerns the annual determination of market prices pursuant to § 56-583 of the Act. The Act directs the Commission to establish wires charges for each incumbent electric utility effective upon the commencement of customer choice. In order to establish such wires charges, the Commission must determine projected market prices for generation and subtract those projected market prices from each utility's embedded generation rate<sup>3</sup>.

Section 56-583 of the Act begins with the phrase "[T]o provide the opportunity for competition and consistent with § 56-584..." Section 56-584, in turn, states:

Just and reasonable net stranded costs, to the extent that they exceed zero value in total for the incumbent electric utility, shall be recoverable by each incumbent electric utility provided each incumbent electric utility shall only recover its just and reasonable net stranded costs through either capped rates as provided in § 56-582 or wires charges as provided in § 56-583.

We have consistently read §§ 56-582 through 56-584 of the Act as establishing the base mechanism that compensates incumbent electric utilities when customers choose to purchase electric service from competitive service providers ("CSP"). Thus, just and reasonable net stranded costs are recoverable by each incumbent utility through the collection of either capped rates or wires charges. Further, in prior orders relating to electric choice proceedings, we have consistently held that the wires charge stranded cost recovery mechanism set forth in the Act essentially makes the incumbent electric utility indifferent as to whether a customer elects to receive electric service from a CSP or remain a generation customer of the incumbent. This remains the pillar supporting our determinations set forth below.

When a customer formerly served by an incumbent electric utility takes electric generation service from a CSP, the incumbent retains control of the electric generation that formerly served the departing customer. Under the Act, this "displaced power" is assumed sold by the incumbent into the wholesale power market. The wires charge mechanism compares the value of this electric generation, as measured by the revenue accruing from the sale adjusted for net transmission costs, to the revenue that the incumbent would have collected from the departed customer. Should the expected revenue garnered from the wholesale sale be less than the retail revenues that would have been collected from the departing customer, the difference between these two values represent wires charge revenues. We determine and set a wires charge rate to allow the incumbent the opportunity to collect this difference. Again, the wires charge collection is designed to leave the incumbent indifferent between these two revenue streams.

Discussion of this basic framework illuminates the issues placed before us for decision in this proceeding. The VCFUR takes issue with key aspects of the controlling statutes. The VCFUR, through its witness Jeffry Pollock, argues that (1) market prices for generation should be based on retail rather than wholesale prices, (2) in the event the Commission decides that wholesale costs are indicated for market price determination, a different method should be employed to determine those wholesale market prices, (3) no deductions for transmission costs should be made from any determined market price, and (4) the Commission should docket a proceeding to quantify the stranded costs of each electric utility that is either proposing or has previously implemented a wires charge.<sup>4</sup>

All of Mr. Pollock's recommendations have the potential to reduce or eliminate the level of wires charges collected by incumbent electric utilities that lose load to CSPs. Mr. Pollock points out that, without the reductions in wires charges that result if this Commission adopts one or all of his recommendations, the prospects for the development of retail competition are dim in the Commonwealth.

We share Mr. Pollock's concern regarding the development of effective retail competition in Virginia. However, we cannot adopt his recommendations. The stimulation of competitive activity by reducing the revenues permitted to be collected by Virginia's incumbent electric utilities is not allowed under the Act<sup>5</sup>.

Mr. Pollock also testified that the forward prices were illiquid and that additional revenues could be garnered by the selling of additional generation-related products. While we discuss the selling of additional generation-related products (*i.e.*, the capacity adder) below, we note that Staff, AEP-VA and DVP all maintain that forward market liquidity is sufficient for market price determination purposes. While the turmoil in wholesale electric markets has caused a decline in trading volumes and is certainly a cause for concern, the evidence here indicates that such forward markets remain sufficiently liquid for the task at hand.

Staff, AEP-VA, DVP and the Cooperatives recommend the continuation of basing the determination of market prices on forward market data with minor modifications necessitated by changing industry circumstances. For facilitating retail choice in 2003 consistent with § 56-583, we will continue to base the Commission-determined projected market price for generation on forward market data generally consistent with the method set forth in our November 19, 2001, Order in this case. The use of *EnronOnline* will be dropped from the calculation. We will also adopt the recommendation of Staff

<sup>3</sup> The embedded generation rate includes fuel costs as determined by the Commission pursuant to § 56-249.6 of the Code of Virginia.

<sup>4</sup> Pollock, Ex. 9 at page 4.

<sup>5</sup> As we stated in our November 19, 2001, Order in this case:

New Energy stated that such cost adjustments are needed in order to make a fair and equitable comparison of the market price and the utility's price to compare, and that the adjustments would promote competition. We do not disagree that allowing for "headroom" by incorporating retail costs in market prices would fairly recognize the costs CSPs will incur to serve customers, and would likely promote competition. However, it would not be revenue neutral to the incumbent utility.

The Act, in our view, is designed to make the incumbent utility whole, with the wires charge priced to make the utility indifferent as to whether it recovers stranded costs through capped rates or wires charges. Including retail costs in the calculation of market prices would not likely leave the utility in a revenue neutral position as the Act is designed to do. We cannot, therefore, find that the Act authorizes such action. If the General Assembly determines that this measure is appropriate to advance competition it, of course, may amend the Act to allow it.

Witness Carsley that, for the purposes of calculating DVP's transmission cost adjustment to market prices, only the most recent twelve months of transmission and ancillary services expenses be considered.

We will require that the base forward market information be collected on the following ten dates: August 19, 2002; August 27, 2002; September 4, 2002; September 12, 2002; September 20, 2002; and September 23 through September 27, 2002.

Below we discuss the two remaining issues in this matter.

#### Capacity adder

The first issue pertains to whether a separate "adder" reflecting the market value of generation capacity should be added to the market price produced by the forward market based method that will continue to be in use in 2003. In response to requests from CSPs, Staff re-examined the appropriateness of including a separate capacity value in projected market price determinations for 2003. While Staff does not recommend such an inclusion at this time, DVP's rebuttal testimony does recommend that such an adder be included in market prices for use in calendar 2003. DVP bases the calculation of the proposed adder on monthly capacity contracts only. DVP also conditions its offer to include a capacity adder on certain changes to its supplier tariffs which DVP states are necessary to make it "whole" in the event of supplier default after it has sold capacity necessary to serve retail customers formerly served by the defaulting supplier.

At the heart of this controversy is the appropriate value quantification of power displaced and made available for wholesale sale when a customer elects to take generation service from a CSP. DVP maintains that its traders can capture additional value from the sale of displaced capacity into the PJM monthly capacity market in excess of the value generated by assumed sale into the PJM- West and Cinergy forward markets for financially firm energy. DVP's position is that the Act requires the inclusion of this incremental value in the calculation of Commission-determined market prices for generation and associated wires charges. Such inclusion will, other things being equal, raise the market price for generation and lower any indicated wires charges. This will serve to facilitate retail competition in Virginia by increasing CSP "headroom."

The controversy associated with this proposal arises when considering the implications of DVP's claim that, if the capacity adder is indeed added to the Commission determined market price, DVP's traders will actually sell that capacity without recall. In this circumstance, such capacity will not be available if a CSP defaults on a supply obligation. In the alternative, DVP claims that if the capacity adder is not added to the market price, DVP's traders will not sell that capacity and such capacity will be available if a CSP defaults on a supply obligation. Thus, DVP's clearly stated position is that this Commission's decision to include or exclude the capacity adder will, in fact, change the behavior of its traders.

According to DVP, should the Commission allow the capacity adder, DVP's resulting sale of capacity into the PJM monthly capacity market exposes DVP to a risk that it is unwilling to bear. To mitigate those risks, DVP proposes certain changes to its CSP Coordination Tariff. Among the proposed tariff changes is a "Deficiency Charge" applicable to a defaulting CSP. In the event that appropriate recovery cannot be made from the defaulting CSP, DVP raises the possibility of collecting those revenues from non-shopping customers via its fuel factor. Staff objects to the suggestion that such revenues be collected in fuel charges as that would constitute, in Staff's view, a subsidy to shopping customers paid by non-shopping customers.

There is much to be said about this issue. First, the magnitude of the proposed capacity adder is small; CSPs have stated that it will not make a material difference in their decision to enter the Virginia retail market. Nevertheless, the adder is a step in the right direction and we commend DVP and Staff for raising the issue and placing it before us.

If the capacity adder is to be appropriately included in market price determination, the computation of the adder becomes an issue. Here, DVP has based the calculation on a monthly sale of displaced capacity that is triggered by this Commission's inclusion of the adder in the Commission-determined market price. If shopping customers no longer take generation service from DVP, that circumstance places another resource at the disposal of DVP's traders. To be sure, DVP's obligation to serve as a provider of last resort for those departed customers places constraints on DVP's ability to employ that resource as it seeks to produce value via its participation in wholesale energy markets. In reality, one should expect any wholesale power trading operation to maximize its risk-adjusted returns by managing all of its assets and obligations taken as a package. In other words, the amount of electrical energy and capacity "freed-up" by shopping customers represents risk adjusted<sup>6</sup> "resources" that may be put to work to satisfy business objectives.

DVP has placed before this Commission a proposed capacity adder based on a monthly capacity market. The assumed capacity sale on a monthly basis is a risk mitigation measure in and of itself made necessary since customers may return to the incumbent at any time regardless of supplier behavior. The company proposes to further mitigate its risk by proposing certain tariff changes, finally backstopping its overall capacity adder proposal with the possibility of collection of costs associated with supplier default via the fuel factor.

It is clear that we cannot precisely determine the economic value of capacity "freed-up" when customers choose alternative suppliers for generation services. Nor can we precisely quantify the incremental business risk taken on by DVP with and without its proposed tariff changes. It may turn out that DVP's proposed tariff changes are unnecessary. For example, the actual market determined value of displaced capacity may more than compensate DVP for any increased risks that arise from including a capacity adder in the Commission-determined market price projection. In addition, DVP's proposed tariff changes are confusing and may have a chilling effect on CSP participation in the Virginia retail market. Finally, the inclusion of the proposed tariff changes in the rebuttal portion of this proceeding has limited the parties' and the Commission's evaluation of the requested tariff changes. For these reasons, we decline to adopt DVP's proposed tariff changes in this proceeding.

Although we decline to allow DVP's proposed tariff changes, we will allow – but not require – DVP to include a capacity adder in its proposed market prices for generation pursuant to the method set forth in DVP Witness Koogler's rebuttal testimony.<sup>7</sup> We again commend DVP for proposing the capacity adder, and DVP is not precluded from proposing risk mitigation measures in the future if such measures are shown to be necessary. Further, we

<sup>6</sup> In this instance, the risk is that shopping customers will return to the incumbent pursuant to the Act with or without CSP default.

<sup>7</sup> We will require that DVP notice the parties to this proceeding as to whether they will include a capacity adder in their compliance filing. Such notice will be required ten days after the date of this Order.

direct the Staff to monitor all recallable and non-recallable sales of capacity made by DVP for the period beginning January 1, 2002, as well as the impact of those capacity sales on the DVP fuel factor.

Transmission cost adjustment for AEP-VA

The next issue in this matter concerns AEP-VA's transmission cost related adjustments to proposed market prices for generation. This issue is illuminated by a comparison of the methods used by DVP and AEP-VA to effect the required adjustment as set forth in their respective July 1, 2002, filings.

The Commission stated in its November 19, 2001, Order in this case:

AEP lacks meaningful data on such transmission expenses because it has no actual experience with transmission costs incurred for displaced power in its pilot. We will require AEP to identify transmission costs, on a per kWh basis, paid to third party transmission suppliers, associated with off-system sales sourced by units that would otherwise serve Virginia jurisdictional load. It is the sale from these units that would be transmitted if AEP's Virginia customers choose a CSP under retail access. AEP shall develop proxy transmission cost data and file such on or before December 3, 2001, along with work papers that support its estimate.

We begin our discussion here with the question of AEP-VA's compliance with the prior Order set forth above. First, as AEP-VA witness Kelly D. Pearce explains, the numbers used to effect a transmission cost adjustment appearing in the December 3, 2001, compliance filing are identical to numbers used to effect the same adjustment in its July 1, 2002, filing. In that later filing, AEP-VA provides the following description of the transmission adjustment:

On-peak transmission expenses are shown in Attachment 5, including class realizations, reflecting the estimate of the transmission expenses that would be incurred to deliver power, that otherwise would have been sold to Virginia retail customers, to either the Into Cinergy or PJM West delivery points. The transmission expenses include the Company's current OATT transmission charge and ancillary services 1 and 2. Such expenses are calculated based upon the current OATT charges to the Into Cinergy and PJM West delivery points.

The referenced Attachment 5 shows expenses derived by "pricing-out" transmission transactions at AEP's current OATT. There is no attempt to identify the particular plants that would, but for the supposed loss of retail customers, serve Virginia load. Nor was there an attempt to precisely determine the transmission expense of transmitting that power to the relevant market hub.

AEP-VA also failed to meaningfully net transmission revenues that accrue to AEP-VA when a CSP imports power via the AEP transmission system to serve newly won customers in AEP-VA's service territory. The result of this failure to net transmission expenses yields a transmission cost adjustment for AEP-VA that is in excess of 10 times larger than that of DVP. When asked to explain that difference, AEP-VA witness Pearce explained:

A portion of those costs are being credited back to Appalachian, but the bulk of those costs are not being credited. They're not making their way back to Appalachian because of all the other parties in the pool. (Tr. 174)

Pursuant to § 56-583 A, the Commission adjusts market prices for the net cost of transmission required to send displaced power to distant wholesale markets. This means that the cost to reach the distant market is offset by revenues realized when the incumbent sells transmission service to the CSP that now serves the incumbent's former customer. DVP does indeed arrive at a net number by subtracting transmission revenues garnered from CSPs assumed to serve load lost by DVP. AEP-VA, however, does not net revenues assumed to be realized from CSPs purchasing transmission service against the cost of transporting power to the distant wholesale market.

Although not stated in the filing, it appears that AEP-VA's position is that such "in-bound" revenues are realized by AEP, not Appalachian Power Company, and as such are not correctly included in the calculation. The result of this is that the transmission adjustment for DVP is indeed a net adjustment and is very small (for example, for residential service: \$0.31 per MWH), while the adjustment for AEP-VA is relatively large (for example, for residential service: \$3.60 per MWH). The effect of this is to increase wires charges for AEP-VA (other things being equal) in the event that capped generation rates exceed Commission-determined market prices.

AEP-VA's transmission cost reduction to market prices is more than 10 times that of DVP's. This serves to increase any applicable wires charge and have a generally chilling impact on the prospects for the development of an effectively competitive retail market in Western Virginia. As stated above, the Commission adjusts market prices for the net cost of transmission required to send displaced power to distant wholesale markets pursuant to § 56-583 A. Accordingly, we will require AEP-VA to provide a detailed reconciliation of its proposed transmission cost adjustment to that of DVP. We will also require AEP-VA to identify the generation resources that would otherwise serve Virginia jurisdictional load, to quantify the transmission expense associated with actual transactions sourced from those units over the most recent 12-month period for which data are available, to account for the revenue flows that arise from those transactions, and to provide a detailed accounting of the transmission revenues that would be collected from transmission customers in the event that an AEP-VA customer elected to take service from a CSP. This information shall be filed as a part of AEP-VA's report supporting the market price determination for use in determining the wires charge.

Accordingly, IT IS ORDERED THAT:

(1) The generation market price methodologies for purposes of establishing wires charges for DVP and AEP-VA for 2002, as revised by the companies in this proceeding, are approved as modified herein.

(2) On or before November 1, 2002, DVP and AEP-VA shall file reports showing the results of their base market price calculations and authorized adjustments, with supporting data, and after load shaping for each rate class, the rate class specific market prices for generation. Each company shall adjust market prices for transmission expenses as required by our Order of November 19, 2001, in this docket.

(3) Incumbent electric utilities seeking to impose a wires charge in calendar year 2003 and beyond shall make annual filings by July 1 of each year for any proposed revisions in their fuel factor and corresponding changes in capped rates, and for market price proposals.

(4) DVP shall, within ten (10) days of the date of this Order, provide notice to the parties as to whether DVP will include a capacity adder in its compliance filing.

(5) This docket shall remain open for the receipt of reports to be filed herein and for consideration of other matters concerning market price determination and wires charges, as they may arise.

**CASE NO. PUE-2001-00306  
NOVEMBER 1, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

Ex Parte: In the matter of considering requirements relating to wires charges pursuant to the Virginia Electric Utility Restructuring Act

**ORDER ON RECONSIDERATION**

On November 19, 2001, the State Corporation Commission ("Commission") entered an Order ("November 19, 2001, Order") in this docket establishing generation market price methodologies for purposes of establishing wires charges for Dominion Virginia Power ("DVP") and Appalachian Power Company, d/b/a American Electric Power ("AEP-VA"). Subsequently, on May 24, 2002, the Commission also entered an order establishing wires charge methodologies for Virginia's electric distribution cooperatives ("Cooperatives").<sup>1</sup>

The November 19, 2001, Order, among other things, directed in Ordering Paragraph five (5) thereof, that incumbent electric utilities seeking to impose wires charges in calendar year 2003 and beyond make annual filings by July 1 of each year for any proposed revisions in their fuel factor, "and corresponding changes in capped rates, and for market price proposals." Ordering Paragraph six (6) of that Order kept this docket open for consideration of other matters concerning market price determinations and wires charges, as they may arise. Also with respect to AEP-VA, the November 19, 2001, Order required AEP-VA to identify transmission costs, on a per kWh basis, paid to third party transmission suppliers, associated with off-system sales sourced by units that would otherwise serve Virginia jurisdictional load.

On July 1, 2002, DVP and AEP-VA both caused to be filed in this docket their proposals and testimony of several witnesses for revisions to market prices for generation and resulting wires charges for calendar year 2003. The Cooperatives also made a filing in this docket on July 1, 2002, addressing market price methodologies for purposes of calculating market prices and resulting wires charges pursuant to § 56-583 of the Virginia Electric Utility Restructuring Act.<sup>2</sup>

On July 16, 2002, the Commission issued an Order setting a procedural schedule and hearing date for the determination of market prices in conjunction with the establishment of wires charges for incumbent electric utilities in calendar year 2003. Cogentrix Energy Inc., the Virginia Committee for Fair Utility Rates ("VCFUR"), the Division of Consumer Counsel of the Office of the Attorney General, and the Virginia Independent Power Producers, Inc., filed notices of participation as respondents in the case. Only VCFUR filed direct testimony and exhibits on August 12, 2002. On August 21, 2002, the Commission Staff ("Staff") filed testimony. On August 28, 2002, DVP and AEP-VA filed rebuttal testimony. The hearing to receive evidence on the market price determination issues was convened at the Commission on September 4, 2002.

On October 11, 2002, the Commission issued a Final Order approving a market price methodology for purposes of establishing wires charges for DVP and AEP-VA ("Final Order"). The Final Order also allowed, but did not require, DVP to include a capacity adder in its proposed market prices for generation pursuant to the method set forth in rebuttal testimony by DVP – and directed DVP to provide notice to the parties, within ten days of the date of the Final Order, as to whether DVP will include a capacity adder in its compliance filing. In addition, the Final Order did not adopt DVP's proposed changes to its Competitive Service Provider Coordination Tariff ("CSP Tariff"), which were related to the proposed capacity adder.

The Final Order also found that AEP-VA failed to meaningfully net transmission revenues that accrue to AEP-VA when a competitive service provider ("CSP") imports power via the AEP-VA transmission system to serve newly won customers in AEP-VA's service territory, and that AEP-VA's transmission cost reduction to market prices is more than 10 times that of DVP's. The Final Order required AEP-VA: (1) to provide a detailed reconciliation of its proposed transmission cost adjustment to that of DVP; (2) to identify the generation resources that would otherwise serve Virginia jurisdictional load; (3) to quantify the transmission expense associated with actual transactions sourced from those units over the most recent 12-month period for which data are available; (4) to account for the revenue flows that arise from those transactions; and (5) to provide a detailed accounting of the transmission revenues that would be collected from transmission customers in the event that an AEP-VA customer elected to take service from a CSP.

On October 21, 2002, DVP filed a Notice of Intent to Include Capacity Adder and Petition for Reconsideration ("DVP Petition"), wherein DVP notified the Commission and the parties that it will include the capacity adder in its calculation of market prices for generation. The DVP Petition seeks reconsideration for purposes of modifying its CSP Tariff to require CSPs to provide 60 days' notice of large loads returning to DVP's capped rate service.

<sup>1</sup> A&N Electric Cooperative, BARC Electric Cooperative, Central Virginia Electric Cooperative, Community Electric Cooperative, Craig-Botetourt Electric Cooperative, Mecklenburg Electric Cooperative, Northern Neck Electric Cooperative, Inc., Northern Virginia Electric Cooperative, Powell Valley Electric Cooperative, Prince George Electric Cooperative, Rappahannock Electric Cooperative, Shenandoah Valley Electric Cooperative, and Southside Electric Cooperative, Inc.

<sup>2</sup> Title 56, Chapter 23 (§ 56-576 et seq.) of the Code of Virginia, hereinafter referred to as "the Act" or "the Restructuring Act".

DVP defines large loads, or a large volume of customer activity, as greater than or equal to 1 MW. DVP states that adequate advance notice and the opportunity to sell displaced power go "hand in hand" with the capacity adder. DVP Petition at 5. DVP asserts, among other things, that it will not have "an opportunity for revenue neutrality if the capacity adder is included – as it will be – and [DVP] has to always set aside capacity because of the possibility that CSPs will drop large volumes of load back on [DVP] with as little as 15 days notice under the current rules." *Id.* at 4. Moreover, DVP contends that the 60-day notice provision "will ensure it of access to only the last of the three [PJM capacity] auctions," such that it is "assuming the risk that the capacity clearing price determined by the third auction may be less than the weighted average of all three auctions." *Id.*

On October 25, 2002, AEP-VA filed a Petition for Reconsideration and Modification of the Commission's 2002 Final Order of October 11, 2002 ("AEP-VA Petition"). AEP-VA requests that the Commission "modify and rescind the November 1, 2002 filing requirements pertaining to [AEP-VA's] as-filed transmission cost adjustment in this proceeding." AEP-VA Petition at 5. The AEP-VA Petition asserts, among other things, that AEP-VA "used the same methodology it had employed in its previous compliance filing to calculate the transmission cost adjustment to its proposed market prices," that Staff did not contest AEP-VA's previous compliance filing, and that neither Staff nor any party to this case contested its transmission cost adjustment in this proceeding. *Id.* 3-4. AEP-VA also contends that "no party to this proceeding has provided any evidentiary support for using any other transmission cost adjustment to calculate [AEP-VA's] 2003 wires charges...." *Id.* at 4.

On October 30, 2002, AEP-VA filed a letter ("AEP-VA Letter") "to notify the Commission, its Staff and the parties that, based on preliminary calculations made in preparation of the compliance filing, [AEP-VA] will forego any wires charges for the year 2003." AEP-VA Letter at 1. AEP-VA also notes that questions regarding its transmission cost adjustment were raised at the hearing and asserts that its transmission cost calculations for 2004 will need to be revised as a result of becoming a member of the PJM regional transmission organization. AEP-VA states that "[i]n addition to foregoing any wires charges in 2003, [AEP-VA] commits to discuss with the Commission's Staff, prior to the Company's next wires charge report, the appropriate methodology to develop its transmission cost adjustment to market prices for 2004." AEP-VA Letter at 1-2.

NOW THE COMMISSION, upon consideration of the pleadings, the record, and the applicable law, is of the opinion and finds as follows. We deny DVP's request for reconsideration. As explained in our Final Order, the inclusion of changes to the CSP Tariff at this stage of the proceeding, *i.e.*, in rebuttal and on reconsideration, has precluded a full evaluation of such changes by persons who may be interested in the same. We have not determined that DVP's proposed tariff changes are unreasonable. Rather, the potential impact of such changes has not been fully assessed in this case.<sup>3</sup> As we referenced in our Final Order, DVP is not precluded from proposing risk mitigation measures, including tariff modifications, in future proceedings if such measures are shown to be necessary.

We grant in part AEP-VA's request for reconsideration. AEP-VA has notified the Commission and the parties to this case that it will not assess wires charges during 2003. As a result, the transmission cost adjustment filing requirements necessary to establish wires charges for AEP-VA for 2003 are no longer necessary. Accordingly, we vacate all of the November 1, 2002, filing requirements of AEP-VA contained in our Final Order related to transmission cost adjustments.

We direct, however, AEP-VA's July 1, 2003, report regarding wires charges for 2004 to include all of the information related to transmission cost adjustments set forth on page 13 of our Final Order. As explained in both the November 19, 2001, Order and the October 11, 2002, Order, § 56-583 A of the Act requires the Commission to adjust market prices for the net cost of transmission required to send displaced power to distant wholesale markets.<sup>4</sup> To do this, the Commission must identify the transmission costs for the relevant utility to transmit power to the wholesale market and offset those costs by the transmission revenues that will be realized by the incumbent utility when it sells transmission service to a CSP that now serves the incumbent's former customers. Based on Attachment 1 and Attachment 5 to AEP-VA's July 1, 2002, filing, as well as the testimony of AEP-VA witness Kelly D. Pearce, AEP-VA provided neither in this case. AEP-VA witness Pearce recognized that actual transmission expenditures have not been provided. Instead, Mr. Pearce characterizes the data provided in Attachment 5 as "hypothetical based on a test year of 1996." *Tr.* at 169-170. Moreover, the data in Attachment 5 are not the transmission costs paid by AEP-VA to transmit power to distant wholesale markets. Rather, Attachment 5 represents an approximation of the cost of serving AEP-VA's Virginia jurisdictional load under certain provisions of AEP-VA's Open Access Transmission Tariff. AEP-VA next subtracts the class specific per kWh values calculated in Attachment 5 – without adjustment – from the loss and load-factor adjusted market price yielding a transmission cost adjusted market price.

As for the offsetting or netting of transmission expense with transmission revenues otherwise recovered in rates subject to state or federal jurisdiction, Attachment 1 demonstrates that AEP-VA has included no offset to, or netting of, the transmission cost reductions to market price developed in Attachment 5 even though AEP-VA Witness Pearce agrees that transmission expenditures need to be reduced by transmission revenues. *Tr.* at 174. Other portions of the record developed in this proceeding further demonstrate that AEP-VA has not netted its transmission costs by transmission revenues. Rather, according to Mr. Pearce, it appears that AEP-VA concluded that the expected transmission revenues would be offset by certain third party transmission expenses and, as a result, the transmission revenues were not included in AEP-VA's transmission cost calculations in this case. *Tr.* at 171-72. Neither the expected transmission revenues, nor the offsetting third party expense referred to by Mr. Pearce, however, are part of the record in this proceeding. Moreover, Mr. Pearce did not testify that these two numbers were equal; he stated that such were "close to the same numbers," "relatively offsetting," and "somewhat offsetting." *Tr.* at 171-73. Thus, AEP-VA proposed a transmission cost adjustment to market price based on an approximation of retail delivery costs instead of the cost of delivering power to distant wholesale markets. Furthermore, AEP-VA's proposed transmission cost adjustment does not include offsetting revenues as required by § 56-583 A.

We note that AEP-VA did not assess any wires charges in 2002. We also recognize that in its Petition for Reconsideration, AEP-VA states that it relied on certain exchanges of information with the Staff as evidence that it was in compliance with the November 19, 2001, Order. As such, in its July 1, 2002, submittal, AEP-VA calculated a transmission cost adjustment using an identical method. AEP-VA's reliance on the Staff's views regarding wires charges for 2002, however, does not alter the statutory requirements that must be met before we may permit AEP-VA to assess a wires charge. Before we

<sup>3</sup> As a result, section 6.8 of DVP's CSP Tariff retains the existing 30-day notice requirement, on a best efforts basis, for CSPs initiating a large volume of customer activity that may impact DVP's resources or its ability to meet its obligation to serve its customers.

<sup>4</sup> Section 56-583 A states that projected market prices "shall be adjusted for any projected cost of transmission, transmission line losses, and ancillary services subject to the jurisdiction of the Federal Energy Regulatory Commission which the incumbent electric utility (i) must incur to sell its generation and (ii) cannot otherwise recover in rates subject to state or federal jurisdiction."

can approve a wires charge for AEP-VA, this Commission must have net transmission costs that reflect the real cost of delivering power from generating units that would otherwise serve AEP-VA's retail customers adjusted for transmission revenues otherwise recovered in rates subject to state or federal jurisdiction. Simply put, we cannot approve a wires charge where the record does not demonstrate that the statutory requirements of § 56-583 A have been met.

Thus, as stated above, AEP-VA's July 1, 2003, report regarding wires charges for 2004 shall include all of the information related to transmission cost adjustments as set forth on page 13 of our Final Order. We note, however, that AEP-VA states its transmission cost calculations for 2004 will need to be revisited as a result of becoming a member of the PJM regional transmission organization. AEP-VA Letter at 1. We recognize that with the evolution of matters such as regional transmission organizations and standard market designs, modifications to the informational requirements on page 13 of our Final Order may be warranted. For example, in the event AEP-VA seeks and obtains Commission approval pursuant to § 56-579 of the Act to transfer ownership, control, or responsibility to operate its transmission system, different information may be appropriate for developing AEP-VA's transmission cost adjustment. AEP-VA should provide the information set forth on page 13 of our Final Order, unless subsequently modified by order of the Commission.

Finally, we will extend the November 1, 2002, filing date for DVP and AEP-VA referenced in Ordering Paragraph two (2) of the Final Order. We also require such filings to include class specific wires charge calculations and delivery tariffs effective January 1, 2003.

Accordingly, IT IS ORDERED THAT:

- (1) DVP's Petition for Reconsideration is denied as discussed herein.
- (2) AEP-VA's Petition for Reconsideration is granted in part as discussed herein.
- (3) Ordering Paragraph two (2) of the Final Order in this case dated October 11, 2002, is modified such that on or before November 8, 2002, DVP shall file a report showing the results of its base market price calculations and authorized adjustments, with supporting data, and after load shaping for each rate class, the rate class specific market prices for generation, and class specific wires charges and delivery tariffs effective January 1, 2003.
- (4) Ordering Paragraph two (2) of the Final Order in this case dated October 11, 2002, is modified such that on or before five business days after the Commission issues an order in Case No. PUE-2002-00378 establishing AEP-VA's fuel factor, AEP-VA shall file a report showing the results of its base market price calculations and authorized adjustments, with supporting data, and after load shaping for each rate class, the rate class specific market prices for generation, and class specific wires charges and delivery tariffs effective January 1, 2003. AEP-VA's report shall not have to include the filing requirements and supporting data required by our Final Order related to AEP-VA's transmission cost adjustments, and AEP-VA's delivery tariffs shall reflect zero wires charges.
- (5) This docket shall remain open for the receipt of reports to be filed herein and for consideration of other matters concerning market price determination and wires charges, as they may arise.

**CASE NO. PUE010308  
JANUARY 25, 2002**

APPLICATION OF  
VIRGINIA GAS STORAGE COMPANY

For an Annual Informational Filing

**ORDER ADOPTING RECOMMENDATIONS  
AND DISMISSING PROCEEDING**

On May 25, 2001, Virginia Gas Storage Company ("VGSC" or "the Company") delivered its Annual Informational Filing ("AIF") that included financial and operating data for twelve months ended December 31, 2000, to the State Corporation Commission ("Commission"). On June 8, 2001, counsel for the Commission Staff advised VGSC that several schedules required by 20 VAC 5-200-30, Rules Governing Utility Rate Increase Applications and Annual Informational Filings ("Rules") were necessary to complete the Company's AIF.

On June 13, 2001, VGSC, by counsel, filed a letter with the Commission wherein, among other things, the Company requested a waiver of the Rules that required Schedules 9 through 14, 21, and Schedule 25 be filed as part of VGSC's AIF.

On June 22, 2001, the Commission entered an Order that docketed the application, granted the Company's request for a waiver, and directed VGSC to file, in accordance with the Company's representations, the remaining information identified in Staff's June 8, 2001, letter as necessary to complete the Company's application.

On December 18, 2001, the Commission Staff filed its report ("Report") on the captioned application, which included a financial and accounting analysis. Staff noted in its Report that it used an 11.5% return on equity to evaluate VGSC's financial condition for illustrative purposes only. It explained that VGSC's application for a certificate of public convenience and necessity for the Company's storage facilities in Case No. PUE940078 was based on estimates of revenues and costs that included a cost of capital incorporating a rate of return on equity of 11.5%. As in prior AIFs, Staff used Virginia Gas Company's ("VGC") consolidated capital structure in the case because VGC was the primary entity that raised capital on behalf of VGSC and its other affiliates through the test year. This consolidated capital structure, together with an 11.50% cost of equity, produced an overall weighted cost of capital of 10.627% for the twelve months ending 2000.

Staff further noted that NUI Corp. ("NUI"), a natural gas exempt holding company, consummated the acquisition of VGC and VGC's ownership and control of VGSC and its affiliates on March 28, 2001, in accordance with the Commission's March 27, 2001, Final Order entered in Case No. PUA000079. Staff commented that it did not consider NUI's consolidated capital structure for purposes of Staff's Report because NUI's acquisition of VGC



and VGSC was not executed during the test year. Staff indicated that it intended to reevaluate the appropriate ratemaking capital structure for VGSC in the Company's next AIF.

After conducting its accounting analysis, the Staff noted that VGSC had sold some of its base gas from its storage inventory to United Cities Gas Company and certain non-jurisdictional customers. Staff observed that there was no provision for the sale of base gas from storage in VGSC's tariffs and that the service did not appear to be contemplated by VGSC's certificate of public convenience and necessity. Staff reported that in addition to sales of base gas from storage, VGSC had a contractual arrangement with the Knoxville Utilities Board to provide winter gas sales service. Staff noted that these gas sales were not from storage and have never affected Virginia jurisdictional earnings since the sales have always been considered non-jurisdictional. Staff stated that the contract with the Knoxville Utilities Board had expired in the summer of 2001 and had not been renewed. Staff recommended that the Commission direct VGSC not to engage in such transactions again or, alternatively, seek the revision of its tariffs and certificate if the Company wishes to engage prospectively in these types of transactions.

Staff further excluded the sales of the base gas from VGSC's current earnings but recommended that the profit generated from the base gas sales be recognized as a reduction in the embedded cost of the base gas in storage.

Finally, the Staff noted that the Commission's Rules specify that AIFs be filed within 120 days after the end of the Company's test period. It recommended that if VGSC desires to seek a waiver from filing its AIF on or before the end of the 120 day period, it should request such a waiver before the end of that period.

On January 10, 2002, VGSC, by counsel, advised that it would not be filing any comments on the Staff's report filed in this matter.

NOW, THE COMMISSION, upon consideration of the Company's application, the Staff's report, and the applicable statutes, is of the opinion and finds that the Staff's recommendations, as modified below, are reasonable and should be adopted and that this matter should be dismissed from the Commission's docket of active proceedings.

We agree that the Staff's accounting recommendations regarding the Company's sale of its base gas are appropriate. In this regard, we will enjoin the Company from selling its base gas until such time as the Company files an appropriate tariff that is approved by the Commission. However, we will not require VGSC to seek an amendment of its certificate of public convenience and necessity. The sale of base gas used in the storage facility appears to be sufficiently related to VGSC's storage operations so as not to require the amendment of the Company's certificate of public convenience and necessity. However, if VGSC wishes to purchase and sell natural gas that it has not stored on behalf of any customer, as it did for the Knoxville Utilities Board, it should seek appropriate authority to do so. As such, we advise VGSC that if it engages in transactions for which it has not received regulatory approval, we will not hesitate to investigate the matter and take whatever actions are necessary to ensure compliance with the Commonwealth's statutes and our regulations.

Accordingly, IT IS ORDERED THAT:

- (1) Consistent with the findings made herein, the recommendations set out in the Staff's December 18, 2001, report, as modified herein, are hereby adopted and shall be implemented by the Company.
- (2) The Company is hereby enjoined from making natural gas sales from its base gas inventory to customers until such time as it files an appropriate tariff with the Commission and that tariff is approved.
- (3) The Company is enjoined from buying and selling natural gas on behalf of customers that it has not stored for said customers without proper regulatory authority to engage in such transactions.
- (4) There being nothing further to be done herein, this matter shall be dismissed from the Commission's docket of active proceedings and the papers filed herein placed in the Commission's file for ended causes.

**CASE NO. PUE010310  
JANUARY 10, 2002**

APPLICATION OF  
VIRGINIA GAS PIPELINE COMPANY

For an Annual Informational Filing

**ORDER GRANTING CLARIFICATION**

On December 21, 2001, the State Corporation Commission ("Commission") issued its Order Adopting Recommendations and Dismissing Proceeding in the captioned matter. This proceeding involved an application for an Annual Informational Filing ("AIF") filed by Virginia Gas Pipeline Company ("VGPC" or "the Company") that included financial and operating data for the twelve months ended December 31, 2000.

On January 8, 2002, VGPC, by counsel, filed a Motion to clarify certain language appearing on page 3 of the Commission's December 21, 2000, Order. VGPC requested that the Commission clarify the language on page 3 of its Order so that it did not imply that VGPC's Certificate GT-69 was revoked, but rather that Certificate GT-69 was surrendered by VGPC and cancelled by the Commission. VGPC noted that the Staff Report filed in this matter stated that "VGP surrendered and the Commission cancelled Certificate No. GT-69." VGPC represented that the Commission Staff did not object to the clarification requested by the Company.

NOW UPON CONSIDERATION of VGPC's Motion, the Commission is of the opinion and finds that VGPC's Motion should be granted and the December 21, 2001, Order Adopting Recommendations and Dismissing Proceeding should be clarified as requested by VGPC.

Accordingly, IT IS ORDERED THAT:

(1) VGPC's January 8, 2002, Motion to Clarify Language in Order is hereby granted.

(2) The first sentence of the second paragraph of page 3 of the December 21, 2001, Order Adopting Recommendations and Dismissing Proceeding shall be revised as follows:

With regard to the treatment of costs associated with Segment 5 of VGPC's pipeline project, Staff reported that VGPC's certificate of public convenience and necessity was surrendered by VGPC and the Commission cancelled Certificate No. GT-69.

(3) There being nothing further to be done herein, this matter shall be dismissed from the Commission's docket of active proceedings, and the papers filed herein shall be placed in the Commission's drawer for ended causes.

**CASE NO. PUE010312  
FEBRUARY 19, 2002**

APPLICATION OF  
VIRGINIA-AMERICAN WATER COMPANY

For a general increase in rates

**FINAL ORDER**

On May 30, 2001, Virginia-American Water Company ("Virginia-American" or "Company") completed its application for an expedited increase in rates. Those rates, due to become effective June 28, 2001, were designed to increase annual operating revenues by \$997,436. The Company proposed that the increase be allocated among its three operating districts as follows: \$181,430 for the Alexandria District; \$816,006 for the Hopewell District; and \$0 for the Prince William District.

In addition to the rate increase, the Company proposed to revise Rule 14 in its tariff. Such revision would require the owner of property with two or more family units to be responsible for water service furnished to that premise until the Company was notified to discontinue such service.

On June 7, 2001, the Staff of the State Corporation Commission ("Staff") filed a motion requesting that the Company's application be docketed as an application for a general rate increase. In its Motion, Staff stated that the Company's application did not conform to the requirements established by the Commission's Rules Governing Utility Rate Increase Applications and Annual Informational Filing, 20 VAC 5-200-30. Staff argued that the Company had experienced a "substantial change in circumstances" since its last rate case. In its application, the Company did not include schedules for non-potable water service to industrial customers that had been approved in the Company's last rate case. Staff noted that the Company appeared to be reallocating costs previously allocated to the approved non-potable classes to other customer classes.

On June 13, 2001, the Company filed a response to Staff's motion wherein it stated that it did not believe the change from the approved non-potable service to other customers classes would require that its application be converted into a general rate case. The Company, however, stated that it would not oppose converting the case into a general rate case on the condition that its rates be allowed to go into effect immediately following notice to the public.

On June 20, 2001, the Commission entered an order docketing the Company's application as a general rate case; requiring the Company to provide notice to the public of its application; suspending the Company's proposed rates, charges, and tariff revisions for thirty days; and permitting the rates to go into effect on an interim basis effective July 20, 2001, subject to refund with interest. That Order also assigned the matter to a Hearing Examiner.

Pursuant to the June 20, 2001, Order, the City of Hopewell (the "City") and the Hopewell Committee for Fair Water Rates ("Committee")<sup>1</sup> filed notices of participation in the proceeding.

A hearing was convened as scheduled on November 14, 2001. The Company's proof of notice was accepted into the record. No public witness appeared. At the hearing, the Hearing Examiner granted Staff's motion to continue the evidentiary hearing to November 28, 2001, to allow the parties additional time to continue to resolve the outstanding issues in the case.

Pursuant to Hearing Examiner's Ruling entered on November 21, 2001, the evidentiary hearing scheduled for November 28, 2001, was continued generally, and the parties were provided with an additional opportunity to supplement their prefiled testimony.

Subsequently, by Hearing Examiner's Ruling entered on November 26, 2001, the evidentiary hearing was further continued to December 19, 2001.

At the evidentiary hearing convened on December 19, 2001, Virginia-American, the Commission Staff, and the Committee offered for Commission consideration a Stipulation that resolved or deferred until the Company's next rate case the outstanding issues in the case. That Stipulation was accepted into the record and is attached hereto as Attachment A. Pursuant to the Stipulation, the parties' and Staff's testimonies were marked and accepted into the record without cross-examination.

<sup>1</sup> The members of the Hopewell Committee for Fair Water Rates are as follows: Congentrix, Goldschmidt Chemical Company, Hercules Incorporated, Honeywell, Hopewell Cogeneration Facility, James River Cogeneration, PraxAir, Inc., and Smurfit-Stone Container.

The Stipulation addresses revenue changes for the Hopewell District, allocation of the revenue change among the industrial and domestic classes in the Hopewell Operating District, the refund in the Alexandria and Hopewell Operating Districts, and the deferral of certain costs associated with the physical security of the Company's water facilities in the Hopewell Operating District. The Stipulation also addresses the return on equity benchmark that will be used for determining overearnings and potential regulatory asset write-offs for certain future earnings tests, and the cost of service study for potable and non-potable service that the Company will file in its next rate case.

The Company and Staff agreed to adopt specific accounting adjustments proposed by Staff, subject to certain modifications. Although the City and the Committee did not adopt those adjustments, they did not oppose them.

On January 23, 2002, Hearing Examiner Michael D. Thomas filed his Report. The Hearing Examiner found that an annual increase of \$674,000 for the Hopewell District was reasonable and should be approved. The Hearing Examiner also found that the stipulated allocation of the revenue increase among the Company's industrial tariffed class and its domestic tariffed class and the resulting water rates for those classes was not unjust, unreasonable, insufficient, or unjustly discriminatory or preferential, or otherwise in violation of the laws of the Commonwealth of Virginia. The Hearing Examiner recommended that the Commission enter an order adopting the findings of his Report and approving the proposed revenue increase, rates, refunds, and proposals and recommendations set forth in the Stipulation. The Examiner noted that the proposed revision to Rule 14 in the Company's tariff was not addressed in the Stipulation.

By letter filed on January 31, 2002, counsel for the Company urged the Commission to adopt the Hearing Examiner's Report and stated that the Company no longer requested revisions to Rule 14 in this proceeding.

NOW THE COMMISSION, having considered the record, the Stipulation, and the Hearing Examiner's Report, is of the opinion and finds that the Hearing Examiner's findings and recommendations should be approved. We will approve the proposed revenue increase, rates, refunds, and proposals set forth in the Stipulation and Attachment A attached hereto.

Accordingly, IT IS ORDERED THAT:

- (1) The findings and recommendations set forth in the January 23, 2002, Hearing Examiner's Report are hereby adopted.
- (2) The Stipulation referenced herein and Attachment A attached hereto are hereby approved.
- (3) On or before March 1, 2002, Virginia-American shall submit to the Commission's Division of Energy Regulation appropriate tariff schedules, rates, and charges, rules and regulation designed to produce an increase in gross annual revenues of \$674,000 for the Hopewell Operating District, effective for service rendered on and after July 20, 2001.
- (4) On or before August 31, 2002, Virginia-American shall recalculate, using the rates and charges prescribed by ordering paragraph (3) of this Final Order, each bill it rendered that used, in whole or in part, the rates and charges that took effect under bond and subject to refund on July 20, 2001. In each instance where application of the rates prescribed by this Final Order results in a reduced bill to the customers in the Alexandria and Hopewell Operating Districts, Virginia-American shall refund with interest the difference.
- (5) Interest upon the ordered refunds shall be computed from the date payments of monthly bills were due to the date the refunds are made, at the average prime rate for each calendar quarter, compounded quarterly. The average prime rate for each calendar quarter shall be the arithmetic mean, to the nearest one-hundredth of one percent, of the prime rate values published in the Federal Reserve Bulletin or in the Federal Reserve's Selected Interest Rates (Statistical Release H.15) for the three months of the preceding calendar quarter.
- (6) The refunds ordered in above-referenced ordering paragraph (4) may be credited to current customers' accounts (each refund category shall be shown separately on each customer's bill). Refunds to former customers shall be made by check mailed to the last known address of such customers when the refund amount is \$1 or more. Virginia-American may offset the credit or refund to the extent no dispute exists regarding the outstanding balance of a current or former customer. Notice of the offset shall be given to the customer. No offset shall be permitted for the disputed portion of an outstanding balance. Virginia-American may retain refunds owed to former customers when such refund amount is less than \$1. Virginia-American shall maintain a record of former customers for which the refund is less than \$1, and such refunds shall be made promptly upon request. All unclaimed refunds shall be subject to § 55-210.6:2 of the Code of Virginia.
- (7) On or before September 30, 2002, Virginia-American shall submit to the Commission's Divisions of Public Utility Accounting and Energy Regulation a report showing refunds made pursuant to this Final Order and detailing the costs of the refund and accounts charged. Costs shall include, inter alia, computer costs, and the personnel hours, associated salaries, and costs for verifying and correcting the refunds directed in this Final Order.
- (8) This case is hereby dismissed from the Commission's docket of active cases.

NOTE: A copy of the Attachments are on file and may be examined at the State Corporation Commission, Clerk's Office, Document Control Center, Tyler Building, First Floor, 1300 East Main Street, Richmond, Virginia.

**CASE NO. PUE010338  
JANUARY 30, 2002**

APPLICATION OF  
C & P ISLE OF WIGHT WATER COMPANY

For approval of acquisition of water supply facility assets and for certificates of public convenience and necessity pursuant to Virginia Code §§ 56-265.2 and 56-265.3

**FINAL ORDER**

On August 2, 2001, C & P Isle of Wight Water Company ("C & P Isle of Wight" or the "Company") completed an application requesting authority, pursuant to the Utility Transfers Act, Chapter 5 of Title 56 of the Code of Virginia ("Code"), for C & P Isle of Wight to acquire water facility assets from C & P Suffolk Water Company ("C & P Suffolk"). The Company stated that the proposed acquisition would consolidate the operations of companies owned and operated by the same person.<sup>1</sup>

The Company also requested, pursuant to §§ 56-265.2 and 56-265.3 of the Code, certificates of public convenience and necessity ("Certificates") for C & P Isle of Wight to acquire such water facilities and to provide water service to the residents of the Idlewood Farms, Hines, Lake Forrest, Lake Meade, Oakridge, Holland, Bennetts Harbor, Becks, Maple Hill, and Deerfield Subdivisions in Isle of Wight County, Virginia, and the Scottswood Subdivision in Southampton County, Virginia. The Company proposed the same rates, rules, and regulations of service for those subdivisions as those currently approved for C & P Suffolk.

On September 13, 2001, the State Corporation Commission ("Commission") issued an Order for Notice and Comment. In that Order, the Commission docketed the matter, directed the Company to provide notice, provided interested persons an opportunity to file comments and request a hearing, and directed its Staff to investigate the matter and file a report detailing its findings and recommendations.

There were two comments filed by customers in the Bennetts Harbor Subdivision, and there were no requests for hearing filed. In their comments, the customers raised issues concerning that system's current level of fluoride, total dissolved solids content, excessive sodium content, and the adequacy of water pressure for household use and fire hydrant flows. The customers also expressed concern that there was no backup generation to ensure an uninterrupted water supply. They also stated that they would like to have their water service provided by the City of Suffolk (the "City").

On December 4, 2001, Staff filed its Report. In its Report, Staff found that the Company was generally in good standing with the Virginia Department of Health-Office of Water Programs ("VDH-OWP") and that there were no significant service problems.

In addressing service issues raised by customers' comments, Staff noted that all of the water systems located in the City currently exceed the primary maximum contaminant level for fluoride ("PMCL"). VDH-OWP recently began the process of bringing each of these systems into compliance with the PMCL fluoride level. Staff noted that VDH-OWP is scheduled to meet with C & P Isle of Wight early in 2002 to discuss the fluoride issue and that Staff will monitor those proceedings. Staff also noted that the Bennetts Harbor water system currently complies with the total dissolved solids standard of VDH-OWP and that there is no standard for sodium content.

Staff stated that the water pressure of the Bennetts Harbor system currently exceeds the amount required by VDH-OWP for household use although such pressure is not adequate to support fire flows. Staff noted that most community water systems do not have water pressure adequate to support fire flows and that VDH-OWP does not have such a requirement. Staff also noted that the Virginia Department of Health's Waterworks Regulations do not require water systems to have backup electric generation.

In addressing customers' desire to have their water supply provided by the City, Staff referenced a July 30, 2001, letter filed by the Director of Public Utilities for the City of Suffolk ("Director"). In that letter, the Director supported the Company's application and noted the City's excellent working relationship with the Company.

Staff concluded in its Report that the proposed transfer would not adversely impact the provision of adequate service to the public at just and reasonable rates. Staff recommended that the Commission grant approval for the proposed transfer of water supply facility assets. Staff also recommended that the Commission require C & P Isle of Wight to submit a report detailing specifics of the transfer transaction to the Commission's Director of Public Utility Accounting within 30 days of the actual transfer.

Staff also concluded that it was in the public interest to grant C & P Isle of Wight its requested Certificates. In addition, Staff recommended approval of the rates, rules, and regulations proposed for the above-referenced subdivisions. Staff also recommended that the Company submit a new tariff that includes the subdivisions formerly served by C & P Suffolk.

On January 22, 2002, counsel for the Company filed a motion for leave to file out of time comments on Staff's Report. In its comments, the Company requested that the Commission adopt Staff's recommendations. The Company also requested that, for bookkeeping and accounting purposes, it be permitted to reflect January 1, 2002, as the date for the above-referenced acquisition transaction.

NOW THE COMMISSION, having considered the application, the comments thereto, and Staff's Report, is of the opinion and finds that this application should be approved. We find that the public convenience and necessity requires that C & P Isle of Wight acquire the above-referenced water systems. We also believe that such transfer will not impair or jeopardize the provision of adequate service to the public at just and reasonable rates.

Moreover, we find that it is in the public interest for C & P Isle of Wight to provide water service to the subdivisions referenced herein and that the rates proposed for such subdivisions do not appear unjust and unreasonable. We will, therefore, amend C & P Isle of Wight's Certificate to include such subdivisions and cancel the Certificate granted to C & P Suffolk.

<sup>1</sup> The principals of both C & P Isle of Wight and C & P Suffolk are Ted W. Christian and David D. Pugh, and such persons manage both water systems.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

We will also grant the Company's motion for leave to file comments out of time. We will also grant, for bookkeeping and accounting purposes, the Company's request to reflect the above-referenced transfer as of January 1, 2002.

Accordingly, IT IS ORDERED THAT:

- (1) The Company's motion for leave to file comments on Staff's Report out of time is hereby granted.
- (2) Pursuant to §§ 56-89 and 56-90 of the Code of Virginia, C & P Suffolk is hereby granted authority to convey to C & P Isle of Wight the water facility assets of the Idlewood Farms, Hines, Lake Forrest, Lake Meade, Oakridge, Holland, Bennetts Harbor, Becks, Maple Hill and Deerfield Subdivisions in Isle of Wight County, Virginia, and the Scottswood Subdivision in Southampton County, Virginia, as described in the above-referenced application.
- (3) C & P Isle of Wight is hereby authorized to acquire from C & P Suffolk the water facility assets detailed herein.
- (4) The granting of the above-referenced authority shall have no ratemaking implications.
- (5) The Company shall submit a Report of Action to the Commission's Director of Public Utility Accounting no later than thirty (30) days from the date of the transfer, subject to extension by the Director of Public Utility Accounting. Such Report shall detail the date of the transfer, the sales price, and accounting entries reflecting that transfer.
- (6) The Company is hereby authorized, for bookkeeping and accounting purposes, to reflect the above-referenced transfer as of January 1, 2002.
- (7) C & P Isle of Wight Water Company's Certificate No. W-283(c) is hereby canceled.
- (8) C & P Isle of Wight Water Company shall be granted a certificate of public convenience and necessity, Certificate No. W-283(d), to provide water service to the above-referenced subdivisions in Isle of Wight and Southampton Counties in Virginia, as well as those subdivisions authorized in Certificate No. W-283(c).
- (9) The Company's proposed rates, charges, fees, and rules and regulations of service for the above-referenced subdivisions are hereby approved.
- (10) The Company shall within sixty (60) days from the date of this Order submit to the Commission's Division of Regulation a new tariff incorporating the rates approved herein.
- (11) C & P Suffolk Water Company's Certificate No. W-280(b) authorizing it to provide water service to the above-referenced subdivisions in Isle of Wight and Southampton Counties in Virginia is hereby canceled.
- (12) This matter is hereby dismissed.

**CASE NO. PUE010349  
FEBRUARY 7, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION  
v.  
UTILIQUEST, LLC,  
Defendant

**ORDER OF SETTLEMENT**

Pursuant to § 56-265.30 of the Code of Virginia, the Virginia State Corporation Commission ("Commission") is charged with enforcing the provisions of the Underground Utility Damage Prevention Act, §§ 56-265.14 *et seq.* of the Code of Virginia ("Act"). The Commission's Division of Energy Regulation ("Division"), charged with the investigation of probable violations of the Act, has completed investigations of certain incidents between December 5, 2000, and May 9, 2001, listed in Attachment A, involving Utiliquest, LLC ("Company"), and alleges that:

- (1) The Company is a contract locator as that term is defined in § 56-265.15 of the Code of Virginia;
- (2) During the aforementioned period the Company violated the Act by committing the following violations:
  - (a) Failing on certain occasions to mark the approximate horizontal location of the underground utility lines on the ground to within two feet of either side of the underground utility lines, in violation of §§ 56-265.19 A and D of the Code of Virginia.
  - (b) Failing on certain occasions to mark within the time prescribed in the Act, in violation of § 56-265.17 B and §§ 56-265.19 A and D of the Code of Virginia.
  - (c) Failing on certain occasions to report to the notification center that lines had been marked or they were not in conflict with the proposed excavation, in violation of §§ 56-265.19 A, B, and D of the Code of Virginia.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

As evidenced in the attached Admission and Consent document, the Company neither admits nor denies these allegations but admits the Commission's jurisdiction and authority to enter this Order. As an offer to settle all matters before the Commission arising from the Division's allegations made herein, which includes all probable violations presented to the Underground Utility Damage Prevention Advisory Committee on June 5, 2001, and set out in Attachment A hereto, the Company represents and undertakes that it will pay a civil penalty to the Commonwealth of Virginia in the amount of \$18,400 to be paid contemporaneously with the entry of this Order. This payment will be made by cashier's check or money order, payable to the Treasurer of Virginia and directed to the attention of the Director of the Division of Energy Regulation.

The Commission, being advised by the Staff and finding sufficient basis herein for the entry of this Order, hereby accepts this settlement.

Accordingly, IT IS ORDERED THAT:

- (1) Pursuant to the authority granted the Commission by § 12.1-15 of the Code of Virginia, the offer of settlement made by the Company be, and it hereby is, accepted.
- (2) The sum of \$18,400 tendered contemporaneously with the entry of this Order is accepted.
- (3) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. PUE-2001-00350  
DECEMBER 19, 2002**

APPLICATION OF  
COLUMBIA GAS OF VIRGINIA, INC.

To Extend Customer CHOICE<sup>SM</sup> Pilot Program

**DISMISSAL ORDER**

By Order Granting Extension and Directing the Filing of a Plan for Retail Gas Supply Choice of September 25, 2001, as modified by Correcting Order of October 11, 2001, the Commission authorized Columbia Gas of Virginia, Inc. ("Columbia" or "Company"), to offer its Customer CHOICE<sup>SM</sup> program after October 1, 2001. We anticipated that a retail supply choice plan authorized by § 56-235.8 of the Code of Virginia would take effect on July 1, 2002.

The Commission first authorized Customer CHOICE<sup>SM</sup>, then called Commonwealth Choice, for the period October 1, 1997, through October 1, 1999. Commonwealth Gas Services, Inc., Case No. PUE970455, 1997 S.C.C. Ann. Rep. 417. In our order first authorizing the program as an experiment and in subsequent orders extending the experiment, the Commission required Columbia to collect and report information on various matters.

By Order of June 28, 2002, in Columbia Gas of Virginia, Inc., Case No. PUE-2001-00587, Phase I, the Commission approved the Company's retail supply choice plan pursuant to § 56-235.8 of the Code. The plan was authorized to take effect on July 1, 2002, but we extended the effective date to October 1, 2002, by Order of July 18, 2002, in Case No. PUE-2002-00587.

It appears that Columbia has filed all reports concerning its experimental plan required in Case No. PUE970455 and subsequent Orders. With the implementation of the Company's retail supply choice plan on October 1, 2002, Columbia will collect and report the information required by the Commission's Rules Governing Retail Access to Competitive Energy Services, 20 VAC 5-312-10 et seq. Additional reporting is not required, and this case may be dismissed.

Accordingly, IT IS ORDERED that Case No. PUE-2001-00350 be dismissed from the Commission's docket and placed in closed status in the records of the Clerk of the Commission.

**CASE NO. PUE-2001-00352  
OCTOBER 31, 2002**

APPLICATION OF  
COOK INLET POWER, LP

For a license to conduct business as a competitive service provider in electric retail access programs

**DISMISSAL ORDER**

On October 16, 2001, Cook Inlet Power, LP ("Cook" or the "Company"), was issued a license, License No. E-5, by the State Corporation Commission ("Commission") to provide competitive electric service to commercial and industrial customers throughout Virginia as the Commonwealth opens up to retail access and customer choice.

By letter dated October 21, 2002 ("Letter"), Cook advised that it wishes to cease operations and abandon, without prejudice, its license to provide electric service.

NOW UPON CONSIDERATION of Cook's Letter and having been advised by its Staff, the Commission is of the opinion and finds that the Company's request should be granted. As a result, Cook is no longer authorized to act as a competitive service provider in Virginia.

Accordingly, IT IS ORDERED THAT:

- (1) Cook's license, License No. E-5, is hereby revoked without prejudice to the Company should it reapply to the Commission for a new license as a CSP.
- (2) This case is hereby dismissed.

**CASE NO. PUE-2001-00362  
APRIL 25, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION  
v.  
VIRGINIA NATURAL GAS, INC.,  
Defendant

**ORDER SUSPENDING FINE AND DISMISSING PROCEEDING**

On July 31, 2001, the State Corporation Commission ("Commission") entered an Order of Settlement under which Virginia Natural Gas, Inc. ("VNG" or the "Company") undertook remedial actions and agreed to pay certain amounts as an offer to settle alleged violations of the Commission's gas pipeline safety standards.

In Paragraph (2)(A)(i), found on pages 3 and 4 of the July 31 Order, the Company agreed to tender to the Commission a notarized affidavit by its President ("Affidavit") certifying that all damaged pipeline markers have been replaced and that the correct telephone contact numbers are clearly visible on all existing or replaced markers. Paragraph 2 (A)(ii), found on page 4 of the Order of Settlement, provided that upon the timely receipt of said Affidavit, the Commission shall suspend \$5,000 of the amount specified on page 3, Paragraph (1) of the July 31, 2001, Order.

In Paragraph (2)(B)(i), VNG agreed to tender to the Commission a notarized Affidavit by its President, certifying that the Company had developed and implemented a rigorous quality control/quality assurance program for construction work. Paragraph (2)(B)(ii), found on pages 4-5 of the Order of Settlement, provided that upon the timely receipt of said Affidavit, the Commission would suspend \$10,000 of the amount specified on page 3, Paragraph (1) of the July 31, 2001, Order.

The Company has timely submitted the Affidavits required by Paragraphs (2)(A)(i) and (2)(B)(i) of the July 31, 2001, Order of Settlement. The October 25, 2001, Affidavit submitted by VNG was limited by its terms to the verification and correction of the condition and information on all pipeline markers of which the Company was "aware after reasonable investigation". The December 20, 2001, Affidavit filed by the Company was similarly qualified as being "true and accurate" to the best of the Affiant's knowledge and belief.

On April 9, 2002, VNG filed a revised quality control/quality assurance program and requested that it be substituted for the attachment that accompanied the notarized Affidavit dated December 20, 2001, by the Company's President. The December 20, 2001, Affidavit certified that the Company had developed and implemented a rigorous quality control/quality assurance program for construction. The revised plan filed with a cover letter dated April 9, 2002, purports to revise VNG's Quality Assurance/Quality Control Program by increasing the confidence level of items subject to destructive testing from 70% to 80%. In its April 9, 2002, cover letter filed with the attachment, VNG advised the Commission that it had changed its Quality Assurance/Quality Control program in consultation with the Commission's Division of Energy Regulation.

NOW UPON CONSIDERATION of the foregoing, the Commission is of the opinion and finds that \$15,000 of the \$31,300 fine provided for in the July 31, 2001, Order of Settlement should be suspended. We note, after reviewing the referenced Affidavits, that if deficiencies in the condition of and information on the pipeline markers are discovered or the quality control and quality assurance program for construction work proves less than rigorous, these matters may be the subject of further investigation and enforcement actions, if necessary. Further, we will also treat VNG's April 9, 2002 letter and attachment as a Motion and grant VNG's request to substitute the April 9, 2002, attachment regarding VNG's Quality Assurance/Quality Control Program for the one accompanying the notarized Affidavit dated December 20, 2001.

Accordingly, IT IS ORDERED THAT:

- (1) In accordance with Paragraphs 2 (A)(ii) and (2)(B)(ii) and Ordering Paragraph (6) of the July 31, 2001, Order of Settlement entered herein, \$15,000 of the \$31,300 fine provided for in that Order is hereby suspended.
- (2) VNG's request to substitute the attachment submitted on April 9, 2002, regarding the Company's Quality Assurance/Quality Control Program for the attachment accompanying the notarized Affidavit dated December 20, 2001, is hereby granted.
- (3) There being nothing further to be done herein, this matter shall be dismissed from the Commission's docket of active proceedings.

**CASE NO. PUE-2001-00363  
MAY 1, 2002**

COMMONWEALTH OF VIRGINIA, ex rel.  
TERESA WHITMORE, et al.  
v.  
VALLEY RIDGE WATER COMPANY, INC.

**FINAL ORDER**

By letter dated May 12, 2001, pursuant to the Small Water or Sewer Public Utility Act, §§ 56-265.13:1 et seq. of the Code of Virginia, Valley Ridge Water Company, Inc. ("Valley Ridge" or the "Company"), notified its customers and the State Corporation Commission ("Commission") of its intent to increase its rates effective for service rendered on and after July 1, 2001. The Company's monthly rates were proposed to be increased as follows:

	<u>Current</u>	<u>Proposed</u>
Unmetered Customers	\$22.00	\$33.00
Commercial or Metered Customers		
0-2,000 gallons	\$19.00	\$23.00
over 2,000 gallons	\$3.50 per 1,000 gallons	\$4.20 per 1,000 gallons

By June 27, 2001, the Commission Staff had received objections to the proposed rate increase from 68 customers, or approximately forty percent (40%) of Valley Ridge's customers. In its Preliminary Order entered on July 3, 2001, pursuant to § 56-265.13:6 of the Code of Virginia, the Commission declared the Company's proposed increased rates interim and subject to refund, with interest. The Commission further directed Valley Ridge to file certain financial information on or before August 2, 2001. The Company filed its financial information on August 3, 2001. On August 27, 2001, the Commission issued an Order for Notice and Hearing in which it directed Valley Ridge to publish notice, established a procedural schedule, and assigned the matter to a Hearing Examiner.

Pursuant to the Order for Notice and Hearing, no person participated in the case as a Respondent, and no person filed comments on Valley Ridge's proposed rate increase.

On December 20, 2001, the Staff filed the direct testimony of Ashley W. Armistead, of the Commission's Division of Public Utility Accounting, and Marc A. Tufaro, of the Commission's Division of Energy Regulation. The Staff generally found that the proposed rate increase was reasonable but also made several recommendations. Staff witness Armistead examined the Company's books and records, and prepared adjusted financial statements for the twelve months ended August 31, 2001.

The evidentiary hearing was convened as scheduled on January 23, 2002, with Edward K. Stein, Esquire, representing Valley Ridge, and Rebecca W. Hartz, Esquire, of the Commission's Office of General Counsel, representing the Staff. At the hearing, counsel for Valley Ridge stated that the Company had accepted all of Staff's recommendations and, accordingly, the Company's financial exhibits and Staff's testimony and exhibits were entered into the record without cross-examination. No public witnesses appeared at the evidentiary hearing.

The Hearing Examiner issued his Report on February 20, 2002, finding the Company's proposed rates and Staff's recommendations to be just and reasonable. In his report, the Hearing Examiner noted that there was evidence of E.C. Dressler's, the owner and operator of Valley Ridge, commitment to make capital improvements for Valley Ridge, in the depreciation and amortization schedule attached to Staff witness Armistead's testimony. The Hearing Examiner recommended that the proposed increase in rates and Staff's recommendations be adopted. The Hearing Examiner found based on the evidence received in this case that:

- (1) The use of a test year ending August 31, 2001, is proper in this proceeding;
- (2) Valley Ridge's test year operating revenues, after all adjustments, were \$56,310;
- (3) Valley Ridge's test year operating revenue deductions, after all adjustments, were \$74,112;
- (4) Valley Ridge's test year operating loss, after all adjustments was \$17,802;
- (5) Valley Ridge's current rates produce a return on adjusted rate base of -16.38%;
- (6) Valley Ridge's adjusted test year rate base is \$108,694;
- (7) Valley Ridge requires \$81,262 in gross annual revenues to earn a return on rate base of 5.16%;
- (8) Valley Ridge's proposed rates produce additional gross annual revenues of \$24,952 and total gross annual revenues of \$81,262;
- (9) Valley Ridge should be required to maintain a set of books in accordance with the Uniform System of Accounts for Class C Water utilities;
- (10) Valley Ridge should apply a 3% composite rate to all depreciable plant balances and to contributions in aid of construction;



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- (11) Valley Ridge should maintain all invoices pertaining to both expenses and capital disbursements;
- (12) Valley Ridge should maintain property records on capitalized plant items;
- (13) Valley Ridge should maintain logs of Mr. Dressler's time detailing services provided and mileage for use of the Company truck;
- (14) Valley Ridge should restate plant, accumulated depreciation, CIAC, and accumulated amortization of CIAC as of August 31, 2001, to levels determined by witness Armistead;
- (15) Staff should continue to monitor the efforts of Valley Ridge to comply with the requirements of the Virginia Department of Health Office of Water Programs; and
- (16) Valley Ridge should inform customers of major capital improvements.

In accordance with his findings, the Hearing Examiner recommended that the Commission enter an order that adopts the findings in his Report; grant and makes permanent the rates requested by Valley Ridge; and dismisses the case from the Commission's docket of active cases and passes the papers herein to the file for ended causes. Comments to the Hearing Examiner's Report were to be filed with the Clerk of the Commission within twenty-one (21) days of entry or on or before March 13, 2002. No comments were filed.

NOW THE COMMISSION, upon consideration of the foregoing, is of the opinion and finds that that the recommendations and findings of the Hearing Examiner should be adopted and that this case should be dismissed.

Accordingly, IT IS ORDERED THAT:

- (1) The recommendations in the February 20, 2002, Report of Alex F. Skirpan, Jr., Hearing Examiner, are adopted in full.
- (2) This matter is dismissed and, there being nothing further to come before the Commission, the papers herein are passed to the file for ended causes.

**CASE NO. PUE-2001-00371  
APRIL 25, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION  
v.  
UTILIQUEST, LLC,  
Defendant

**AMENDING ORDER**

On October 17, 2001, the Virginia State Corporation Commission ("Commission") entered an Order of Settlement ("Settlement Order") against Utiliquest, LLC ("Utiliquest" or "Company"), for violating certain provisions of the Underground Utility Damage Prevention Act, §§ 56-265.14 *et seq.* of the Code of Virginia.

In § (2)(c) of the Settlement Order, the Commission directed, among other things, that: (i) the Company on or before November 15, 2001, tender to the Director of the Division of Energy Regulation a notarized certification, signed by an appropriate corporate officer, attesting that the Company has retained an outside consultant to perform an independent audit of the Company's sub-coded tickets for two years beginning the first day of the month following entry of the Settlement Order; (ii) said audit shall examine all sub-codes used by the Company and determine if any sub-codes were improperly used; (iii) the consultant shall work at the direction of the Underground Utility Damage Prevention Advisory Committee, the Commission's Staff, and the Company; and (iv) a report containing the contractor's audit results and recommendations shall be filed with the Division of Energy Regulation, on the tenth business day of every month.<sup>1</sup>

On April 2, 2002, the Company filed with the Commission a Motion to Amend Consent Order of Settlement ("Motion"). In that Motion, the Company moved the Commission to amend the Settlement Order so as to change the effective dates of auditor reporting from the period November 15, 2001, through November 15, 2003, to the period March 15, 2002, through March 15, 2004. Utiliquest represents that it is in compliance with the Settlement Order in every respect other than with the starting date for auditor reporting, and requests this one change in the Settlement Order because it encountered unexpected difficulties in setting up and implementing the auditing system contemplated by the Settlement Order. Utiliquest further represents that the proposed amendment to the Settlement Order increases the period of Company reporting and Staff oversight by four months.<sup>2</sup>

Staff has advised the Commission that it believes the Company's request will not be detrimental to the public interest or public safety and has no objection to the Motion.

NOW THE COMMISSION, upon consideration of the foregoing, is of the opinion that the Motion should be granted.

<sup>1</sup> Commonwealth of Virginia, ex rel. State Corporation Commission v. Utiliquest, LLC, Case No. PUE-2001-00371, Settlement Order at 4, issued October 17, 2001.

<sup>2</sup> Motion at 4.

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Accordingly, IT IS ORDERED THAT:

(1) Paragraph (2)(c) of the Settlement Order be amended to change the effective dates of auditor reporting from the period November 15, 2001, through November 15, 2002, to the period March 15, 2002, through March 15, 2004.

(2) All other provisions of the Settlement Order shall remain in full force and effect.

**CASE NO. PUE-2001-00375  
SEPTEMBER 27, 2002**

APPLICATION OF  
ALLEGHENY ENERGY SUPPLY COMPANY, LLC

For a permanent license to conduct business as a competitive service provider for electric retail access

**DISMISSAL ORDER**

On September 26, 2001, Allegheny Energy Supply Company, LLC ("Allegheny" or the "Company"), was issued a license, License No. E-1, by the State Corporation Commission ("Commission") to provide competitive electric service to all classes of retail customers throughout Virginia as the Commonwealth opens up to retail access and customer choice.

By letter dated September 12, 2002 ("Letter"), Allegheny advised that it would not renew its license to supply electric service. Such renewal and the related annual fee were due on March 31, 2002.

NOW UPON CONSIDERATION of Allegheny's Letter and having been advised by its Staff, the Commission is of the opinion and finds that the Company's current license, License No. E-1, has expired. As a result, Allegheny is no longer authorized to act as a competitive service provider in Virginia.

Accordingly, IT IS ORDERED THAT:

(1) Allegheny's license, License No. E-1, is hereby revoked without prejudice to the Company should it reapply to the Commission for a new license as a CSP.

(2) This case is hereby dismissed.

**CASE NO. PUE010398  
FEBRUARY 7, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION

v.

UTILIQUEST, LLC,  
Defendant

**ORDER OF SETTLEMENT**

Pursuant to § 56-265.30 of the Code of Virginia, the Virginia State Corporation Commission ("Commission") is charged with enforcing the provisions of the Underground Utility Damage Prevention Act, §§ 56-265.14 *et seq.* of the Code of Virginia (Act"). The Commission's Division of Energy Regulation ("Division"), charged with the investigation of probable violations of the Act, has completed investigations of certain incidents between January 11, 2001, and May 29, 2001, listed in Attachment A, involving Utiliquest, LLC ("Company"), and alleges that:

- (1) The Company is a contract locator as that term is defined in § 56-265.15 of the Code of Virginia;
- (2) During the aforementioned period the Company violated the Act by committing the following violations:
  - (a) Failing on certain occasions to mark the approximate horizontal location of the underground utility lines on the ground to within two feet of either side of the underground utility lines, in violation of §§ 56-265.19 A and D of the Code of Virginia.
  - (b) Failing on certain occasions to mark within the time prescribed in the Act, in violation of § 56-265.17 B and §§ 56-265.19 A and D of the Code of Virginia.
  - (c) Failing on certain occasions to report to the notification center that lines had been marked or that they were not in conflict with the proposed excavation, in violation of §§ 56-265.19 A, B, and D of the Code of Virginia.

As evidenced in the attached Admission and Consent document, the Company neither admits nor denies these allegations but admits the Commission's jurisdiction and authority to enter this Order. As an offer to settle all matters before the Commission arising from the Division's allegations made herein, which includes all probable violations presented to the Underground Utility Damage Prevention Advisory Committee on July 10, 2001, and set out in Attachment A hereto, the Company represents and undertakes that it will pay a civil penalty to the Commonwealth of Virginia in the amount of

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\$22,350 to be paid contemporaneously with the entry of this Order. This payment will be made by cashier's check or money order, payable to the Treasurer of Virginia and directed to the attention of the Director of the Division of Energy Regulation.

The Commission, being advised by the Staff and finding sufficient basis herein for the entry of this Order, hereby accepts this settlement.

Accordingly, IT IS ORDERED THAT:

- (1) Pursuant to the authority granted the Commission by § 12.1-15 of the Code of Virginia, the offer of settlement made by the Company be, and it hereby is, accepted.
- (2) The sum of \$22,350 tendered contemporaneously with the entry of this Order is accepted.
- (3) The case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. PUE010399  
FEBRUARY 7, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION  
v.  
CENTRAL LOCATING SERVICE, LTD.,  
Defendant

**ORDER OF SETTLEMENT**

Pursuant to § 56-265.30 of the Code of Virginia, the Virginia State Corporation Commission ("Commission") is charged with enforcing the provisions of the Underground Utility Damage Prevention Act, §§ 56-265.14 *et seq.* of the Code of Virginia ("Act"). The Commission's Division of Energy Regulation ("Division"), charged with the investigation of probable violations of the Act, has completed investigations of certain incidents between February 14, 2001, and May 22, 2001, listed in Attachment A, involving Central Locating Service, Ltd. ("Company"), and alleges that:

- (1) The Company is a contract locator as that term is defined in § 56-265.15 of the Code of Virginia;
- (2) During the aforementioned period the Company violated the Act by committing the following violations:
  - (a) Failing on certain occasions to mark the approximate horizontal location of the underground utility lines on the ground to within two feet of either side of the underground utility lines, in violation of §§ 56-265.19 A and D of the Code of Virginia.
  - (b) Failing on certain occasions to mark within the time prescribed in the Act, in violation of § 56-265.17 B and §§ 56-265.19 A and D of the Code of Virginia.
  - (c) Failing on certain occasions to report to the notification center that lines had been marked or they were not in conflict with the proposed excavation, in violation of §§ 56-265.19 A, B, and D of the Code of Virginia.

As evidenced in the attached Admission and Consent document, the Company neither admits nor denies these allegations but admits the Commission's jurisdiction and authority to enter this Order. As an offer to settle all matters before the Commission arising from the Division's allegations made herein, which includes all probable violations presented to the Underground Utility Damage Prevention Advisory Committee on July 10, 2001, and set out in Attachment A hereto, the Company represents and undertakes that it will pay a civil penalty to the Commonwealth of Virginia in the amount of \$29,450 to be paid contemporaneously with the entry of this Order. This payment will be made by cashier's check or money order, payable to the Treasurer of Virginia and directed to the attention of the Director of the Division of Energy Regulation.

The Commission, being advised by the Staff and finding sufficient basis herein for the entry of this Order, hereby accepts this settlement.

Accordingly, IT IS ORDERED THAT:

- (1) Pursuant to the authority granted the Commission by § 12.1-15 of the Code of Virginia, the offer of settlement made by the Company be, and it hereby is, accepted.
- (2) The sum of \$29,450 tendered contemporaneously with the entry of this Order is accepted.
- (3) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. PUE-2001-00422  
JUNE 7, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION

Ex Parte: In the matter concerning the Rules Governing Certification and Maintenance of Notification Centers

**ORDER ADOPTING RULES**

This Order promulgates revised rules governing the certification and maintenance of notification centers. In 1989, the General Assembly amended § 56-265.16:1 of the Code of Virginia ("Code") and directed the State Corporation Commission ("Commission") to promulgate rules governing the certification of notification centers. Thereafter, the Commission adopted Rules Governing the Certification of Notification Centers ("existing rules"), effective October 3, 1990.<sup>1</sup>

The 2001 General Assembly further amended § 56-265.16:1 of the Code effective July 1, 2001. See 2001 Va. Acts ch. 399. As amended, § 56-265.16:1 D of the Code provides that:

Every Commission action regarding the optimum number of notification centers, the geographic area to be served by each notification center, the promulgation of notification center regulations, and the grant, amendment, or revocation of notification center certifications shall be made in furtherance of the purpose of preventing or mitigating loss of, or damage to, life, health, property or essential public services resulting from damage to underground utility lines.

The statute further directs the Commission, in any action to approve or revoke any notification center certification, to:

1. Ensure protection for the public from the hazards that this chapter [Chapter 10.3 of the Code] is intended to prevent or mitigate;
2. Ensure that all persons served by the notification center receive an acceptable level of performance, which level shall be maintained throughout the period of the notification center's certification; and
3. Require the notification center and its agents to demonstrate financial responsibility for any damages that may result from their violation of any provision of this chapter. Such requirement may be met by purchasing and maintaining liability insurance on such terms and in such amount as the Commission deems appropriate.

In accordance with the amended statute and to facilitate the review of our currently-effective rules, we entered an Order Establishing Investigation and Inviting Comments on July 30, 2001. This Order solicited public comment on a number of issues (Attachment A to the Order) relating to certification, operation, and maintenance of a notification center and encouraged interested parties to propose rules corresponding to the issues set forth in Attachment A to the Order. The Order also provided for the publication of notice of the investigation and rulemaking; it also instructed the Staff to file a report summarizing and responding to the comments filed in the proceeding and proposing revisions to the rules adopted in 1990, where appropriate.

The Staff filed its report in this proceeding on November 9, 2001. This report summarized the filed comments, discussed the development of the rules governing the certification of notification centers in Virginia, reviewed national "best practices" relative to operation and maintenance of a notification center, and proposed specific revisions and additions to the existing rules.

On November 14, 2001, the Commission entered an Order inviting interested persons to file comments or request a hearing on the Staff's proposed "Rules Governing the Certification and Maintenance of Notification Centers" attached to that Order.

In response to this Order, we received comments from parties that included vendors assisting the existing notification centers, the currently-certificated notification centers, excavators, and operators. The Virginia Underground Utility Protection Service, Inc. ("VUUPS"), and Northern Virginia Utility Protection Service, Inc. ("NVUPS"), filing jointly, and One Number Information Systems, Inc. ("ONIS") requested a hearing on various rules proposed by the Staff. Many of those filing comments reserved the right to participate in any further proceedings in this matter.

Accordingly, by Order of January 16, 2002, and Amending Order of February 7, 2002, we scheduled a public hearing for March 6, 2002. These procedural orders directed Staff to prefile its direct testimony on February 5, 2002, and the parties to file either testimony or statements adopting their comments on February 15, 2002. Parties planning to adopt their comments and not planning to add any additional comments or testimony were directed to notify the Commission in writing of such intent on or before February 25, 2002. The Staff was further ordered to prefile its rebuttal testimony, if any, by February 15, 2002.

A public hearing on the proposed rules was convened before the Commission on March 6, 2002. Mark I. Singer, Executive Director of the Virginia Utility & Heavy Contractors Council; Johnnie Barr, Vice President of Ward & Stancil, Incorporated, a site development contractor; and Gray Pruitt, a contractor, testified as public witnesses. Testimony was presented by witnesses for Staff, One Call Concepts, Inc. ("OCCI"), Washington Gas Light Company ("WGL"), Verizon Virginia Inc. and Verizon South Inc. (collectively, "Verizon"), Appalachian Power Company d/b/a American Electric Power ("APCO"), ONIS, the cooperatives,<sup>2</sup> Virginia Power, and VUUPS and NVUPS.

<sup>1</sup> See Commonwealth of Virginia, At the relation of the State Corporation Commission, Ex Parte: In the matter of adopting Rules Governing the Certification of Notification Centers pursuant to § 56-265.16:1 of the Code of Virginia, Case No. PUE-1990-00033, 1990 S.C.C. Ann. Rept. 344.

<sup>2</sup> The cooperatives consist of A&N Electric Cooperative, BARC Electric Cooperative, Central Virginia Electric Cooperative, Community Electric Cooperative, Craig-Botetourt Electric Cooperative, Mecklenburg Electric Cooperative, Northern Neck Electric Cooperative, Inc., Northern Virginia Electric

The Commission invited counsel to file post-hearing briefs three weeks after the transcript was filed in this case, *i.e.*, by April 18, 2002. Post-hearing briefs were jointly filed by VUUPS and NVUPS, and by Virginia Power, Verizon, APCO, WGL, OCCI, ONIS, and the Staff.

NOW, upon consideration of all comments received, the evidentiary record, the post-hearing briefs, and the applicable law, the Commission is of the opinion and finds that the Rules set out in Attachment A hereto should be adopted, effective June 7, 2002. We commend the participants in the proceeding for their cooperation in focusing the issues we are called upon to decide.

As is evident from Attachment A, we have reorganized the rules into three distinct parts:<sup>3</sup> Subsection A of the rules addresses matters of general applicability to the notification centers; subsection B details the information required in an application to obtain a certificate for a notification center; and subsection C delineates the operational standards for such centers.

While we will not comment on all of the revisions we have made to the rules proposed by the Staff, we will address the following provisions of the amended rules that, in our opinion, merit additional discussion and were the subject of comment and testimony at the hearing: subdivisions 20 VAC 5-300-90 A 6,<sup>4</sup> 90 B 3(e); 90 C 18; 90 A 11; 90 A 13; and 90 B 3(c). We will also discuss VUUPS' and NVUPS' proposal to require notification centers to be operated by employees of the certificate holder and on a not-for-profit basis (Exhibit 7). Additionally, we will address the filing requirements of Rule 90 A 8 for notification centers using or planning to use agents or vendors to provide the primary notification service. Finally, we will discuss new Rule 90 A 14 that permits the waiver of these rules under certain conditions in furtherance of the purposes of § 56-265.16:1 of the Code of Virginia.

#### Rules 90 A 6 (Staff Proposed Rule F 19), 90 B 3(e), and 90 C 18 - Performance Standards for Notification Centers

Staff's proposed Rule 90 F 19 would require that the performance levels recommended by the U.S. Department of Transportation's "Common Ground Study of One-Call Systems and Damage Prevention Best Practices" Report (the "Common Ground Report") ("best practices") be achieved by each center. VUUPS and NVUPS, among others, oppose the *carte blanche* application of these performance standards to all notification centers in Virginia.

We agree that performance standards for a notification center are essential to ensure that a notification center complies with the requirement of subsection D of § 56-265.16:1 relative to the provision and maintenance of acceptable performance throughout the period of a notification center's certification. We will therefore adopt Rule 90 A 6 that requires each notification center to have and meet performance standards approved by the Commission in order to promote accuracy, cost effectiveness, operational efficiency, and customer satisfaction. Applicants for a certificate must include proposed standards as part of their applications. Currently-certificated notification centers must file their performance standards within 60 days of the effective date of this section with the Commission for approval. Rule 90 B 3(e) incorporates by reference the requirements of subsection 90 A 6 discussed above.

The "best practices" standards are retained as a benchmark for performance in Rule 90 C 18, in that certificated notification centers must compare their performance standards to the best practice standards then in effect as part of their periodic reports to the Commission. Standards of performance may be changed on motion of the notification center, the Commission, or Staff, after notice and an opportunity to be heard. See Rule 90 A 6. These rules provide flexibility to a notification center and the Commission to vary requirements from the "best practices" set forth in the then-current Common Ground Report.

#### Rule 90 A 11 (Staff Proposed Rule 90 P) - Composition of a Notification Center's Governing Body

As proposed by Staff, Rule 90 P provides that the center's governing body be made up of representatives of all stakeholders including various utility types, excavators, locators, local governments, and the Virginia Department of Transportation.

NVUPS and VUUPS, WGL, APCO, and Virginia Power asserted in testimony and argument that as members of the notification centers, operators are financially responsible for, and have a special interest in, the operation of notification centers. These and other operator participants in this proceeding assert that the composition of a notification center's governing body should be left solely to the notification center's discretion.

The record before us indicates that many notification centers throughout the country include non-operator representatives as part of their governing bodies. See Exhibit 19. Indeed, VUUPS, the certificated notification center for areas south of the Rappahannock River, has one non-operator member sitting on its board. Transcript at 226-227. Public witness Mark Singer explained the benefits of non-operator participation as part of the governing bodies of notification centers. Transcript at 44-48. We require in Rule 90 A 11 that at least 20 percent of the voting members of the notification center's governing body be composed of individuals who are not utilities or operators; nor may such individuals be employed by a utility or an operator.<sup>5</sup> In adopting such a rule, we recognize the value non-operator members may offer to the governing body of a notification center, and also preserve the important interests of operators in formulating notification center policies by permitting the great majority of the governing body of a notification center to be made up of operators or their representatives.

Cooperative, Powell Valley Electric Cooperative, Prince George Electric Cooperative, Rappahannock Electric Cooperative, Shenandoah Valley Electric Cooperative, Southside Electric Cooperative, and the Virginia, Maryland & Delaware Association of Electric Cooperatives.

<sup>3</sup> In addition to the reorganization, we have made a number of changes to the proposed rules. Most of these changes are for clarification purposes or changes in form.

<sup>4</sup> For ease of reference, the designation 20 VAC 5-300 will be dropped. The reader should assume this is the title and chapter for all rules discussed in this Order unless specifically stated otherwise. For example, when the Order refers to "Rule 90 A 6," it should be understood that this refers to 20 VAC 5-300-90 A 6.

<sup>5</sup> As defined in § 56-265.15 of the Underground Utility Damage Prevention Act, Chapter 10.3 (§ 56-265.15 *et seq.*) of Title 56 of the Code, an "Operator" means any person who owns, furnishes or transports materials or services by means of a utility line."

Rule 90 A 13 (Current Rule 90 J) - Suspension or Revocation of a Notification Center's certificate

Current Rule 90 J provides that excessive complaints against a certificated notification center or violations of the rules are grounds for suspension or revocation of a notification center's certificate. Staff proposed a change that would make a single violation of the rules or a violation of the Act a basis for suspension or revocation of a center's certificate. NVUPS and VUUPS opposed this revision and presented testimony that the rule would have the effect of allowing the Commission to revoke a certificate for a single violation of the rules or the Act without giving the certificate holder an opportunity to remedy the violation. They argued in their post-hearing brief that the Commission should adopt a rule applying the procedures permitted by § 56-265.6 of the Code. Post-Hearing Brief of NVUPS and VUUPS at 9-10. According to these parties, this procedure would give notification centers an opportunity to defend their performance and correct any performance found to be inadequate by the Commission.

We disagree that such a procedure is appropriate. Section 56-265.16:1 D of the Code instructs the Commission that its actions regarding the promulgation of notification center certification regulations, and the grant, amendment, or revocation of notification center certifications shall be made in furtherance of the purpose of preventing or mitigating loss of, or damage to, life, health, property, or essential public services resulting from damage to underground utility lines. This statute directs that any Commission action to approve or revoke any notification center certification shall (i) ensure protection for the public from the hazards the Act is intended to prevent or mitigate, (ii) ensure that all persons served by the center receive an acceptable level of performance and maintenance of this level of performance throughout the period of the notification center's certification, and (iii) require the notification center and its agents to demonstrate financial responsibility for damages that may result from their violation of any provisions of the Act.

We have revised Rule 90 A 13 to include the statutory principles identified in § 56-265.16:1 D, *i.e.*, we may suspend or revoke a notification center's certificate as a result of a violation of the section, a Commission order, or the Act if we find that the notification center or its agent or vendor has not, or is not currently, or cannot in the future: (1) ensure protection for the public from the hazards the Act is intended to prevent or mitigate, (2) ensure that all persons served by the center receive an acceptable level of performance, and (3) be financially responsible for any damages that may result from the center's violation of the law or rules. Rule 90 A 13 provides that the center will be given notice of the allegations against it and provided an opportunity to be heard before we make a determination affecting a notification center's certification. During such a proceeding, a center may present its defense and any actions it has taken or intends to take relative to the allegations made against it, and may make its arguments why suspension or revocation of the certificate should not occur.

Finally, we have revised Rule 90 A 13 to remove the reference to excessive complaints. Numerous complaints against a center in and of themselves should not be the basis for suspension or revocation of a certificate. Only if the criteria identified in § 56-265.16:1 D and Rule 90 A 13 are imperiled should the extreme remedy of suspension or revocation of a certificate be available for consideration.

Rule 90 B 3(c) (Existing Rule 90 I) - Support for an Application for a Certificate

Existing Rule 90 I ("51% rule") permits the filing of an application for a certificate to operate a notification center to be submitted for any geographic area (i) for which a certificate has been previously granted by the Commission, or (ii) in which a notification center exempt from the requirements of § 56-265.16:1 of the Code is currently operating, if such application is supported by the operators of the underground facilities responsible for more than half of the ticket volume applicable to Virginia of the existing notification center during the most recent 12-month period preceding the filing of the application for which data is available. Staff recommended that this rule be deleted. The operators participating in this proceeding and NVUPS and VUUPS support the retention of this rule.

In our view, the 51% rule should not be retained. A notification center must be able to ensure that "all persons" it serves receive an acceptable level of performance. *See* § 56-265.16:1 D 3 of the Code. Consequently, Rule 90 B 3(c) provides that applicants for a notification center must file material detailing the support of persons who may be impacted by the services provided by the notification center, *i.e.*, excavators, operators, contract locators, property owners, and localities, not only the operators responsible for ticket volumes. All persons impacted by the service are those who are "served" by the notification center. Such persons are served by way of being able to notify the center of impending excavations, receiving information regarding the status of such notices, receiving notifications of a proposed excavation, and, in turn, advising the centers that underground utilities have been marked or have no underground utility lines that may be affected by a proposed excavation. Operators, government officials, or other members of the public who may be impacted by the services provided by the notification center will have the opportunity to participate either in support of or in opposition to applications for certification in accordance with the provisions of the Commission's initial order docketing a certificate application for consideration. *See* Rule 90 B 2.

Operation of a Notification Center by employees of a certificate holder and on a non-profit basis

VUUPS and NVUPS proposed in Exhibit 7 to revise Staff's proposed Rule 90 F to require a notification center to be operated by employees of the certificate holder and on a non-profit basis. We decline to adopt these proposals. Section 56-265.16:1 of the Code does not require that notification centers be operated by employees of the certificate holder. Such a broadly-worded rule, if adopted, could foreclose a notification center from outsourcing any part of its functions, such as billing. Further, there was no showing in this record that vendors or agents could not provide a notification center's functions efficiently, economically, effectively, adequately, and in accordance with § 56-265.16:1 of the Code and these rules.

We further decline to adopt a rule requiring notification centers to be operated on a non-profit basis. In our view, § 56-265.16:1 does not express a preference for profit or non-profit notification centers. If a for-profit notification center can perform the functions essential to a notification center efficiently, economically, effectively, adequately, and in accordance with § 56-265.16:1 of the Code and these rules, its operation should not be prohibited by regulation.

Rule 90 A 8 - Use of Agents or Vendors

Closely related to the foregoing discussion is Rule 90 A 8. This rule recognizes that notification centers may choose to use agents or vendors to provide the primary notification service. If a notification center uses an agent or a vendor to provide primary notification service, it must file information with the Commission relative to the vendor's or agent's qualifications to provide these services. The notification center retains the discretion to use vendors or agents who perform primary notification services but must under this Rule provide information about the vendor's or agent's qualifications to provide the primary notification service. In this way, the Commission may comply with the requirements of § 56-265.16:1 D.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

Rule 90 A 14 - Waiver of Rules

Rule 90 A 14 has been added to grant the Commission discretion to waive any of the provisions of the rules governing notification center certification, operation, and maintenance of notification center or centers upon such terms and conditions as we deem appropriate consistent with the provisions of § 56-265.16:1 of the Code of Virginia. We have included similar rules in other rulemakings.<sup>6</sup> Rule 90 A 14 offers the necessary flexibility to waive any provision of the rules where appropriate consistent with the provisions of § 56-265.16:1 of the Code.

Accordingly, IT IS ORDERED THAT:

- (1) The Rules governing certification, operation, and maintenance of notification center or centers, appended hereto as Attachment A, are hereby adopted, effective June 7, 2002.
- (2) A copy of this Order and the Rules adopted herein shall be forwarded to the Virginia Register of Regulations for publication.
- (3) There being nothing further to be done in this matter, this case shall be dismissed from the Commission's docket of active proceedings, and the papers filed herein shall be placed in the Commission's file for ended causes.

NOTE: A copy of Attachment A entitled "Rules Governing Certification and Maintenance of Notification Centers" is on file and may be examined at the State Corporation Commission, Clerk's Office, Document Control Center, Tyler Building, First Floor, 1300 East Main Street, Richmond, Virginia.

<sup>6</sup> An example where we have included a waiver provision in another rulemaking is Rule 20 VAC 5-200-300 A 11 of our rules governing utility rate increase applications and annual informational filings ("rate case rules") adopted in Case No. PUA-1999-00054. That rule permits the Commission the right to waive any or all parts of the rate case rules for good cause shown.

**CASE NO. PUE-2001-00423  
APRIL 29, 2002**

APPLICATION OF  
KINDER MORGAN VIRGINIA LLC

For approval of a certificate of public convenience and necessity pursuant to Va. Code § 56-265.2, an exemption from Chapter 10 of Title 56, and interim approval to make financial commitments and undertake preliminary construction work

**ORDER**

On July 26, 2001, Kinder Morgan Virginia LLC ("Kinder Morgan Virginia" or "Applicant") filed an Application with supporting testimony and exhibits requesting that the Commission grant the Applicant a certificate of public convenience and necessity pursuant to § 56-265.2 of the Code of Virginia to construct an approximately 560 megawatt natural gas-fired combined-cycle power plant ("Facility") in Brunswick County, Virginia. In addition, Kinder Morgan Virginia seeks an exemption from the provisions of Chapter 10 of Title 56, pursuant to § 56-265.2 B of the Code of Virginia, and interim approval to make financial expenditures and to undertake preliminary construction work, pursuant to § 56-234.3 of the Code of Virginia.

On August 14, 2001, the Commission entered an order requiring the Applicant to provide public notice of its Application, establishing a procedural schedule for the filing of testimony and exhibits, scheduling an evidentiary hearing, and appointing a Hearing Examiner to hear this case. The evidentiary hearing was held on November 7, 2001, before Hearing Examiner Howard P. Anderson, Jr. Donald G. Owens, Esquire, and John W. Daniel, II, Esquire, appeared on behalf of Kinder Morgan Virginia. James S. Copenhaver, Esquire, appeared on behalf of Columbia Gas of Virginia, Inc. Katharine Austin Hart, Esquire, and C. Meade Browder, Esquire, appeared on behalf of the Commission Staff. Five public witnesses testified at the hearing. On February 26, 2002, Hearing Examiner Howard P. Anderson, Jr., entered a Report in which the Examiner summarized the record, analyzed the evidence and issues in this proceeding, and made certain recommendations, including that the Application should be granted with conditions.

NOW THE COMMISSION, having considered the record, the Hearing Examiner's Report, the comments filed in response thereto, and the applicable law, is of the opinion and finds as follows. This case, at this juncture, must be remanded to the Hearing Examiner for further proceedings with respect to consideration of the environment. We ask the Hearing Examiner to expedite this matter consistent with the need to develop an appropriate record as discussed below. We also find that Kinder Morgan Virginia may make financial expenditures and undertake certain preliminary construction work on electric generating facilities without prior approval from the Commission.

The Environment

As set forth in *Tenaska*,<sup>1</sup> the Code of Virginia establishes six general criteria, or areas of analysis, that apply to electric generating plant applications.<sup>2</sup> The six criteria are as follows: (1) reliability;<sup>3</sup> (2) competition;<sup>4</sup> (3) rates;<sup>5</sup> (4) environment;<sup>6</sup> (5) economic development;<sup>7</sup> and (6) public

<sup>1</sup> *Application of Tenaska Virginia Partners, LP, For approval of a certificate of public convenience and necessity pursuant to Virginia Code § 56-265.2, an exemption from Chapter 10 of Title 56, and interim approval to make financial commitments and undertake preliminary construction work*, Case No. PUE-2001-00039, Order (Jan. 16, 2002) ("Tenaska").

<sup>2</sup> *Id.* at 13-14.

<sup>3</sup> Va. Code Ann. §§ 56-580 D(i) and 56-46.1 A.

interest.<sup>8</sup> As discussed below, we find that the record is incomplete with respect to the consideration of the environment.<sup>9</sup> In this regard, the Hearing Examiner found the fact that the Facility will use only natural gas as a fuel supports a finding that there should be no significant impact on air quality in the Commonwealth. The Hearing Examiner also noted that air quality was not an issue in this case, that Brunswick County is an attainment area in regard to air quality, and that there are no other generating facilities proposed for the area.

As found in *Tenaska*, we interpret Virginia law as requiring us to consider the cumulative impacts of other facilities, together with the Applicant's Facility, on the existing air quality in the area that may be impacted by the Facility. Though the issue of cumulative air impacts was not raised at the hearing, the requirement that we consider such impacts remains. In *Tenaska*, we explained that changes in circumstances and the law in recent years required that we review our approval of the construction and operation of new generating facilities. We concluded, as we do here, that we cannot comply with our statutory obligations, implement constitutional policy, and consider properly the impact of the Facility on the environment without addressing the cumulative impact issue.

Accordingly, for us to consider adequately the environmental impacts of the proposed Facility, we must consider cumulative impacts. An appropriate record, however, has not been developed on this issue. For example, the record does not address the existing air quality with respect to various criteria pollutants, or the cumulative impact on existing air quality for criteria pollutants from the Facility and other proposed facilities that will add to such pollutants. As we found in *Tenaska*, we must first know where on the continuum of air quality the area impacted by the Facility falls for each criteria pollutant. General terms such as "attainment" are not sufficient; we need to know, for example, how close current air quality is to "nonattainment." We also need to know what impact the Facility and other facilities, including proposed electric generating units and other major facilities, may have on the area.

Consistent with our explanation in *Tenaska*, for purposes of such analyses, decisions must be made as to which proposed facilities to consider and how a study should be structured and implemented. As also discussed in *Tenaska*, our hope remains that interested parties, Staff, and the Department of Environmental Quality ("DEQ") could help establish how these issues might be best addressed as promptly as practicable.

We emphasize that we do not desire to delay construction. Rather, we must address the important issues discussed in this order and carry out our statutory obligations. As noted above, we request the Hearing Examiner to expedite this matter consistent with the need to develop an appropriate record as discussed herein so that the Hearing Examiner can make meaningful recommendations on these issues.

#### Senate Bill No. 554

We also recognize that the General Assembly recently passed Senate Bill No. 554 ("SB 554"), which places additional requirements and limitations on this Commission's review of proposed electric generating facilities. SB 554 requires the Commission to enter into a memorandum of agreement with the DEQ regarding the coordination of reviews of environmental impact of electric generating plants and associated facilities. The Commission looks forward to working cooperatively with the DEQ to conclude the agreement as soon as practicable.

SB 554 also requires the Commission, in order to avoid duplication of governmental activities, to defer to other governmental entities in certain circumstances. Though SB 554 is not yet effective, we emphasize that matters referenced in SB 554 that (i) are governed by a permit or approval, or (ii) are within the authority of and were considered by the governmental entity issuing a permit or approval, are relevant to the Commission's review of the Facility and will be fully considered in our determination. Indeed, § 56-46.1 A requires us to give consideration to all reports that relate to a proposed facility by state agencies concerned with environmental protection. It is not our intent to duplicate activities already undertaken by other governmental entities.

#### Interim Approval

The Hearing Examiner also recommended that the Commission grant Kinder Morgan Virginia interim approval under § 56-234.3 to make financial expenditures and to undertake preliminary construction work. We take this opportunity to affirm that Va. Code Ann. § 56-580 D supplants §§ 56-234.3 and 56-265.2 in the Commission's approval process for electric generating facilities on and after January 1, 2002.<sup>10</sup> Indeed, in recently ruling on an issue of first impression, we concluded that an applicant may commence certain preliminary construction work on electric generating facilities without prior approval from the Commission.<sup>11</sup> We did not, however, permit construction of any permanent structure absent prior approval from the Commission.

Likewise, we find that Kinder Morgan Virginia may make financial expenditures and undertake preliminary construction work on electric generating facilities without prior approval from the Commission. No construction of a permanent structure, however, may be undertaken without

<sup>4</sup> Va. Code Ann. § 56-596 A.

<sup>5</sup> Va. Code Ann. §§ 56-580 D(ii); 20 VAC 5-302-20 14. See also *Tenaska* at 15-16, n.15; *Ex Parte: In the matter of amending filing requirements for applications to construct and operate electric generating facilities*, Case Nos. PUE-2001-00313 and PUE-2001-00665, Order Adopting Rules and Prescribing Additional Notice at 6 (Dec. 14, 2001).

<sup>6</sup> Va. Code Ann. §§ 56-580 D and 56-46.1 A.

<sup>7</sup> Va. Code Ann. §§ 56-46.1 and 56-596 A.

<sup>8</sup> Va. Code Ann. §§ 56-580 D(ii).

<sup>9</sup> We recognize that the *Tenaska* decision was issued subsequent to the hearing in this case.

<sup>10</sup> See, e.g., *Ex Parte: In the matter of amending filing requirements for applications to construct and operate electric generating facilities*, Case Nos. PUE-2001-00313 and PUE-2001-00665, Order Adopting Rules and Prescribing Additional Notice at 2 (Dec. 14, 2001); *Ex Parte: In the matter of amending filing requirements for applications to construct and operate electric generating facilities*, Case No. PUE-2001-00313, Order at 5 (Aug. 3, 2001).

<sup>11</sup> *Application of Chickahominy Power, LLC, For authority to construct and operate an electric generating facility in Charles City County*, Case No. PUE-2001-00659, Order for Notice and Hearing (Feb. 7, 2002).



Commission approval. Any financial expenditures or preliminary construction is at the sole risk of the Applicant. The Applicant still must comply with any statute, ordinance, rule, or regulation affecting its proposed activity. The Applicant also proceeds at the risk that subsequent orders by the Commission, if warranted and supported by the record developed in this proceeding, may adversely affect any action taken by the Applicant prior to receiving a certificate.

Accordingly, IT IS ORDERED THAT:

(1) Kinder Morgan Virginia may make financial expenditures and undertake certain preliminary construction work on electric generating facilities without prior approval from the Commission.

(2) This matter is remanded to the Hearing Examiner for further proceedings and recommendations as set forth herein.

**Morrison, Commissioner, DISSENTING OPINION.**

I must respectfully dissent to the Majority's decision to remand this case for further proceedings before the Hearing Examiner in order to give more consideration to the impact of this facility on the environment.<sup>1</sup> The Majority relies upon its decision in the Tenaska Case, decided January 16, 2002, and concluded ". . .that we cannot comply with our statutory obligations, implement constitutional policy, and consider properly the impact of the facility on the environment without addressing the cumulative impact issue."

In Tenaska, I authored a lengthy Dissenting Opinion, and much of its content is applicable here in explanation of this Dissent. With that reference, I shall not add to the length of this order by repeating in such detail my reasons for objecting to the Majority's decision to remand this case.

As was the case in the Tenaska Remand, here the Majority imposes the requirement that "cumulative impacts" of air emissions be "considered." This is a substantial additional and, I believe, different standard for adjudication of this Application, and its imposition comes long after the hearing and the close of the evidentiary record. It occurs with no change in the statutory law, nor a change in any regularly promulgated Rule or Regulation of this Commission. It is in this sense that I consider the Order of the Majority to be contrary to the law. Moreover, it is obviously entered without evidence to support it, for the issue of cumulative air impacts was not raised by a single participant or public witness in the case. Participants in this case and the two other similar cases decided today may understandably feel victimized by this sort of retroactive judicial rulemaking, a misadventure which strikes me as offending due process and the provisions of § 12.1-28.<sup>2</sup>

In this case and the two others decided today, there is a striking similarity in the universality of support within the respective communities. That support includes the enthusiastic reception by the respective units of local government. The locations of the facilities are in areas of the Commonwealth that have experienced considerable economic stress which will be ameliorated by the economic benefits derived from their construction. The records show that the resulting increase in the local property tax base is badly needed. Assuming that all three facilities are eventually constructed in the face of the consequences caused by the Majority Remand, the delays in construction may well cause economic loss to be suffered not only by the Applicants, but also by the respective local economies, both in the public and private sectors.

This degree of economic loss might well be justified if this facility and the two others like it threatened any significant harm to the environment. The Hearing Examiners found that the evidence in these cases showed no such threat to the air quality in the Commonwealth.

What then is the overarching mandate felt by the Majority to cause either delay or abandonment of these proposed natural gas-fueled facilities? It is simply the Majority Order in the Tenaska Remand and its underlying interpretation by my colleagues that Virginia law requires this Commission ". . .to consider the cumulative impacts of other facilities, together with the Applicant's facility, on the existing air quality in the area that may be impacted by the facility." Obviously, I continue to disagree with such interpretation. So did the General Assembly.

Senate Bill 554 passed by the Legislature during its most recent Session (*Acts of Assembly 2002*, Ch. 483) amended §§ 56-46.1 and 56-580 of the Code, the sources of the recently discovered requirements devolving upon us to consider the cumulative impacts of an Applicant's facility with other facilities on existing air quality. I believe it is clear that the thrust of the 2002 Amendments is that we are not to duplicate the functions of environmental agencies by involving ourselves with environmental issues that are subsumed by permits or approvals issued or to be issued by appropriate agencies as are within their authority and considered by them.

The Majority Order discusses SB 554 as if it is something of a balancing mechanism to divide the consideration of environmental issues between this Commission and environmental agencies of the Commonwealth. The Majority states that the bill ". . .places additional requirements and limitations on this Commission's review of proposed electric generating facilities." I find no additional requirements for environmental consideration in the language of the Bill; the requirement on this Commission is that it enter into the Memorandum of Agreement with the Department of Environmental Quality, as stated by the Majority; otherwise, the Bill largely eviscerates the mandate of the Tenaska Remand decision by its limitations on this Commission's actions with regard to environmental issues properly, and more appropriately, falling within the purview of other agencies.

The Majority's discussion of SB 554 omits any recognition of one of its portions bearing directly on the cumulative impact issue. In addition to amending the two Code Sections in Title 56, the Bill created a new Code Section, § 10.1-1186.2:1. Paragraph A. of that Section provides as follows:

The Department and the State Air Pollution Control Board have the authority to consider the cumulative impact of new and proposed electric generating facilities within the Commonwealth on attainment of the national ambient air quality standards.

<sup>1</sup> The Majority Order remanding this case has been entered coincidentally with orders remanding Case Nos. PUE-2001-00430, Application of Mirant Danville, LLC, and PUE-2001-00169, Application of CinCap Martinsville, LLC. Because all three orders are substantially identical, this Dissenting Opinion is likewise filed in those cases.

<sup>2</sup> See Dissenting Opinion, Jan. 16, 2002 in Application of Tenaska Virginia Partners, LP, Case No. PUE-2001-00039 for discussion of application of § 12.1-28 in the context of the pending Rules proceeding, PUE-2001-00665.

It would be implausible to suppose that DEQ and the Air Pollution Control Board would not have the authority to consider the cumulative impact of proposed generating facilities without this new statute. Rater than a delegation of new powers to these agencies, it is a delineation of functions between them and this Commission, being necessary, I am afraid, because of our recent quixotic appropriation of their functions signaled by our Rules proceeding, PUE-2001-00665, and executed by the Tenaska Remand Order.

With such a clear statement of legislative intent that this Commission stay out of the cumulative impact issue, it is difficult to understand why the Majority stubbornly clings to a recently invented requirement that we consider the cumulative impacts of various facilities when probably we will be foreclosed from doing so in about two months hence when SB 554 becomes effective.

The Remands of this Case and the two others like it raise a number of questions. If the Applicants continue to pursue the projects, will the limiting nature of SB 554 be observed? Will the answer to that question depend upon when the remand hearings are held? At remand hearings, should the Applicant attempt to satisfy the cumulative impact issue as demanded by the Majority, or as may be hereafter required by the State Air Pollution Control Board by virtue of new Code § 10.1-1186.2:1, or both? Is the answer to these questions in part dependant upon the terms of the working agreement to be entered into by this Commission and DEQ, even though there is not even a first cut draft for Applicants to review at this time? Since the Majority expects the Hearing Examiners in these cases to expedite the matters, will the Hearing Examiners be so lenient as to postpone the all-important ". . .development of an appropriate record" until after July 1, 2002, if requested by an Applicant or Applicants? Even in such a case, will a majority of this Commission decide a case coming back from Remand under the law as it existed at the time the Application was filed, or as it has been changed by SB 554 during the course of the proceedings? Would one or more of these Applicants be well advised to consider seeking a dismissal of the Application without prejudice in order to start again with a new Application clearly governed by the provisions of SB 554?

I believe these imponderables further illustrate how unfair it is to Applicants in these cases to remand at this time. No one can seriously contend that any of these projects will have more than a minimal effect on ambient air quality, whether measured by current Air Control Board procedures or on some cumulative impact basis. One might wonder if this Commission in its Majority Order fully appreciates the large capital expense to the Applicants involved in the development of the projects to this point, in processing the Applications thus far, and how much more costly it will be because of this unnecessary delay.

The better course, I submit, is to approve these three Applications coincidentally decided.<sup>3</sup> I would also use this opportunity to announce that any pending applications for electric generation facilities, and any such applications hereafter filed before July 1, 2002, will be considered consistent with the provisions of SB 554. Although there may not be an occasion for such policy to apply, it would ensure that the kind of uncertainty and confusion described herein would occur no more.

In addition to its supposed "statutory obligations," the Majority claims it is duty bound to "implement constitutional policy" by addressing the cumulative impact issue.

I must reiterate that this represents to me a complete misunderstanding of this Commission's role with respect to Article XI of the Virginia Constitution. Section 1 of Article XI states that ". . .it shall be the policy of the Commonwealth to conserve, develop, and utilize its natural resources, its public lands, and its historical sites and buildings." The last sentence of that Section provides:

Further, it shall be the Commonwealth's policy to protect its atmosphere, lands and waters from pollution, impairment or destruction for the benefit, enjoyment and general welfare of the people of the Commonwealth.

If this Section were self-executing, read literally, no amount of pollution or impairment from any source could be permitted. Not only could generation facilities not be permitted, prosecuting attorneys should seek to enjoin the operation of all generation plants. Indeed, no internal combustion engine should be permitted to operate.

This Section has been held not to be self-executing.<sup>4</sup> Moreover, the provisions of the succeeding Section avoid the apparent absurdity of a literal interpretation of that policy. Section 2 of Article XI provides that such policy is to be implemented by the General Assembly. As I attempted to explain in my Dissenting Opinion in Tenaska, the General Assembly has enacted innumerable statutes and created various agencies in the implementation of the conservation policies broadly set forth in § 1 of Article XI. In fact, SB 554 is yet another example. It is so fundamental as to warrant no citation that the State Corporation Commission has no inherent power. To the extent we are required to consider environmental matters, that duty is delegated to us by the General Assembly, not directly to us from the Constitution.

The Majority Order speaks of a need to develop "an appropriate record" from which "we must first know where on the continuum of air quality the area impacted by the facility falls for each criteria pollutant." The Majority also thinks it is necessary to know "how close current air quality is to 'nonattainment'."

I am puzzled to know just what we are to do with this information. As I have stressed before, we have no particular expertise among ourselves or our staff to evaluate air quality matters, much less the authority to do so. If this facility and others under consideration do not violate air quality standards, as set by federal and state environmental agencies, by what measurement is the Majority prepared to impose a different standard? It seems to me that any denial based upon standards other than those determined by other appropriate agencies necessarily will be arbitrary and capricious.

<sup>3</sup> I would approve the Application in Case No. PUE-2001-00430, even though the Applicant has filed Notice that it is attempting to find a suitable developer for the project. If another entity acquires Mirant Danville, LLC, it will succeed to its rights under a CPCN; if Mirant itself is not purchased, any successor would be required to obtain a CPCN for the construction or operation of the facility.

<sup>4</sup> *Robb v. Shockoe Slip Foundation*, 228 Va. 678, 324 S.E. 2<sup>d</sup> 674 (1985).

**CASE NO. PUE-2001-00423  
NOVEMBER 1, 2002**

APPLICATION OF  
KINDER MORGAN VIRGINIA, LLC

For approval of a certificate of public convenience and necessity pursuant to Va. Code § 56-265.2, an exemption from Chapter 10 of Title 56, and interim approval to make financial commitments and undertake preliminary construction work

**DISMISSAL ORDER**

On July 26, 2001, Kinder Morgan Virginia LLC ("Kinder Morgan Virginia" or the "Company") filed an application with supporting testimony and exhibits requesting that the State Corporation Commission ("Commission") grant the Company a certificate of public convenience and necessity pursuant to § 56-265.2 of the Code of Virginia ("Code") to construct an approximately 560 megawatt natural gas-fired combined-cycle power plant in Brunswick County, Virginia. Pursuant to § 56-265.2 B of the Code, Kinder Morgan Virginia sought an exemption from the provisions of Chapter 10 of Title 56 of the Code. In addition, the Company sought interim approval to make financial expenditures and to undertake preliminary construction work pursuant to § 56-234.3 of the Code.

The Commission entered an order in this matter on August 14, 2001, requiring Kinder Morgan Virginia to provide public notice of its application, assigning a Hearing Examiner to conduct further proceedings, and establishing a procedural schedule.

The Department of Environmental Quality ("DEQ") coordinated an environmental review of the application by DEQ and other interested state agencies and Brunswick County, Virginia. DEQ prepared a report on the potential impacts to natural resources from construction and operation of the proposed power plant and associated facilities, as well as recommendations for minimizing those impacts ("DEQ Report"), which was filed on October 3, 2001.

On October 19, 2001, the Company filed supplemental testimony pertaining to its application. On October 26, 2001, the Commission Staff ("Staff") filed direct testimony regarding its analysis of the application with a copy of the DEQ Report attached. Kinder Morgan Virginia filed rebuttal testimony on October 31, 2001. An evidentiary hearing was held on November 7, 2001, before Hearing Examiner Howard P. Anderson, Jr.

The Hearing Examiner entered a Report and a Report on Remand on February 26, 2002, and August 13, 2002, respectively.<sup>1</sup> These reports summarized the record, analyzed the evidence and issues in this proceeding, and made recommendations, including that the application should be granted with certain conditions.

On October 29, 2002, Kinder Morgan Virginia filed a Motion to Withdraw Application ("Motion"). The Motion states that Kinder Morgan Virginia has decided that the Company will not go forward with the construction of the proposed facility. The Motion requests that no further consideration be given to the Company's application and that Kinder Morgan Virginia be permitted to withdraw it.

NOW THE COMMISSION, having considered the Motion is of the opinion and finds that Kinder Morgan Virginia should be allowed to withdraw its application for the proposed facility. We will grant the Motion and dismiss this matter without prejudice.

Accordingly, IT IS ORDERED THAT:

(1) The Motion to Withdraw Application is hereby granted.

(2) This matter is hereby dismissed without prejudice from the Commission's docket of active proceedings, and the papers filed herein shall be placed in the Commission's file for ended causes.

<sup>1</sup> This case was remanded for further proceedings on April 22, 2002.

**CASE NO. PUE-2001-00424  
SEPTEMBER 4, 2002**

APPLICATION OF  
LAKE MONTICELLO SERVICE COMPANY

For amendment of its certificates of public convenience and necessity pursuant to Va. Code § 56-265.3 D

**FINAL ORDER**

On July 26, 2001, pursuant to § 56-265.3 D of the Code of Virginia, Lake Monticello Service Company ("Lake Monticello" or "Company") filed an application with the State Corporation Commission ("Commission") to amend its certificates of public convenience and necessity, Certificate Nos. W-197(a) and S-64(a). The current certificates designate the Company's certificated service territory as the Lake Monticello residential subdivision and two adjacent areas.

The Company applied to amend its certificates to include property adjacent to its current service territory. Upon the addition of the adjacent property, the Company's service territory would include an area generally bounded by Routes 53, 600, and 618. The Company's application also sought to include 10.4 acres of land to the south of Route 600 which is outside, but adjacent to, the general boundaries described just above. The application did not propose any changes to its tariffs, rates, rules, and regulations on file with the Commission.

On September 28, 2001, the Commission issued an Order for Notice and Comment and/or Requests for Hearing providing interested persons an opportunity to file comments and/or request a hearing on the application. The Commission received several requests for hearing from interested persons. On December 10, 2001, the Commission Staff filed a report recommending that the matter be scheduled for public hearing. By order issued December 14, 2001, the Commission set forth a procedural schedule and scheduled a public hearing for February 12, 2002, to be held in the Commission's second floor courtroom.

On February 12, 2002, a public hearing was held at the Commission before Hearing Examiner Howard P. Anderson, Jr. Anthony Gambardella appeared as counsel for Lake Monticello, and Rebecca W. Hartz appeared as counsel for the Commission Staff. Respondent Catherine E. Neelley appeared pro se. Richard P. Dowswell, General Manager of Lake Monticello Owners' Association ("LMOA"), and Joseph F. Galvin, President of LMOA and a member of the Board of Directors, also entered appearances on behalf of LMOA.

The central issue in controversy at the hearing, argued by Ms. Neelley, was what effect the requested expansion would have on the Company's ability to meet its obligations to serve the existing customers of the Lake Monticello subdivision. Ms. Neelley argued that her objection was not to the Company's expansion of its business, but was limited to ensuring that the requested expansion did not adversely affect the public interest and that the Company would meet its obligations to LMOA and the Lake Monticello property owners. Ms. Neelley agreed that the stock purchase agreement between LMOA and the Company recognized the desirability of expansion by the Company as long as there were adequate resources and there would be no effect on current rates. By way of background, the stock purchase agreement relates to AquaSource Utility, Inc.'s ("AquaSource's") purchase of Lake Monticello from the Lake Monticello Homeowners' Association in 1998.

On May 23, 2002, the Hearing Examiner issued his Report. In that Report, the Hearing Examiner found that the Company had provided adequate proof that the expansion of its service territory was in the public interest. The Hearing Examiner noted that the Company did not propose changes to its tariffs or rates on file with the Commission. The Hearing Examiner further pointed to the testimony of AquaSource, who stated their willingness and ability to expand the maximum level of service and facilities to include other areas of Fluvanna County while continuing to provide the facilities and service in the Lake Monticello community and the Company's demonstration that it has adequate water resources to provide additional service without jeopardizing existing obligations to the Lake Monticello community.

The Hearing Examiner also discussed the testimony of Staff witness Mark A. Tufaro of the Commission's Division of Energy Regulation who testified that: (i) AquaSource has the financial ability to construct the expanded facilities as it becomes necessary to provide reliable service; (ii) the application will not have an adverse impact on the reliability of the Company's provision of water and wastewater services; and (iii) the Company plans to abate the infiltration problem and upgrade its wastewater facility and, thus, should have sufficient wastewater capacity to serve its current and future customers.

The Hearing Examiner also observed that the Company is constructing facilities to expand its water treatment plant to increase the existing capacity to 1.2 MGD to meet anticipated demand, and eventually plans to upgrade its wastewater treatment facility to a capacity of 1.5 MGD. The Hearing Examiner further noted that the Company holds a Virginia Pollution Discharge Permit allowing it to discharge up to 600,000 GPD of effluent into the Rivanna River, and that the Company is involved in ongoing efforts to address its infiltration problems. Having found that the application was in the public interest, the Hearing Examiner found that the Company should be issued new certificates of public convenience and necessity incorporating the new service territory.

The Hearing Examiner recommended that the Commission enter an Order that:

- (1) Adopts the findings of his Report;
  - (2) Issues Lake Monticello Service Company new certificates of public convenience and necessity incorporating the requested service territory;
- and
- (3) Dismisses this case from its docket of active cases.

On June 13, 2002, the Company filed comments to the Hearing Examiner's Report stating its support of the findings and recommendation made in the Report and urging the Commission to grant the service territory expansion. The Company further stated that it had adequate water withdrawal authority to serve the expected growth in usage and is expanding the capacity of its water treatment facility to 1.2 MGD and the capacity of its wastewater facility to 1.5 MGD. No other comments to the Report were filed.

NOW THE COMMISSION, having considered the record, the Hearing Examiner's Report, and the comments thereto, is of the opinion and finds that the Hearing Examiner's findings and recommendations should be adopted in full. The evidence supports that the Company's application is in the public interest.

Accordingly, IT IS ORDERED THAT:

- (1) The findings and recommendations of the Hearing Examiner are accepted.
- (2) Lake Monticello Service Company shall be granted Certificate No. W-197(b) to provide water service to its existing service territory and incorporating the requested service territory.
- (3) Lake Monticello Service Company shall be granted Certificate No. S-64(b) to provide sewer service to its existing service territory and incorporating the requested service territory.
- (4) This case is hereby dismissed from the Commission's docket of active cases.

**CASE NO. PUE-2001-00427  
JULY 8, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION

v.

ROANOKE GAS COMPANY,  
Defendant

**ORDER OF SETTLEMENT**

The Accountable Pipeline Safety and Partnership Act of 1996, 49 U.S.C. § 60101 *et seq.* ("Act"), requires the Secretary of Transportation ("Secretary") to establish minimum federal safety standards for the transportation of gas and pipeline facilities. The Secretary is further authorized to delegate to an appropriate state agency the authority to prescribe safety standards and enforce compliance with such standards over gas pipeline facilities used for intrastate transportation.

The Virginia State Corporation Commission ("Commission") has been designated as the appropriate state agency for the Commonwealth of Virginia. In Case No. PUE-1989-00052, the Commission adopted Parts 191, 192, 193, and 199 of Title 49 of the Code of Federal Regulations to serve as minimum gas pipeline safety standards ("Safety Standards") in Virginia. The Commission is authorized to enforce the Safety Standards under § 56-5.1 of the Code of Virginia, which allows the Commission to impose the fines and penalties authorized therein.

The Commission's Division of Energy Regulation ("Division"), charged with the investigation of each jurisdictional gas company's compliance with the Safety Standards, has conducted various inspections of construction, operation, and maintenance activities involving the Roanoke Gas Company ("RGC" or "Company"), the Defendant, and alleges that:

- (1) RGC is a public service corporation as that term is defined in § 56-1 of the Code of Virginia and, specifically a natural gas company within the meaning of § 56-5.1 of the Code of Virginia; and
- (2) The Company violated the Commission's Safety Standards by the following conduct:
  - a) 49 C.F.R. § 192.13(c) – Failing on several occasions to follow the Company's plans, procedures, and programs;
  - b) 49 C.F.R. § 192.197(c) – Failing on numerous occasions to provide adequate pressure relief capacity;
  - c) 49 C.F.R. § 192.225(a) – Failing on several occasions to follow the appropriate welding procedure;
  - d) 49 C.F.R. § 192.241(a) – Failing to properly perform visual welding inspection;
  - e) 49 C.F.R. § 192.303 – Failing to properly pressure test a section of main to at least 1.5 times the maximum allowable operating pressure;
  - f) 49 C.F.R. § 192.461(a)(1) – Failing to apply external protective coating on a properly prepared surface;
  - g) 49 C.F.R. § 192.727(b) – Failing to disconnect the main to be abandoned from all sources and supplies of gas before purging;
  - h) 49 C.F.R. § 193.2017(a) – Failing to have a fire control equipment maintenance schedule at the Company's Liquefied Natural Gas Plant ("LNG");
  - i) 49 C.F.R. § 193.2619(c) – Failing to document testing of the Automatic Shutdown Device at the LNG Plant;
  - j) 49 C.F.R. § 193.2713(b) – Failing to conduct continuing instruction at intervals of not more than 2 years to keep all personnel current on the knowledge and skills gained in the program of initial instruction for the LNG Plant;
  - k) 49 C.F.R. § 193.2013(a) and NFPA 59A 6-8.1 – Failing on several occasions to install a pressure relieving device so that the possibility of damage to piping or appurtenances is reduced to a minimum;
  - l) 49 C.F.R. § 193.2013(a) and NFPA 59A 9-2.2 – Failing to have a procedure in the operations and maintenance manual to prohibit motorized equipment to enter an impounding space or within 50 feet of plant equipment; and,
  - m) 49 C.F.R. § 193.2013(a) and NFPA 59A 9-4.1 – Failing on several occasions to monitor for the presence of combustible gas.

The Company neither admits nor denies these allegations but admits the Commission's jurisdiction and authority to enter this Order.

Subsequent to the discovery of the probable violations listed above, RGC took prompt actions to correct those probable violations that could be corrected. In addition, RGC has agreed to take over the operation and maintenance of six master meter systems currently served by the Company and move outside all high pressure meter sets located inside residences or other buildings.

In light of the corrective actions taken by the Company, and as an offer to settle all matters arising from the allegations made against it, RGC represents and undertakes that:

- (1) The Company will pay a fine to the Commonwealth of Virginia in the amount of \$85,800 of which \$5,800 will be paid contemporaneously with the entry of this Order. The remaining \$80,000 is due as outlined in paragraph (2), below, and may be suspended in whole, or in part, provided the

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Company tenders the requisite certification that it has completed specific remedial actions, as set forth below in paragraph (2) on or before the scheduled date for completion of said remedial action. At the completion of all remedial actions described below, the Commission will vacate any outstanding amounts. The initial payment, and any subsequent payments, will be made by check, payable to the Treasurer of Virginia, and directed to the attention of the Director of the Division of Energy Regulation;

(2) The Company will take remedial actions pursuant to the following schedule:

(A) Master Meter Systems

- (i) The Company will take over the operation and maintenance of six of the gas master meter systems served by RGC. On or before December 31, 2002, RGC shall tender to the Clerk of the Commission an affidavit executed by the Chairman and Chief Executive Officer certifying that the Company has taken over the operation and maintenance of six of the master meter systems served by RGC.
- (ii) Upon timely receipt of said affidavit, the Commission shall suspend \$5,000 for each master meter system taken over by the Company, up to a maximum of \$30,000 of the fine amount specified in paragraph (1) above. Should RGC fail to tender said affidavit or take the actions required by paragraph 2(A)(i) by December 31, 2002, a payment of \$30,000 shall become due. The Company shall immediately notify the Division of the reasons for its failure to accomplish the actions required by paragraph 2(A)(i) herein and upon investigation, if the Division determines that the reason for said failure justifies a payment lower than \$30,000, it may recommend to the Commission a reduction in the amount due. The Commission shall determine the amount due. Upon the Commission's determination of the amount due, the Company shall immediately tender to the Commission that amount.

(B) High pressure inside meter sets

- (i) The Company shall move outside all high pressure inside meter sets served by RGC. On or before September 30, 2002, RGC shall tender to the Clerk of the Commission an affidavit executed by the Chairman and Chief Executive Officer certifying that all high pressure inside meter sets have been moved outside.
- (ii) Upon timely receipt of said affidavit, the Commission shall suspend \$50,000 of the amount specified in paragraph (1) above. Should RGC fail to tender said affidavit or take the actions required by paragraph 2(B)(i) by September 30, 2002, a payment of \$50,000 shall become due. The Company shall immediately notify the Division of the reasons for its failure to accomplish the actions required by paragraph 2(B)(i) herein and upon investigation, if the Division determines that the reason for said failure justifies a payment lower than \$50,000, it may recommend to the Commission a reduction in the amount due. The Commission shall determine the amount due. Upon the Commission's determination of the amount due, the Company shall immediately tender to the Commission that amount.

(3) Any fines paid in accordance with this Order shall not be recovered in the Company's rates as part of RGC's cost of service. Any such fines and costs shall be booked in Uniform System of Account No. 426.3. The Company shall verify its booking by filing a copy of the trial balance showing this entry with the Commission's Division of Public Utility Accounting.

The Commission being fully advised in the premises and finding sufficient basis herein for the entry of this Order, and in reliance on the Defendant's representations and undertakings set forth above, is of the opinion and finds that RGC has made a good faith effort to cooperate with the Staff during the investigation of this matter; and that, the offer of compromise and settlement should be accepted. The failure of RGC to comply with the undertakings referenced above may result in the initiation of a Rule to Show Cause proceeding against the Company. Such proceeding may include any action necessary to affect immediate completion of the remedial actions discussed herein.

Accordingly, IT IS ORDERED THAT:

(1) Pursuant to the authority granted the Commission by § 12.1-15 of the Code of Virginia, the offer of compromise and settlement made by RGC be, and it hereby is, accepted.

(2) RGC timely comply with the remedial actions outlined herein. The failure of RGC to so comply with said remedial actions may result in the initiation of a Rule to Show Cause proceeding against RGC. Such proceeding may include any action necessary to effect immediate completion with the remedial actions described herein.

(3) Pursuant to § 56-5.1 of the Code of Virginia, RGC be, and it hereby is, fined in the amount of \$85,800.

(4) The sum of \$5,800 tendered contemporaneously with the entry of this Order is accepted.

(5) The remaining \$80,000 is due as outlined herein and may be suspended and subsequently vacated, in whole or in part, provided the Company timely undertakes the actions required in paragraphs (2) (A) and (2) (B) found on pages 4 and 5 of this Order, and files the timely certification of the remedial actions as outlined herein.

(6) The Commission shall retain jurisdiction over this matter for all purposes, and the matter is continued, pending further orders of the Commission.

**CASE NO. PUE-2001-00430  
APRIL 29, 2002**

APPLICATION OF  
MIRANT DANVILLE, LLC

For approval of a certificate of public convenience and necessity pursuant to Va. Code § 56-265.2, an exemption from Chapter 10 of Title 56 and interim approval to make financial commitments and undertake preliminary construction work

**ORDER**

On August 16, 2001, Mirant Danville, LLC ("Mirant Danville" or "Applicant") filed an Application requesting that the Commission grant Mirant Danville a certificate of public convenience and necessity pursuant to Va. Code Ann. § 56-265.2 to construct an 870 MW natural gas-fired electric generating facility ("Facility") at the AirSide Industrial Park in Danville, Virginia. The Applicant also seeks an exemption from the provisions of Chapter 10 of Title 56, pursuant to Va. Code Ann. § 56-265.2 B, and interim approval to make financial expenditures and undertake preliminary construction work, pursuant to Va. Code Ann. § 56-234.3.

On September 10, 2001, the Commission entered an order requiring Mirant Danville to provide public notice of its Application, establishing a procedural schedule for the filing of testimony and exhibits, scheduling an evidentiary hearing, and appointing a Hearing Examiner to hear this case. The evidentiary hearing was held on December 5, 2001, before Chief Hearing Examiner Deborah V. Ellenberg. Richard D. Gary, Esquire, John M. Holloway III, Esquire, and Angela Jenkins, Esquire, appeared on behalf of Mirant Danville. M. Renae Carter, Esquire, appeared on behalf of Columbia Gas of Virginia, Inc. Carter Glass, IV, Esquire, and Timothy Spencer, Esquire, appeared on behalf of the City of Danville. Katharine A. Hart, Esquire, and Allison L. Held, Esquire, appeared on behalf of the Commission Staff.

On February 4, 2002, Chief Hearing Examiner Deborah V. Ellenberg entered a Report in which the Examiner summarized the record, analyzed the evidence and issues in this proceeding, and made certain recommendations, including that the Application should be granted with conditions. In the Report, the Hearing Examiner also noted that a recent news article announced the cancellation of this project, and the Examiner recommended that the Applicant be directed to file written notice of its intent concerning this Facility as soon as possible. On February 6, 2002, Mirant Danville filed notice to the Commission of its intent with regard to the project and explained that it is seeking a new developer to complete and to operate the project.

NOW THE COMMISSION, having considered the record, the Hearing Examiner's Report, the Applicant's notice of intent, and the applicable law, is of the opinion and finds as follows. This case, at this juncture, must be remanded to the Hearing Examiner for further proceedings with respect to consideration of: (1) the environment; and (2) the new developer that will construct and operate the project. The Hearing Examiner will determine, after receiving input from the participants in this case, the procedures to be employed on remand for consideration of these issues. We also find that Mirant Danville may make financial expenditures and undertake certain preliminary construction work on electric generating facilities without prior approval from the Commission.

**The Environment**

As set forth in *Tenaska*,<sup>1</sup> the Code of Virginia establishes six general criteria, or areas of analysis, that apply to electric generating plant applications.<sup>2</sup> The six criteria are as follows: (1) reliability;<sup>3</sup> (2) competition;<sup>4</sup> (3) rates;<sup>5</sup> (4) environment;<sup>6</sup> (5) economic development;<sup>7</sup> and (6) public interest.<sup>8</sup> The Hearing Examiner's Report addressed these six criteria. As discussed below, we find that the record is incomplete with respect to the consideration of the environment.<sup>9</sup> In this regard, the Hearing Examiner concluded that the Facility will have only a minimal impact on the environment. The Hearing Examiner also noted that no witness raised any concern with the cumulative impacts of this Facility on the surrounding community.

As found in *Tenaska*, we interpret Virginia law as requiring us to consider the cumulative impacts of other facilities, together with the Applicant's Facility, on the existing air quality in the area that may be impacted by the Facility. Though the issue of cumulative air impacts was not raised at the hearing, the requirement that we consider such impacts remains. In *Tenaska*, we explained that changes in circumstances and the law in recent years required that we review our approval of the construction and operation of new generating facilities. We concluded, as we do here, that we cannot comply with our statutory

<sup>1</sup> *Application of Tenaska Virginia Partners, LP, For approval of a certificate of public convenience and necessity pursuant to Virginia Code § 56-265.2, an exemption from Chapter 10 of Title 56, and interim approval to make financial commitments and undertake preliminary construction work*, Case No. PUE-2001-00039, Order (Jan. 16, 2002) ("*Tenaska*").

<sup>2</sup> *Id.* at 13-14.

<sup>3</sup> Va. Code Ann. §§ 56-580 D(i) and 56-46.1 A.

<sup>4</sup> Va. Code Ann. § 56-596 A.

<sup>5</sup> Va. Code Ann. §§ 56-580 D(ii); 20 VAC 5-302-20 14. See also *Tenaska* at 15-16, n.15; *Ex Parte: In the matter of amending filing requirements for applications to construct and operate electric generating facilities*, Case Nos. PUE-2001-00313 and PUE-2001-00665, Order Adopting Rules and Prescribing Additional Notice at 6 (Dec. 14, 2001).

<sup>6</sup> Va. Code Ann. §§ 56-580 D and 56-46.1 A.

<sup>7</sup> Va. Code Ann. §§ 56-46.1 and 56-596 A.

<sup>8</sup> Va. Code Ann. §§ 56-580 D(ii).

<sup>9</sup> We recognize that the *Tenaska* decision was issued subsequent to the hearing in this case.

obligations, implement constitutional policy, and consider properly the impact of the Facility on the environment without addressing the cumulative impact issue.

Accordingly, for us to consider adequately the environmental impacts of the proposed Facility, we must consider cumulative impacts. An appropriate record, however, has not been developed on this issue. For example, the record does not address the existing air quality with respect to various criteria pollutants, or the cumulative impact on existing air quality for criteria pollutants from the Facility and other proposed facilities that will add to such pollutants. As we found in *Tenaska*, we must first know where on the continuum of air quality the area impacted by the Facility falls for each criteria pollutant. General terms such as "attainment" are not sufficient; we need to know, for example, how close current air quality is to "nonattainment." We also need to know what impact the Facility and other facilities, including proposed electric generating units and other major facilities, may have on the area.

Consistent with our explanation in *Tenaska*, for purposes of such analyses, decisions must be made as to which proposed facilities to consider and how a study should be structured and implemented. As also discussed in *Tenaska*, our hope remains that interested parties, Staff, and the Department of Environmental Quality ("DEQ") could help establish how these issues might be best addressed as promptly as practicable. We emphasize that we do not desire to delay construction. Rather, we must address the important issues discussed in this order and carry out our statutory obligations.

#### Senate Bill No. 554

We also recognize that the General Assembly recently passed Senate Bill No. 554 ("SB 554"), which places additional requirements and limitations on this Commission's review of proposed electric generating facilities. SB 554 requires the Commission to enter into a memorandum of agreement with the DEQ regarding the coordination of reviews of environmental impact of electric generating plants and associated facilities. The Commission looks forward to working cooperatively with the DEQ to conclude the agreement as soon as practicable.

SB 554 also requires the Commission, in order to avoid duplication of governmental activities, to defer to other governmental entities in certain circumstances. Though SB 554 is not yet effective, we emphasize that matters referenced in SB 554 that (i) are governed by a permit or approval, or (ii) are within the authority of and were considered by the governmental entity issuing a permit or approval, are relevant to the Commission's review of the Facility and will be fully considered in our determination. Indeed, § 56-46.1 A requires us to give consideration to all reports that relate to a proposed facility by state agencies concerned with environmental protection. It is not our intent to duplicate activities already undertaken by other governmental entities.

#### Applicant's Notice of Intent

On February 6, 2002, Mirant Danville filed notice to the Commission of its intent with regard to the project. That notice stated, among other things, that Mirant Danville: (1) announced on January 31, 2002, that it had indefinitely deferred construction of the project; (2) has initiated the process to find a suitable developer for the project and is dedicated to concluding this process as quickly as possible; and (3) requests the Commission to continue to process the Applicant's request for a certificate. Mirant Danville also asserts that when a new developer is selected, requisite information showing the financial and technical ability of the new developer to complete and operate the project will be submitted.

We will continue to process the Application, as requested by the Applicant. We will not, however, issue a certificate to construct and operate electric generating facilities without knowledge of the entity or entities that will construct and operate such facilities. Accordingly, Mirant Danville and the new developer, once chosen, must amend the Application as necessary. The Hearing Examiner will determine, after receiving input from the participants in this case, the procedures to be employed on remand for consideration of: (1) the environment; and (2) the new developer. For example, the Examiner may determine whether, on remand, consideration of the environment occurs separately from, or contemporaneously with, consideration of the new developer.

#### Interim Approval

The Hearing Examiner also recommended that the Commission grant Mirant Danville interim approval under § 56-234.3 to make financial expenditures and to undertake preliminary construction work, if such approval is deemed necessary. We take this opportunity to affirm that Va. Code Ann. § 56-580 D supplants §§ 56-234.3 and 56-265.2 in the Commission's approval process for electric generating facilities on and after January 1, 2002.<sup>10</sup> Indeed, in recently ruling on an issue of first impression, we concluded that an applicant may commence certain preliminary construction work on electric generating facilities without prior approval from the Commission.<sup>11</sup> We did not, however, permit construction of any permanent structure absent prior approval from the Commission.

Likewise, we find that Mirant Danville may make financial expenditures and undertake preliminary construction work on electric generating facilities without prior approval from the Commission. No construction of a permanent structure, however, may be undertaken without Commission approval. Any financial expenditures or preliminary construction is at the sole risk of the Applicant. The Applicant still must comply with any statute, ordinance, rule, or regulation affecting its proposed activity. The Applicant also proceeds at the risk that subsequent orders by the Commission, if warranted and supported by the record developed in this proceeding, may adversely affect any action taken by the Applicant prior to receiving a certificate.

Accordingly, IT IS ORDERED THAT:

(1) Mirant Danville may make financial expenditures and undertake certain preliminary construction work on electric generating facilities without prior approval from the Commission.

(2) This matter is remanded to the Hearing Examiner for further proceedings and recommendations as set forth herein.

<sup>10</sup> See, e.g., *Ex Parte: In the matter of amending filing requirements for applications to construct and operate electric generating facilities*, Case Nos. PUE-2001-00313 and PUE-2001-00665, Order Adopting Rules and Prescribing Additional Notice at 2 (Dec. 14, 2001); *Ex Parte: In the matter of amending filing requirements for applications to construct and operate electric generating facilities*, Case No. PUE-2001-00313, Order at 5 (Aug. 3, 2001).

<sup>11</sup> *Application of Chickahominy Power, LLC, For authority to construct and operate an electric generating facility in Charles City County*, Case No. PUE-2001-00659, Order for Notice and Hearing (Feb. 7, 2002).



**Morrison, Commissioner, DISSENTING OPINION.**

I must respectfully dissent to the Majority's decision to remand this case for further proceedings before the Hearing Examiner in order to give more consideration to the impact of this facility on the environment.<sup>1</sup> The Majority relies upon its decision in the Tenaska Case, decided January 16, 2002, and concluded ". . .that we cannot comply with our statutory obligations, implement constitutional policy, and consider properly the impact of the facility on the environment without addressing the cumulative impact issue."

In Tenaska, I authored a lengthy Dissenting Opinion, and much of its content is applicable here in explanation of this Dissent. With that reference, I shall not add to the length of this order by repeating in such detail my reasons for objecting to the Majority's decision to remand this case.

As was the case in the Tenaska Remand, here the Majority imposes the requirement that "cumulative impacts" of air emissions be "considered." This is a substantial additional and, I believe, different standard for adjudication of this Application, and its imposition comes long after the hearing and the close of the evidentiary record. It occurs with no change in the statutory law, nor a change in any regularly promulgated Rule or Regulation of this Commission. It is in this sense that I consider the Order of the Majority to be contrary to the law. Moreover, it is obviously entered without evidence to support it, for the issue of cumulative air impacts was not raised by a single participant or public witness in the case. Participants in this case and the two other similar cases decided today may understandably feel victimized by this sort of retroactive judicial rulemaking, a misadventure which strikes me as offending due process and the provisions of § 12.1-28.<sup>2</sup>

In this case and the two others decided today, there is a striking similarity in the universality of support within the respective communities. That support includes the enthusiastic reception by the respective units of local government. The locations of the facilities are in areas of the Commonwealth that have experienced considerable economic stress which will be ameliorated by the economic benefits derived from their construction. The records show that the resulting increase in the local property tax base is badly needed. Assuming that all three facilities are eventually constructed in the face of the consequences caused by the Majority Remand, the delays in construction may well cause economic loss to be suffered not only by the Applicants, but also by the respective local economies, both in the public and private sectors.

This degree of economic loss might well be justified if this facility and the two others like it threatened any significant harm to the environment. The Hearing Examiners found that the evidence in these cases showed no such threat to the air quality in the Commonwealth.

What then is the overarching mandate felt by the Majority to cause either delay or abandonment of these proposed natural gas-fueled facilities? It is simply the Majority Order in the Tenaska Remand and its underlying interpretation by my colleagues that Virginia law requires this Commission ". . .to consider the cumulative impacts of other facilities, together with the Applicant's facility, on the existing air quality in the area that may be impacted by the facility." Obviously, I continue to disagree with such interpretation. So did the General Assembly.

Senate Bill 554 passed by the Legislature during its most recent Session (*Acts of Assembly 2002*, Ch. 483) amended §§ 56-46.1 and 56-580 of the Code, the sources of the recently discovered requirements devolving upon us to consider the cumulative impacts of an Applicant's facility with other facilities on existing air quality. I believe it is clear that the thrust of the 2002 Amendments is that we are not to duplicate the functions of environmental agencies by involving ourselves with environmental issues that are subsumed by permits or approvals issued or to be issued by appropriate agencies as are within their authority and considered by them.

The Majority Order discusses SB 554 as if it is something of a balancing mechanism to divide the consideration of environmental issues between this Commission and environmental agencies of the Commonwealth. The Majority states that the bill ". . .places additional requirements and limitations on this Commission's review of proposed electric generating facilities." I find no additional requirements for environmental consideration in the language of the Bill; the requirement on this Commission is that it enter into the Memorandum of Agreement with the Department of Environmental Quality, as stated by the Majority; otherwise, the Bill largely eviscerates the mandate of the Tenaska Remand decision by its limitations on this Commission's actions with regard to environmental issues properly, and more appropriately, falling within the purview of other agencies.

The Majority's discussion of SB 554 omits any recognition of one of its portions bearing directly on the cumulative impact issue. In addition to amending the two Code Sections in Title 56, the Bill created a new Code Section, § 10.1-1186.2:1. Paragraph A. of that Section provides as follows:

The Department and the State Air Pollution Control Board have the authority to consider the cumulative impact of new and proposed electric generating facilities within the Commonwealth on attainment of the national ambient air quality standards.

It would be implausible to suppose that DEQ and the Air Pollution Control Board would not have the authority to consider the cumulative impact of proposed generating facilities without this new statute. Rather than a delegation of new powers to these agencies, it is a delineation of functions between them and this Commission, being necessary, I am afraid, because of our recent quixotic appropriation of their functions signaled by our Rules proceeding, PUE-2001-00665, and executed by the Tenaska Remand Order.

With such a clear statement of legislative intent that this Commission stay out of the cumulative impact issue, it is difficult to understand why the Majority stubbornly clings to a recently invented requirement that we consider the cumulative impacts of various facilities when probably we will be foreclosed from doing so in about two months hence when SB 554 becomes effective.

The Remands of this Case and the two others like it raise a number of questions. If the Applicants continue to pursue the projects, will the limiting nature of SB 554 be observed? Will the answer to that question depend upon when the remand hearings are held? At remand hearings, should the

<sup>1</sup> The Majority Order remanding this case has been entered coincidentally with orders remanding Case Nos. PUE-2001-00169, Application of CinCap Martinsville, LLC, and PUE-2001-00423, Application of Kinder Morgan Virginia, LLC. Because all three orders are substantially identical, this Dissenting Opinion is likewise filed in those cases.

<sup>2</sup> See Dissenting Opinion, Jan. 16, 2002 in Application of Tenaska Virginia Partners, LP, Case No. PUE-2001-00039 for discussion of application of § 12.1-28 in the context of the pending Rules proceeding, PUE-2001-00665.

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Applicant attempt to satisfy the cumulative impact issue as demanded by the Majority, or as may be hereafter required by the State Air Pollution Control Board by virtue of new Code § 10.1-1186.2:1, or both? Is the answer to these questions in part dependant upon the terms of the working agreement to be entered into by this Commission and DEQ, even though there is not even a first cut draft for Applicants to review at this time? Since the Majority expects the Hearing Examiners in these cases to expedite the matters, will the Hearing Examiners be so lenient as to postpone the all-important "...development of an appropriate record" until after July 1, 2002, if requested by an Applicant or Applicants? Even in such a case, will a majority of this Commission decide a case coming back from Remand under the law as it existed at the time the Application was filed, or as it has been changed by SB 554 during the course of the proceedings? Would one or more of these Applicants be well advised to consider seeking a dismissal of the Application without prejudice in order to start again with a new Application clearly governed by the provisions of SB 554?

I believe these imponderables further illustrate how unfair it is to Applicants in these cases to remand at this time. No one can seriously contend that any of these projects will have more than a minimal effect on ambient air quality, whether measured by current Air Control Board procedures or on some cumulative impact basis. One might wonder if this Commission in its Majority Order fully appreciates the large capital expense to the Applicants involved in the development of the projects to this point, in processing the Applications thus far, and how much more costly it will be because of this unnecessary delay.

The better course, I submit, is to approve these three Applications coincidentally decided. I would also use this opportunity to announce that any pending applications for electric generation facilities, and any such applications hereafter filed before July 1, 2002, will be considered consistent with the provisions of SB 554. Although there may not be an occasion for such policy to apply, it would ensure that the kind of uncertainty and confusion described herein would occur no more.

I recognize that the Applicant in this case has indefinitely deferred construction of the project and is in the process of finding a suitable developer to build it. Under these circumstances our approval could be granted, as recommended by our Staff Counsel and the Hearing Examiner. If the entity, Mirant Danville, LLC, is acquired by another entity, it will succeed to the property rights of Mirant, including the certificate of public convenience and necessity for the construction and operation of the facility. If Mirant as an entity is not purchased, any successor would be required to obtain a certificate for the construction or operation of the facility.

In addition to its supposed "statutory obligations," the Majority claims it is duty bound to "implement constitutional policy" by addressing the cumulative impact issue.

I must reiterate that this represents to me a complete misunderstanding of this Commission's role with respect to Article XI of the Virginia Constitution. Section 1 of Article XI states that "...it shall be the policy of the Commonwealth to conserve, develop, and utilize its natural resources, its public lands, and its historical sites and buildings." The last sentence of that Section provides:

Further, it shall be the Commonwealth's policy to protect its atmosphere, lands and waters from pollution, impairment or destruction for the benefit, enjoyment and general welfare of the people of the Commonwealth.

If this Section were self-executing, read literally, no amount of pollution or impairment from any source could be permitted. Not only could generation facilities not be permitted, prosecuting attorneys should seek to enjoin the operation of all generation plants. Indeed, no internal combustion engine should be permitted to operate.

This Section has been held not to be self-executing.<sup>3</sup> Moreover, the provisions of the succeeding Section avoid the apparent absurdity of a literal interpretation of that policy. Section 2 of Article XI provides that such policy is to be implemented by the General Assembly. As I attempted to explain in my Dissenting Opinion in *Tenaska*, the General Assembly has enacted innumerable statutes and created various agencies in the implementation of the conservation policies broadly set forth in § 1 of Article XI. In fact, SB 554 is yet another example. It is so fundamental as to warrant no citation that the State Corporation Commission has no inherent power. To the extent we are required to consider environmental matters, that duty is delegated to us by the General Assembly, not directly to us from the Constitution.

The Majority Order speaks of a need to develop "an appropriate record" from which "we must first know where on the continuum of air quality the area impacted by the facility falls for each criteria pollutant." The Majority also thinks it is necessary to know "how close current air quality is to 'nonattainment'."

I am puzzled to know just what we are to do with this information. As I have stressed before, we have no particular expertise among ourselves or our staff to evaluate air quality matters, much less the authority to do so. If this facility and others under consideration do not violate air quality standards, as set by federal and state environmental agencies, by what measurement is the Majority prepared to impose a different standard? It seems to me that any denial based upon standards other than those determined by other appropriate agencies necessarily will be arbitrary and capricious.

<sup>3</sup> *Robb v. Shockoe Slip Foundation*, 228 Va. 678, 324 S.E. 2<sup>d</sup> 674 (1985).

**CASE NO. PUE-2001-00446  
APRIL 16, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION  
v.  
CENTRAL LOCATING SERVICE, LTD.,  
Defendant

**ORDER OF SETTLEMENT**

Pursuant to § 56-265.30 of the Code of Virginia, the Virginia State Corporation Commission ("Commission") is charged with enforcing the provisions of the Underground Utility Damage Prevention Act, §§ 56-265.14 *et seq.* of the Code of Virginia ("Act"). The Commission's Division of Energy Regulation ("Division"), charged with the investigation of probable violations of the Act, has completed investigations of certain incidents between March 13, 2001, and July 15, 2001, listed in Attachment A, involving Central Locating Service, Ltd. ("Company"), and alleges that:

- (1) The Company is a contract locator as that term is defined in § 56-265.15 of the Code of Virginia;
- (2) During the aforementioned period the Company has violated the Act by committing the following violations:
  - (a) Failing on certain occasions to mark the approximate horizontal location of the underground utility lines on the ground to within two feet of either side of the underground utility lines, in violation of §§ 56-265.19 A and D of the Code of Virginia.
  - (b) Failing on certain occasions to mark within the time prescribed in the Act, in violation of § 56-265.17 B and §§ 56-265.19 A and D of the Code of Virginia.
  - (c) Failing on certain occasions to report to the notification center that lines had been marked or they were not in conflict with the proposed excavation, in violation of §§ 56-265.19 A, B, and D of the Code of Virginia.

As evidenced in the attached Admission and Consent document, the Company neither admits nor denies these allegations but admits the Commission's jurisdiction and authority to enter this Order. As an offer to settle all matters before the Commission arising from the Division's allegations made herein, which includes all probable violations presented to the Underground Utility Damage Prevention Advisory Committee on August 14, 2001, and set out in Attachment A hereto, the Company represents and undertakes that it will pay a civil penalty to the Commonwealth of Virginia in the amount of \$21,900 to be paid contemporaneously with the entry of this Order. This payment will be made by cashier's check or money order, payable to the Treasurer of Virginia and directed to the attention of the Director of the Division of Energy Regulation.

The Commission, being advised by the Staff and finding sufficient basis herein for the entry of this Order, hereby accepts this settlement.

Accordingly, IT IS ORDERED THAT:

- (1) Pursuant to the authority granted the Commission by § 12.1-15 of the Code of Virginia, the offer of settlement made by the Company be, and it hereby is, accepted.
- (2) The sum of \$21,900 tendered contemporaneously with the entry of this Order is accepted.
- (3) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. PUE-2001-00447  
MAY 3, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION  
v.  
UTILIQUEST, LLC,  
Defendant

**ORDER OF SETTLEMENT**

Pursuant to § 56-265.30 of the Code of Virginia, the Virginia State Corporation Commission ("Commission") is charged with enforcing the provisions of the Underground Utility Damage Prevention Act, §§ 56-265.14 *et seq.* of the Code of Virginia. ("Act"). The Commission's Division of Energy Regulation ("Division"), charged with the investigation of probable violations of the Act, has completed investigations of certain incidents between May 16, 2001, and June 30, 2001, listed in Attachment A, involving Utiliquest, LLC ("Company"), and alleges that:

- (1) The Company is a contract locator as that term is defined in § 56-265.15 of the Code of Virginia;
- (2) During the aforementioned period the Company violated the Act by committing the following violations:
  - (a) Failing on certain occasions to mark the approximate horizontal location of the underground utility lines on the ground to within two feet of either side of the underground utility lines, in violation of §§ 56-265.19 A and D of the Code of Virginia.

(b) Failing on certain occasions to mark within the time prescribed in the Act, in violation of § 56-265.17 B and §§ 56-265.19 A and D of the Code of Virginia.

(c) Failing on certain occasions to report to the notification center that lines had been marked or they were not in conflict with the proposed excavation, in violation of §§ 56-265.19 A, B, and D of the Code of Virginia.

As evidenced in the attached Admission and Consent document, the Company neither admits nor denies these allegations but admits the Commission's jurisdiction and authority to enter this Order. As an offer to settle all matters before the Commission arising from the Division's allegations made herein, which includes all probable violations presented to the Underground Utility Damage Prevention Advisory Committee on August 14, 2001, and set out in Attachment A hereto, the Company represents and undertakes that it will pay a civil penalty to the Commonwealth of Virginia in the amount of \$30,400 to be paid contemporaneously with the entry of this Order. This payment will be made by cashier's check or money order, payable to the Treasurer of Virginia and directed to the attention of the Director of the Division of Energy Regulation.

The Commission, being advised by the Staff and finding sufficient basis herein for the entry of this Order, hereby accepts this settlement.

Accordingly, IT IS ORDERED THAT:

(1) Pursuant to the authority granted the Commission by § 12.1-15 of the Code of Virginia, the offer of settlement made by the Company be, and it hereby is, accepted.

(2) The sum of \$30,400 tendered contemporaneously with the entry of this Order is accepted.

(3) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. PUE-2001-00473  
MAY 17, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
OLIVER D. RUDY, TRUSTEE OF THE FINE CREEK LAND TRUST  
and  
THE REED'S LANDING CORPORATION,  
PETITIONERS  
v.  
SOUTHSIDE ELECTRIC COOPERATIVE  
DEFENDANTS

To seek sanctions for alleged abuse of authority granted under § 56-49 of the Code of Virginia

**FINAL ORDER**

On August 24, 2001, Oliver D. Rudy, Trustee of the Fine Creek Land Trust, and the Reed's Landing Corporation ("Petitioners"), filed a Petition with the State Corporation Commission ("Commission") requesting that the Commission, pursuant to § 56-35 of the Code of Virginia ("Code"), find that Southside Electric Cooperative ("Southside" or the "Cooperative") had abused the powers granted to it pursuant to § 56-49 of the Code.

On September 5, 2001, the Commission entered an Order Establishing Procedural Schedule which, among other things, assigned the matter to a Hearing Examiner and set dates for the Cooperative to file its Answer to the Petition and for the parties to file a Stipulation of Facts.

On September 10, 2001, Southside filed its Answer and Grounds of Defense which stated that the Petitioners' own exhibits to the Petition established that the Circuit Court of Powhatan County had already decided that the Cooperative had obtained a valid easement for adequate consideration.<sup>1</sup> The Cooperative also raised a number of affirmative defenses and argued that the Petition should be dismissed. The Hearing Examiner entered a Ruling on September 17, 2001, scheduling a public hearing for January 8, 2002, to receive evidence relevant to the issues in dispute, and establishing a procedural schedule for the parties to prefile testimony and exhibits.

The Cooperative filed a Motion for Summary Judgment and Dismissal on October 30, 2001, requesting that the Petition be dismissed. By Hearing Examiner's Ruling entered on November 6, 2001, the Petitioners were provided an opportunity to file a Response to the Motion for Summary Judgment and Dismissal.

On November 19, 2001, the Petitioners filed a Response arguing that their Petition contained specific allegations of misconduct that, if proven, would provide the jurisdictional basis for the Commission to grant the relief provided for in § 56-6 of the Code.<sup>2</sup>

<sup>1</sup> The Petitioners appealed the Circuit Court of Powhatan County decision to the Supreme Court of Virginia. By Order entered January 9, 2002, the Court found there was no reversible error in the judgment complained of and refused the Petitioners' Petition for Appeal.

<sup>2</sup> Section 56-6 of the Code grants the Commission jurisdiction to enjoin a public service corporation from a particular course of conduct, enjoin obedience to the requirements of Title 56 of the Code, and compel any public service corporation to observe and perform any public duty imposed by the laws of the Commonwealth.

By Hearing Examiner's Ruling entered on November 30, 2001, the Cooperative's Motion for Summary Judgment and Dismissal was denied on the basis that a material question of fact was in dispute.

An evidentiary hearing was convened on January 8, 2002, before Hearing Examiner Michael D. Thomas. Counsel appearing were Oliver D. Rudy, Esquire, on behalf of the Petitioners, John M. Boswell, Esquire, on behalf of Southside, and Sherry H. Bridewell, Esquire, on behalf of the Commission Staff. James K. Timmons, President of The Reed's Landing Corporation, testified on behalf of the Petitioners, and Robert W. Blankenship, Southside's district manager, and Douglas C. Bradbury, a land surveyor and professional engineer, testified on behalf of the Cooperative.

The Hearing Examiner filed his Report, along with a copy of the transcript of the January 8, 2002, hearing on April 10, 2002. The Report contains a detailed summary of the evidence presented at the hearing. The Hearing Examiner noted that, pursuant to 5 VAC 5-20-90 A of the Commission's Rules of Practice and Procedure, the evidentiary standard that must be met before a violation of the Code may be found is "clear and convincing." The Hearing Examiner found that the Petitioners failed to prove by clear and convincing evidence that the Cooperative abused the powers granted to it pursuant to § 56-49 of the Code. After considering the evidence, the Hearing Examiner found that the issues raised in the proceeding are the result of an honest mistake made by Mr. Bradbury of Southside and a lack of communication between Mr. Timmons and his employees. The Hearing Examiner found no evidence of malice or evil intent on the part of the Cooperative to trick, coerce, or otherwise not pay for all the land it needed for its transmission line easement.

Neither the Petitioners nor the Cooperative filed comments on the Report.

NOW THE COMMISSION, having considered the Hearing Examiner's Report, the record, and applicable law, is of the opinion that the Hearing Examiner's finding and recommendation are reasonable and should be adopted.

Accordingly, IT IS THEREFORE ORDERED THAT:

- (1) The finding and recommendation of the Hearing Examiner, as detailed in his April 6, 2002, Report are hereby adopted.
- (2) This case is dismissed from the Commission's docket of active cases and the papers herein placed in the file for ended causes.

**CASE NO. PUE-2001-00477  
OCTOBER 7, 2002**

APPLICATION OF  
CPV CUNNINGHAM CREEK LLC

For approval of a certificate of public convenience and necessity pursuant to Va. Code § 56-265.2, for an exemption from Chapter 10 of Title 56, and for the interim authority to make financial expenditures

**FINAL ORDER**

On August 31, 2001, CPV Cunningham Creek LLC ("CPV") filed an application with supporting testimony and exhibits requesting that the State Corporation Commission ("Commission") grant CPV a certificate of public convenience and necessity ("CPCN" or "certificate") pursuant to § 56-265.2 of the Code of Virginia (the "Code") for a new electric generating facility (the "Facility") to be located in Fluvanna County, Virginia (the "County"). CPV proposes to construct, own, and operate the combined-cycle natural gas-fired Facility, which would consist of two combustion turbines, two supplemental-fired heat recovery steam generators, and a steam turbine. The Facility would have a nominal capacity rating of 520 MW and would be capable of operating year-round as a base load generator. In addition, CPV sought an exemption from the provisions of Chapter 10 of Title 56 and interim approval to make financial expenditures and undertake preliminary construction, pursuant to § 56-234.3 of the Code.

On September 25, 2001, the Commission entered an order docketing this proceeding, requiring CPV to provide public notice of its application, establishing a procedural schedule, appointing a Hearing Examiner, and scheduling an evidentiary hearing for January 9, 2002 ("Initial Hearing"). On October 3, 2001, Columbia Gas of Virginia, Inc. ("Columbia"), filed a Notice of Participation.

The initial hearing was convened as scheduled on January 9, 2002. James R. Barrett, George D. Cannon, Jr. and Cassandra Sturkie, Esquires, appeared on behalf of CPV. Allison L. Held, Esquire, and William H. Chambliss, Esquire, appeared as counsel for the Commission's Staff. M. Renae Carter, Esquire, appeared as counsel for Columbia. Columbia presented a Stipulation dated January 7, 2001, to which CPV, the Staff, and Columbia had agreed.<sup>1</sup> They stipulated that the prefiled testimony and evidence would be entered into the record without subjecting the witnesses to cross-examination. CPV presented the prefiled testimony of Chris Broemmelsiek, CPV's vice president for project development; and Glenn Harkness, senior vice president for TRC Environmental Corporation ("TRC") and principal-in-charge on the environmental and technical features of the Facility. The Commission Staff presented the prefiled testimony of three witnesses: Gregory L. Abbott, utilities analyst in the Division of Energy Regulation; Mary E. Owens, principal financial analyst in the Division of Economics and Finance; and Mark Carsley, principal research analyst in the Division of Economics and Finance. All prefiled testimony was offered into evidence without causing the witnesses to take the witness stand.

Prior to the Initial Hearing, Daniel R. Holmes of the Piedmont Environmental Council and several members of the public wrote to express opposition to the proposed Facility; other members of the public and elected officials in Fluvanna County wrote to express support for the Facility. Both in the written comments and in the oral testimony, the public witnesses raised specific concerns on the following issues: the proximity of the proposed Facility to residential neighborhoods and land use, construction traffic, noise pollution, the cumulative air emissions from existing and proposed generating plants in Fluvanna County and surrounding areas, and the possible need for additional ozone monitoring stations in the area, to be purchased and installed by CPV.

<sup>1</sup> The Stipulation recognizes that CPV will construct and own a natural gas lateral from the Transcontinental Gas Pipe Line Corporation's natural gas transmission line located on the site of the proposed Facility, and that the natural gas lateral will be used solely to provide natural gas to the Facility.

Other witnesses raised concerns about the Facility's potential impact on the water supply and wastewater system serving the Lake Monticello community. Two witnesses expressed concern about a possible evacuation from the Lake Monticello gated community in the event of an emergency at the Facility.

On February 22, 2002, the Hearing Examiner issued a ruling directing the record in this case to be reopened to receive additional supplemental testimony on the limited issues raised by the public witnesses. The ruling established a schedule and a hearing date of April 23, 2002, to receive evidence on the identified issues, and also invited the Department of Environmental Quality ("DEQ") to file any additional comments or testimony on the areas within its expertise.

After the Initial Hearing, John M. Daniel, Jr., Director of Air Program Coordination for the DEQ, submitted two letters to the Commission commenting on CPV's proposed Facility. The first letter, dated April 15, 2002, stated that CPV's proposed project was one of the best that the DEQ has seen, and will be cleaner than most combined cycle turbine facilities. Further, Mr. Daniel stated that CPV was below the numerical "significant impact level" for all pollutants that the Environmental Protection Agency defines for the PSD permit program. The second letter, dated April 22, 2002, stated that the DEQ had reviewed the cumulative impacts analysis undertaken by TRC and found TRC's methodology to be a reasonable approach. Mr. Daniel determined that TRC's analysis demonstrates that CPV's project, alone or in combination with other proposed projects in Fluvanna County and the surrounding counties, will have a negligible impact on air quality. Finally, Mr. Daniel concluded by stating that CPV and the DEQ have adequately addressed the issue of cumulative air quality impacts with respect to CPV's project.

On April 23-24, 2002, the Hearing Examiner convened a second hearing ("Second Hearing") to receive additional evidence on the limited issues that were raised at the Initial Hearing. Twenty-eight public witnesses, including officials of Fluvanna County and members of the public, offered testimony. Eight witnesses spoke in favor of CPV's proposed Facility and 19 witnesses spoke in opposition to it. CPV introduced prefiled supplemental testimony and presented four witnesses for examination: Shelly H. Wright, Fluvanna County Deputy Coordinator for Emergency Services; Chris Broemmelsiek; Frederick M. Sellars, Vice President and National Director of Energy Facilities Permitting for TRC; and Harry Vidas, Vice President of Energy and Environmental Analysis, Inc. Commission Staff also submitted the prefiled supplemental testimony of Gregory L. Abbott.

On May 17, 2002, the Hearing Examiner issued a ruling granting CPV's motion, filed on May 6, 2002, to reopen the record for the limited purpose of submitting additional prepared testimony by Mr. Broemmelsiek on the issue of CPV's intent to construct and operate the Facility.<sup>2</sup> In his additional supplemental testimony, Mr. Broemmelsiek asserted that CPV intends to develop, own, and operate the Facility, and that any confusion as to this point may relate to the various financing options that CPV Inc. has with respect to the Facility. In his additional prepared testimony, Mr. Broemmelsiek explained the various financing options available to CPV for its Facility.

On August 7, 2002, Chief Hearing Examiner Deborah V. Ellenberg issued a Report in which the Examiner summarized the record, and reviewed and analyzed the evidence and issues in this proceeding. The Examiner's Report included the following findings:

- (1) The project will have no adverse impact on the reliability of the Dominion Virginia Power electric system;
- (2) The current level of air quality in Fluvanna County is good, and is in attainment of all National Ambient Air Quality Standards ("NAAQS");
- (3) The Applicant's cumulative impact analysis is reasonable;
- (4) The cumulative impact analysis adequately demonstrates that the emissions, when combined with the emissions from other existing or proposed facilities, will have no material adverse effect on air quality in Fluvanna County and the surrounding area;
- (5) The analyses discussed by the Applicant also demonstrate that the project will have no significant effect on ground level ozone in Fluvanna County and the surrounding area;
- (6) The emissions will have no material effect on economic development in Fluvanna County and the surrounding counties because the analyses show no significant deterioration of air quality and maintenance of levels well below the NAAQS;
- (7) The project will positively affect the local and regional economy;
- (8) The Facility will have no adverse effect on competition and could enhance competition at the wholesale level; however, CPV should be required to report any changes in its business plan, particularly as they relate to changes in equity ownership interests, to the Division of Economics and Finance so that the Commission can stay informed of market changes; and
- (9) The Facility will have no adverse impact on the public interest.

The Examiner recommended that the Commission grant CPV authority and a certificate of public convenience and necessity pursuant to § 56-580 D of the Code of Virginia to construct and operate an electric generation facility, and its associated facilities in Fluvanna County as described above and based upon the record developed herein. The Examiner also recommended that the Commission direct CPV to comply with the recommendations of the DEQ; report any changes in its business plan, including changes in equity ownership; provide that the certificate will sunset if construction has not begun within two years from the date of a Commission final order granting approval of the CPV Cunningham Creek project; provide that the certificate is conditioned on the receipt of all permits necessary to operate the Facility, and direct the Applicant to provide a complete list of such permits to the Division of Energy Regulation; and dismiss this case from the docket of active matters.

<sup>2</sup> CPV stated in its motion that, subsequent to the Second Hearing, the Commission issued an order in Case No. PUE-2001-00430 remanding the CPCN application of Mirant Danville, LLC ("Mirant") to the hearing examiner for further proceedings because, among other things, Mirant had signaled its intent to defer the construction of its proposed facility indefinitely while it negotiated with other entities to take over the development of the project. CPV stated that because several public witnesses argued that CPV does not intend to construct and operate the Facility, good cause existed to reopen the record on the limited issue of CPV's intent to construct and operate the Facility.

On August 12, 2002, CPV filed a letter stating that it had no comments on the Hearing Examiner's Report, and waiving the 21-day comment period.

On September 18, 2002, CPV filed its permit to construct and operate an electric power generating facility in Fluvanna County in accordance with the provisions of the Virginia State Air Pollution Control Board's Regulations for the Control and Abatement of Air Pollution.

NOW THE COMMISSION, having considered the record, the pleadings, the Examiner's Report, and the applicable law, is of the opinion and finds that the certificate should be issued. As set forth in prior orders,<sup>3</sup> the Code of Virginia establishes six general criteria, or areas of analysis, that apply to electric generating plant applications. The six criteria are as follows: (1) reliability;<sup>4</sup> (2) competition;<sup>5</sup> (3) rates;<sup>6</sup> (4) environment;<sup>7</sup> (5) economic development;<sup>8</sup> and (6) public interest.<sup>9</sup> We have evaluated these six areas.

Pursuant to § 56-580 D of the Code of Virginia, we find that the proposed facilities: (i) will have no material adverse effect upon reliability of electric service provided by any regulated public utility; and (ii) are not otherwise contrary to the public interest. We have evaluated the application pursuant to § 56-46.1 of the Code of Virginia and have given consideration to the effect of the proposed facilities on the environment. We note that, effective July 1, 2002, § 56-46.1 A provides, among other things, that permits regulating environmental impact and mitigation of adverse environmental impact shall be deemed to satisfy the requirements of such section with respect to all matters that are governed by the permit. CPV filed a copy of its permit issued by the DEQ to construct and operate an electric power generating facility in Fluvanna County in accordance with the provisions of the Commonwealth of Virginia State Air Pollution Control Board's Regulations for the Control and Abatement of Air Pollution. We grant CPV approval, and a certificate of public convenience and necessity, to construct and operate its proposed facilities.

Accordingly, IT IS ORDERED THAT:

(1) Pursuant to § 56-580 D of the Code of Virginia, CPV is hereby granted authority and a certificate of public convenience and necessity to construct and operate an electric generation facility, and its associated facilities in Fluvanna County, as described in this proceeding.

(2) The certificate of public convenience and necessity granted herein shall be conditioned on the receipt of all permits necessary to operate the Facility, and the complete list shall be provided to the Commission's Division of Energy Regulation.

(3) As a condition of the certificate granted in this case, CPV shall comply with all recommendations of the DEQ.

(4) As a condition of the certificate granted in this case, CPV shall report any changes in its business plan, including changes in equity ownership, to the Commission's Division of Economics and Finance.

(5) The certificate of public convenience and necessity granted herein shall expire two years from the date of this order, if construction of the Facility has not commenced.

(6) There being nothing further to come before the Commission in this proceeding, this case shall be removed from the docket and the papers transferred to the file for ended causes.

<sup>3</sup> See, e.g., *Application of Tenaska Virginia Partners, LP, For approval of a certificate of public convenience and necessity pursuant to Virginia Code §56-265.2, an exemption from Chapter 10 of Title 56, and interim approval to make financial commitments and undertake preliminary construction work*, Case No. PUE-2001-00039, April 19, 2002, Final Order, and *Application of Old Dominion Electric Cooperative, For a certificate of public convenience and necessity for electric generation facilities in Louisa County*, Case No. PUE-2001-00303, July 17, 2002, Final Order.

<sup>4</sup> Va. Code Ann. §§ 56-580 D(i) and 56-46.1 A.

<sup>5</sup> Va. Code Ann. § 56-596 A.

<sup>6</sup> Va. Code Ann. §§ 56-580 D(ii); 20 VAC 5-302-20 14. See also *Ex Parte: In the matter of amending filing requirements for applications to construct and operate electric generating facilities*, Case Nos. PUE-2001-00303 and PUE-2001-00665, Order Adopting Rules and Prescribing Additional Notice at 6 (Dec. 14, 2001).

<sup>7</sup> Va. Code Ann. §§ 56-580 D and 56-46.1 A. This includes scenic assets and historic districts.

<sup>8</sup> Va. Code Ann. §§ 56-46.1 and 56-596 A.

<sup>9</sup> Va. Code Ann. §§ 56-580 D(ii).

**MOORE, Commissioner, Concurs:**

Given the statutory change effective July 1, 2002, I concur with my colleagues in the decision to approve construction and operation of the proposed facility. I do so because the Applicant has been issued a permit by the DEQ that governs certain emissions of the proposed facility. The permit is specific in addressing matters that would cause me to deny the application without further data and analyses.<sup>1</sup>

<sup>1</sup> While under the new law I conclude that we must approve the proposed project, I continue to have the concerns expressed in my prior dissents and concurrence. See, e.g., Commissioner Moore concurrence, *Application of Old Dominion Electric Cooperative For a certificate of public convenience and necessity for electric generation facilities in Louisa County*, Case No. PUE-2001-00303, Final Order (July 17, 2002).

This case is little better than prior applications. In this proceeding, the Applicant responded to certain matters I raised in my dissent in *Tenaska* (Case No. PUE-2001-00039). Unfortunately, the response was less than satisfactory in certain areas. While Company witness Sellars appeared to acknowledge that pollution levels below the NAAQS can cause harm, he continued to assert that PSD "increments" are sufficient to avoid degradation of air quality. (Hearing Examiner Report at 43.) He failed, however, to note in his discussion of this issue that there is no PSD "increment" for ozone and that the ozone level for the area is already almost at the NAAQS.

In response to my concern about particulate matter, specifically PM<sub>2.5</sub>, Mr. Sellars states that maximum annual concentration data available for Virginia indicate a range of between 12 and 15.1 mg/m<sup>3</sup> as compared to the PM<sub>2.5</sub> NAAQS of 15 mg/m<sup>3</sup>. Mr. Sellars states that Fluvanna County should be at the "lower end of the 12 to 15.1 mg/m<sup>3</sup> spectrum . . ." (Hearing Examiner Report at 44-45.) There was no explanation by Mr. Sellars of why we should not be concerned when PM<sub>2.5</sub> concentrations in the area in question are, by his estimate, already at least at 80% of the NAAQS. This is particularly alarming since there is no "safe" level of particulate matter.

With respect to the new eight-hour ozone standard, Mr. Sellars states that Fluvanna County is not listed as a locality recommended for ozone non-attainment designation by the DEQ. (Hearing Examiner Report at 45.) What Mr. Sellars failed to do is provide data with respect to the new standard. The Company's failure to provide eight-hour ozone data means we do not know how close Fluvanna County is to the new, lower eight-hour standard. Under the less stringent one-hour standard, according to the Company, the ozone level in Fluvanna is already at more than 85% of the NAAQS. As noted in my dissent in *Buchanan*, exceedances under the eight-hour standard were more than 15 times greater (783 compared to 50) than under the one-hour standard for the 1996-2000 period. Commissioner Moore dissent at 3-4, *Application of Buchanan Generation LLC, For permission to construct and operate an electrical generating facility*, Case No. PUE-2001-00657, Final Order (June 25, 2002). It could be that Fluvanna County is just below the non-attainment level under the new standard. Again, this is alarming because there is no "safe" level of ozone.

While cumulative impact studies now exist and there appears to be acknowledgement that there are no safe levels of particulate matter and ozone, Virginia's analyses and actions have not changed as a result. Virginia appears to continue to approve plants as long as it is not shown that the NAAQS will be exceeded in the near future. Meanwhile, reports continue to be published indicating that parts of Virginia suffer environmentally. See, e.g., *Code Red, America's Five Most Polluted National Parks*, September, 2002.

**CASE NO. PUE-2001-00480  
NOVEMBER 13, 2002**

APPLICATION OF  
THE NEW POWER COMPANY

For licenses to conduct business as an electric and natural gas competitive service provider and aggregator

**DISMISSAL ORDER**

On December 5, 2001, The New Power Company ("New Power" or the "Company"), was issued licenses, License Nos. E-10, G-12, and A-11, by the State Corporation Commission ("Commission") to provide competitive electric, natural gas and aggregation services to residential and commercial customers throughout Virginia as the Commonwealth opens up to retail access and customer choice.

By letters dated November 1, 2002, and November 8, 2002, ("Letters") New Power advised that it intends to cease operations as a retail natural gas and electricity supplier, and aggregator in Virginia. In the Letters, New Power states that it filed a bankruptcy petition under Chapter 11 on June 11, 2002. In light of the bankruptcy filing, New Power states that it will immediately abandon its licenses in Virginia as well as other states. New Power represents that all of its natural gas customers have been returned to their respective local distribution utilities and that it has never had any electricity customers in Virginia.

NOW UPON CONSIDERATION of New Power's Letters and having been advised by its Staff, the Commission is of the opinion and finds that the Company should be allowed to abandon its licenses. As a result, New Power is no longer authorized to act as a competitive service provider in Virginia.

Accordingly, IT IS ORDERED THAT:

- (1) New Power's licenses, License Nos. E-10, G-12, and A-11, are hereby revoked.
- (2) This case is hereby dismissed.



**CASE NO. PUE-2001-00512  
MAY 1, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
NORTHERN VIRGINIA ELECTRIC COOPERATIVE,  
Petitioner,

v.

VIRGINIA ELECTRIC AND POWER COMPANY d/b/a DOMINION VIRGINIA POWER,  
SMITHSONIAN INSTITUTION,

and

U.S. GENERAL SERVICES ADMINISTRATION,  
Respondents

For a Petition for Declaratory Judgment and Motion for Injunction

**FINAL ORDER**

On September 17, 2001, Northern Virginia Electric Cooperative ("NOVEC" or the "Cooperative") filed a Petition for Declaratory Judgment, together with a Motion for an Injunction ("Petition"), with the State Corporation Commission ("Commission"). In its Petition, NOVEC requested the Commission to declare that the proposed sale of electric energy by Virginia Electric and Power Company d/b/a Dominion Virginia Power ("Virginia Power," "Dominion," or the "Company") to the Smithsonian Institution ("Smithsonian") or, alternatively, to the United States General Services Administration ("GSA") for consumption at a facility to be constructed on a parcel of real estate located in Fairfax County, Virginia, to be within the service territory allotted to NOVEC and to be in violation of NOVEC's property rights under the certificate of public convenience and necessity granted to the Cooperative by the Commission pursuant to the Utility Facilities Act, Chapter 10.1 (§ 56-265.1, *et seq.*) of Title 56 of the Code of Virginia (hereafter, the "Act"). The Cooperative requested the Commission to enjoin Dominion temporarily and permanently from selling and delivering any power directly or indirectly to the Smithsonian or GSA at the site.

Additionally, the Cooperative asked the Commission to declare that: (i) NOVEC is the proper provider of electric service to the Smithsonian and/or GSA project within NOVEC's certificated territory and must be granted the ability to provide electric service at the facility site; (ii) Virginia Power may not unreasonably deny a delivery point to Old Dominion Electric Cooperative ("ODEC") on behalf of NOVEC and that Dominion's denial of the delivery point is not in the best interest of Virginia ratepayers and is unlawful; (iii) any transactions or contracts between Virginia Power and the Smithsonian and/or GSA are unlawful under the Act and, therefore, are unenforceable or void; and (iv) any provision of service by Dominion in NOVEC's certificated territory is unlawful and violates NOVEC's rights granted by the Commission in the Certificate of Public Convenience and Necessity it issued to NOVEC. NOVEC served a copy of its Petition and Motion on: Virginia Power's registered agent and two Dominion directors; Kenneth Melson, United States Attorney; John Ashcroft, United States Attorney General; the Administrator of the General Services Administration; and the Secretary and General Counsel for the Smithsonian Institute.

On October 2, 2001, the Commission issued its Preliminary Order in this matter. In its Order, the Commission docketed the proceeding, appointed a Hearing Examiner to the matter, directed Virginia Power and invited the GSA and Smithsonian to file an Answer to NOVEC's Petition on or before October 12, 2001, directed Virginia Power and NOVEC to file on or before October 16, 2001, a joint stipulation of the facts and issues upon which they agreed, together with the facts and issues upon which there was disagreement, and set issues related to the requested temporary injunction for oral argument before the Hearing Examiner.

On October 12, 2001, Dominion filed its Answer to the Petition, wherein, among other things, it denied that its sale of electricity to the Smithsonian violated Virginia law. On the same day, Virginia Power filed a counter petition requesting the Commission to declare that Dominion had the statutory and legal obligation to provide service to the entire Smithsonian facility.

On October 12, 2001, the U.S. Department of Justice (the "United States") accepted the Commission's invitation to respond to the Petition and filed a response on behalf of the Smithsonian and GSA.<sup>1</sup> The Smithsonian, among other things, supported the assertion that Dominion should provide service to the new museum facility. The Smithsonian emphasized that its paramount and practical concern was that the construction schedule of the museum not be compromised. It contended that only the timely completion of each phase of construction would ensure that the facility opened by December 2003, the centennial of the first powered flight by the Wright Brothers.

On October 18, 2001, ODEC and the Virginia, Maryland & Delaware Association of Electric Cooperatives (the "Association") (hereafter collectively referred to as the "Cooperatives") filed a Motion for Leave to Participate as Interested Parties, together with a Statement of Interest and Motion for Expedited Consideration. NOVEC did not respond to the Cooperatives' Motion. The Smithsonian took no position on the Motion, and Virginia Power advised that while it did not oppose the Motion, it objected to the request for expedited consideration to the extent ODEC's request assumed a right to argue independently the motion for a temporary injunction.

In her October 22, 2001, Ruling, the Hearing Examiner granted leave for the Cooperatives to participate in the proceeding. On October 24, 2001, NOVEC filed affidavits in support of its Motion, and on October 25, 2001, NOVEC filed a pre-hearing memorandum.

On October 25, 2001, oral argument was convened before Deborah V. Ellenberg, Chief Hearing Examiner ("Chief Examiner"), to consider NOVEC's motion for a temporary injunction. Counsel appearing were William Bradford Stallard, Esquire, and JoAnne L. Nolte, Esquire, counsel for NOVEC; E. Duncan Getchell, Jr., Esquire, Kodwo Gharthey-Tagoe, Esquire, and John D. Sharer, Esquire, counsel for Virginia Power; James Patrick Guy, II, Esquire, and John A. Pirko, Esquire, counsel for the Cooperatives; Steven E. Gordon, Esquire, counsel for the United States, Smithsonian, and GSA; and Sherry H. Bridewell, Esquire, and Wayne N. Smith, Esquire, counsel for the Commission Staff. At the conclusion of the proceeding, the Chief Examiner took the matter under advisement and invited the participants in the proceeding to file simultaneous memoranda addressing whether a temporary injunction should be issued in this case.

<sup>1</sup> That Response noted that the GSA played no role in the events that led to the dispute in this proceeding.

On November 1, 2001, the Staff and the parties filed post-hearing memoranda on NOVEC's motion for a temporary injunction.

On November 2, 2001, the Chief Examiner entered a Ruling scheduling a public hearing for December 11, 2001, for the purpose of receiving evidence on the Cooperative's Petition. That Ruling established dates for the pre-filing of testimony and exhibits by NOVEC, the Cooperatives, Dominion, and the Smithsonian.

On December 5, 2001, the Chief Examiner issued her Ruling on the request for a temporary injunction. After considering the arguments made, the Chief Examiner found as follows:

1. Significant and irreparable harm to the Smithsonian, one of the respondents, could result from a delay in the scheduled opening of the new museum;
2. There are remedies available, albeit at some cost, to NOVEC if the Commission ultimately finds in...[NOVEC's] favor;
3. There is some likelihood that NOVEC will prevail, at least in part, based on the point of use test applied in...[an earlier case, Prince George Electric Cooperative, For declaratory judgment and Petition of RGC (USA) Mineral Sands, Inc., and RGC (USA) Minerals, Inc., For a declaratory judgment, Case No. PUE-1996-00295, 1998 S.C.C. Ann. Rept. 344 ("Prince George")], but there are significant differences in this case that make the outcome far less than certain;
4. Any likelihood of success does not offset the substantial and irreparable harm that could face the Smithsonian if a temporary injunction was granted; and
5. The public interest, educational opportunities, and the interests and expectations of the benefactors of the facility will be adversely affected if this new museum of undisputed national importance and reputation fails to open on the centennial anniversary of the Wright Brothers' historic first flight.

The Chief Examiner denied NOVEC's motion for a temporary injunction.

A public hearing to receive evidence on the merits of the Petition was held on December 11-12, 2001. The counsel identified above appeared at the proceeding. At the conclusion of the public hearing, the Chief Examiner invited Staff and the parties to file simultaneous post-hearing briefs fourteen days after the transcript was filed and simultaneous reply briefs within five days after the post-hearing briefs were filed.

On January 31, 2002, the Staff, NOVEC, and Virginia Power filed their post-hearing briefs, and served electronic copies of their briefs on all of the case participants. The Cooperatives, by counsel, electronically served their joint post-hearing brief on all of the case participants on January 31, 2002, but filed their post-hearing brief with the Clerk of the Commission one day out of time. The Cooperatives, therefore, requested leave to accept their joint post-hearing brief one day out of time. By her Ruling entered on February 1, 2002, the Chief Examiner directed that the Cooperatives' joint brief be accepted for filing. On February 7, 2002, simultaneous Reply Briefs were filed by the parties.

On March 20, 2002, the Chief Examiner issued her Report on the merits of NOVEC's Petition. After an extensive analysis of the facts and law, the Chief Examiner found that the combination of a "point of use" and "geographic load center" analysis should be considered to resolve the territorial dispute presented by the Petition. She further found that:

- 1) NOVEC has the right and the obligation to provide electric service to the new Smithsonian museum facility, including the hangar, the main central utility plant, four air handling unit areas, and the IMAX Theatre; and
- 2) Virginia Power has the right and obligation to provide services to the parking lot unless it transfers that territory to NOVEC.

The Chief Hearing Examiner recommended that the Commission enter an order that: (i) adopts the findings of her Report; (ii) grants the Petition of NOVEC for declaratory judgment insofar as the Commission determines that NOVEC has the exclusive right and obligation to serve the main facility; (iii) denies Virginia Power's counter petition; (iv) directs Virginia Power, ODEC, and NOVEC, in consultation with the Smithsonian, to plan how and when NOVEC will begin providing service to the Smithsonian, and submit a plan to the Commission within 30 days of the date of a final order; (v) enjoins NOVEC, ODEC, and Virginia Power to work cooperatively to accommodate a timely and efficient transfer of service; (vi) directs NOVEC, ODEC, and Virginia Power to file a joint report of progress bimonthly until the transfer is complete; and (vii) dismisses the case from the Commission's docket of active proceedings after the transfer of service is complete.

In her analysis, the Chief Examiner noted that the property on which the Smithsonian proposed to construct its museum, and more importantly, the museum structure's points of use were bisected by the boundary line dividing the service territories allotted to Virginia Power and NOVEC without customer manipulation. She then discussed the Commission precedents relied on by Virginia Power, NOVEC, and the Cooperatives in framing their respective arguments; *i.e.*, Prince George and Petition of Kentucky Utilities Company, d/b/a Old Dominion Power Company, For injunctive relief and/or declaratory judgment against Powell Valley Electric Cooperative, Case No. PUE-1996-00303, 1999 S.C.C. Ann. Rept. 368 ("Kentucky Utilities"). She noted that in Prince George, the Commission concluded that a point of delivery test could destroy the essence of exclusive service territories by allowing customers through the manipulation of delivery points to avoid receiving service from the utility allotted the service territory in which the customer was located. She observed that the Commission had instead adopted a "point of use" test, but concluded that the Commission did not intend to apply that test literally and without reference to the practical realities of each factual situation:

While we do not here adopt any absolute test and will always consider the practical realities of each situation, we intend to ensure that our decisions enforce the Code's requirement of strong protection for the exclusive service territories of utilities in Virginia.<sup>2</sup>

The Chief Examiner noted that the Commission took the same position in Kentucky Utilities, observing that "[a]s discussed in Prince George, however, ... [the Commission] must decide cases involving service territory disputes in a way that is consistent with the significant protection that is afforded to territorial grants by Virginia law."<sup>3</sup>

The Chief Examiner also considered a third test, the geographic load center test, and determined it relevant to the instant case. She noted that this test was discussed in Public Service Co. v. Pub. Utility Comm'n, 765 P.2d 1015, 1019 (Colorado 1988) ("Colorado PSC case"), and that the Colorado PSC case was cited with approval in Prince George. She described the geographic load center test as providing that the utility that serves the majority of a customer's load was generally designated as the provider for the entire load regardless of territorial boundaries.

The Chief Examiner reasoned that strict application of the "point of use" test in the instant case would result in Virginia Power and NOVEC each serving only the points of use on facilities located in their respective service territories. All the case participants acknowledged that a literal application of this test was not practical given the circumstances of the case. She recognized that the Act was intended to prevent economic waste and the public inconvenience resulting from duplication of utilities' facilities; e.g., multiple bills from two providers and dual electric service lines. She concluded that the Commission had discretion to determine what test or tests best preserved the integrity of exclusive service territories.

The Chief Examiner noted that all parties recognized that the practical realities of each territorial dispute should be considered, but differed on what "practical realities" were relevant in the case.

After considering the evidence, among other things, the Chief Examiner observed that there were very relevant similarities between the captioned matter and the Colorado PSC case. She noted that the majority of the Smithsonian museum structures, i.e., the hangar and the heating and cooling equipment for the museum, would be in NOVEC's territory. Fewer museum facilities, i.e., the building entrance, a portion of the IMAX theatre, and the parking lot, were in Virginia Power's territory. She opined that the practical realities of the case supported the conclusion that when a facility straddles a service line boundary, a geographic load center test should be applied, and NOVEC should be afforded the exclusive right to serve the principal Smithsonian museum facility, because more load centers were in its territory. She reasoned that because the Smithsonian and Virginia Power have expressed their strong opinion that it would be unreasonable for two utilities to serve the Smithsonian, Virginia Power could agree to swap territory with NOVEC so that NOVEC could also serve the parking lot.

The Chief Examiner concluded that there appeared to be no obstacle to a transfer of service, facilities, and meters from Virginia Power to NOVEC, similar to that ordered in Prince George, and a transfer, if ordered by the Commission, was not likely to have a negative effect on the museum's construction schedule or the delivery of electric service. The Chief Examiner, therefore, recommended that the Commission direct Virginia Power to continue to deliver electricity to the Smithsonian by transferring the electricity to NOVEC at the existing point of delivery for the Smithsonian pursuant to § 56-249.1 of the Code of Virginia until such time as Virginia Power and NOVEC could make the necessary facilities transfers and boundary realignments. The Chief Examiner invited the parties to file comments to her report within seven (7) business days from the Report's date.

On March 25, 2002, the Commission granted a motion filed by Dominion on March 22, 2002, and extended the time to April 3, 2002, in which all parties could file comments in response to the March 20, 2002, Report of Deborah V. Ellenberg, Chief Hearing Examiner.

On April 3, 2002, the Cooperatives and NOVEC each filed comments in support of the Chief Examiner's report. NOVEC urged the Commission to adopt the Chief Examiner's findings and to grant the Petition.

The Cooperatives supported the Chief Examiner's analysis and, among other things, urged the Commission to enter an Order requiring NOVEC to serve the entire museum facility and relieving Virginia Power of any obligation to serve the de minimis points of use associated with the museum that are located within Dominion's territory.

On April 3, 2002, the United States requested leave to present oral argument on the parties' comments on the Chief Hearing Examiner's Report. The United States asserted that the Commission would benefit from oral argument in light of the important issues at stake in the proceeding; i.e., the potential for delay in opening the Smithsonian's museum and the impact of the Commission's decision on prospective federal electric consumers whose real property straddles the service territories of two electric utilities.

On the same day, the United States also filed its comments and objections to the Chief Hearing Examiner's Report and recommendations. In its comments, the United States questioned the Commission's jurisdiction to regulate the conduct of federal agencies and instrumentalities such as the Smithsonian and the GSA. It asserted that NOVEC had cited no authority that permitted the Commission to entertain a lawsuit against a federal agency or instrumentality, but observed that it construed the Commission's continuing interest in the United States' views as an invitation to the Smithsonian as an electricity customer to provide its comments relative to the issues presented in the proceeding.

Further, the United States reiterated its concern that a change in the Smithsonian's electricity provider from Virginia Power to NOVEC might jeopardize the opening of the museum. It emphasized its concern that the construction schedule for the project not be compromised and requested that NOVEC's Petition for relief be denied.

On April 3, 2002, Dominion joined the United States in its request for an oral argument, asserting that the case raised novel issues of law and policy, and that the availability of counsel to respond to the Commission's questions contemporaneously would be helpful to the Commission in distilling the detailed evidence in the proceeding.

<sup>2</sup> Chief Hearing Examiner's Report at 14, citing Prince George at 349.

<sup>3</sup> Chief Hearing Examiner's Report at 14, citing Kentucky Utilities at 376.

Virginia Power also filed its comments and exceptions to the Chief Hearing Examiner's Report on April 3, 2002. In its comments, Dominion asserted that it had undertaken a significant investment to serve the Smithsonian and that the project was located on a large parcel of land in Fairfax County, most of which parcel was located in Virginia Power's service territory. Virginia Power contended that the Smithsonian had reaffirmed its selection of Dominion as the Smithsonian's preferred electric service provider. It asserted that the "geographic load center test" employed by the Chief Examiner had never been adopted in Virginia and that application of the test violated Virginia law. It argued that the geographic load test was incompatible with the requirement of § 56-234 of the Code of Virginia that a utility is to provide service to all customers along their lines desiring their service; and that the test disregards territorial boundaries and encourages the violation of a utility's certificate of public convenience and necessity. Dominion asserted that it had the legal right and obligation to provide electric service to the Smithsonian because: (1) the museum was located along its lines; (2) Dominion holds a certificate to provide service in the area in Fairfax County where a portion of the museum is located; and (3) the Smithsonian had requested service from Virginia Power. Virginia Power urged the Commission to reject the Chief Examiner's recommendations, grant Dominion's counter petition, and hold that the Company has a statutory and legal obligation to serve all of the Smithsonian's project.

On April 10, 2002, NOVEC filed its "Response to Request for Oral Argument and Motion for Leave to File a Reply if Oral Argument is Granted." Among other things, the Cooperative asked that the Commission specify and limit the issues on which oral argument is held if the Commission seeks argument from the parties and that, if oral argument is permitted, it be permitted to file a reply to Dominion's April 3, 2002, response to the Chief Hearing Examiner's Report prior to such oral argument.

On April 11, 2002, the Cooperatives filed a response in opposition to the United States' and Dominion's requests for oral argument. They, too, requested that if oral argument were granted, the issues considered on argument be limited as requested by NOVEC and that the Commission grant NOVEC, the Cooperatives, and Staff leave to file written reply comments to those filed by the Smithsonian and Dominion.

On April 12, 2002, Virginia Power filed its response to NOVEC's and the Cooperatives' motions for leave to file a reply if oral argument were granted. Dominion opposed the requests to file written replies as unnecessary, inefficient, and counterproductive. It urged the Commission to grant its request for oral argument.

On April 24, 2002, the United States filed its "Reply in Support of its Request for Oral Argument." Among other things, the United States asserted that oral argument would permit the United States to engage in dialogue with the Commission regarding the United States' concerns and would serve the public interest.

NOW THE COMMISSION, upon consideration of the record, the pleadings, the findings and recommendations of the March 20, 2002, Chief Hearing Examiner's Report, the comments and objections thereto, the United States' April 3, 2002, motion for oral argument, and the responses and replies to that motion, is of the opinion and finds: (1) that the United States' April 3, 2002, request for oral argument should be denied; (2) that NOVEC's requests for relief in its Petition for Declaratory Judgment and its Motion for Injunction should be denied; and (3) that Virginia Power's counter petition should be granted as set forth herein.

While 5 VAC 5-20-210 of the Commission's Rules of Practice and Procedure grants the Commission the discretion to authorize oral argument, subject to such limits as we may prescribe, we find it unnecessary to exercise such discretion, especially where, as here, the case participants have been afforded ample opportunity to develop the record, facts, and law. We commend the parties and the Chief Hearing Examiner for their diligent efforts in this regard.

After review of the record and arguments made by counsel, we have determined not to adopt the recommendations of the March 20, 2002, Chief Hearing Examiner's Report. Instead, we find that Virginia Power is entitled to provide service to the Smithsonian's museum in Fairfax County from within Virginia Power's allotted certificated service territory as proposed by Virginia Power in this case.

Article IX, § 2 of the Constitution of Virginia provides that "[s]ubject to such criteria and other requirements as may be prescribed by law, the Commission shall have the power and be charged with the duty of regulating the rates, charges, and services and, except as may be otherwise authorized by this Constitution or by general law, the facilities of...electric companies." We are a creation of the Virginia Constitution and have no inherent power. Our jurisdiction to regulate must be found either in constitutional grants or statutes. *City of Norfolk v. Va. Elec. & Power Co.*, 197 Va. 505, 514 (1955). Consequently, our decision in this matter is directed to those entities that are subject to our jurisdiction as provided by the Virginia Constitution and the laws of the Commonwealth.<sup>4</sup>

In this case, both Virginia Power and NOVEC hold certificates of public convenience and necessity to serve the real property owned by the Smithsonian. Section 56-265.3 of the Code of Virginia requires that a public utility cannot provide service in a particular territory unless it first obtains a certificate of public convenience and necessity. When a public utility, like NOVEC or Virginia Power, receives its certificate of public convenience and necessity, that certificate grants to the public utility not only the right to provide service to the service territory allotted to it, but the duty to furnish such services. *Town of Culpeper v. Va. Elec. & Power Co.*, 215 Va. 189, 196 (1974). See also § 56-234 of the Code of Virginia.

Section 56-265.4 of the Code of Virginia prohibits one utility from operating in another utility's service territory unless the incumbent utility is providing inadequate service. Even then, the incumbent utility is afforded an opportunity to cure its service inadequacy.

Read together, §§ 56-265.3 and -265.4 of the Code of Virginia provide for exclusive service territories that are afforded significant protection. These statutes evidence an intent by the General Assembly to ensure and maintain the integrity of service territories.

There are circumstances, however, where two public utilities hold certificates of public convenience and necessity to serve real property that lies in both utilities' allotted service territories. Such is the case here. Consistent with *Prince George*, we must consider the practical realities of this situation.

<sup>4</sup> We do not exercise jurisdiction over the Smithsonian in this proceeding, because the rates, charges, and contracts for services rendered to it, a federal entity, are removed from our jurisdiction by § 56-234 of the Code of Virginia. However, we welcome the Smithsonian's participation in this proceeding, because it has added the perspective of a customer, albeit a nonjurisdictional one, to our analysis.

As noted above, the Smithsonian is a new customer that has not been previously served at this property. Unlike the customer in Prince George, the Smithsonian did not manipulate its land purchases to reach into Virginia Power's service territory to place a meter. As Exhibits PGM-1, Attachment 2, and Exhibit RGT-14, Attachment B, demonstrate, the Smithsonian's new museum structure and associated facilities straddle the service territory boundaries of both NOVEC and Virginia Power. Under these circumstances, both NOVEC and Virginia Power have the right and duty to provide electric service to this new customer if requested to do so.<sup>5</sup>

This finding protects exclusive service territories. Under circumstances as presented in this case, public utilities necessarily are at risk along their boundaries; such is the nature of certificated territories. Accordingly, given no extenuating circumstances or other practical considerations, where the facilities of a new customer straddle the contiguous service territory boundaries of two utilities, and with the absence of manipulation, that customer may request service from the utility of its choice. Section 56-234 of the Code of Virginia directs every utility to "provide adequate service and facilities at reasonable and just rates to any person, firm, or corporation along its lines desiring same."

In the circumstances of the instant case, both NOVEC and Virginia Power had the right and duty to serve the Smithsonian museum and associated facilities if requested to do so. They were also both at risk that the customer would request service from one rather than the other. Further, there are no other factors or practical realities necessitating a conclusion that the customer must take service from NOVEC.<sup>6</sup> In this case, the Smithsonian, a new customer, desired to take electric service from Virginia Power.

Finally, we agree with the Chief Hearing Examiner, the parties to the case, and Staff that it is impractical to require that electric service be extended by both NOVEC and Virginia Power to the Smithsonian museum. The Utility Facilities Act was intended to prevent economic waste and the public inconvenience resulting from duplication of utilities' facilities. See Earl S. Tyson and Betty B. Tyson v. Central Virginia Electric Cooperative, Case No. PUE-1980-00002, 1980 S.C.C. Ann. Rept. 283. Dual metering, multiple bills from two service providers, and dual electric service lines exemplify the type of economic waste and public inconvenience the Act was intended to avoid. The circumstances of this case do not warrant forcing the customer to take service from two public utilities.

Based on the pleadings and the record in this case, and on our conclusion that Virginia Power may properly and legally provide service to the Smithsonian, NOVEC's requests for relief are denied.

Accordingly, IT IS ORDERED THAT:

- (1) United States' request for oral argument is hereby denied.
- (2) NOVEC's requests for relief in its Petition for Declaratory Judgment and its Motion for Injunction are hereby denied.
- (3) Virginia Power's October 12, 2001, counter petition is granted to the extent it requests the Commission to find that Virginia Power may provide service to the Smithsonian museum from its service territory previously allotted by this Commission to Virginia Power.
- (4) There being nothing further to be done in this matter, this case shall be dismissed from the Commission's docket of active proceedings, and the papers filed herein made a part of the Commission's file for ended causes.

<sup>5</sup> This case is also distinguishable from Kentucky Utilities. That case involved an existing customer, Sigmon Coal Company, Inc. ("Sigmon"), that desired to take service from Powell Valley Electric Cooperative. Id., 1999 S.C.C. Ann. Rept. at 370. Sigmon's migration to Powell Valley Electric Cooperative, from Kentucky Utilities Company, would have idled a dedicated substation and other facilities that were being used to serve Sigmon as an existing customer. Id., 1999 S.C.C. Ann. Rept. at 376.

<sup>6</sup> The fact that Virginia Power has new temporary facilities in place to serve this customer has not influenced our analysis. Virginia Power necessarily assumed the risk of any such investment.

**CASE NO. PUE010516  
FEBRUARY 7, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION  
v.  
UNITED CITIES GAS COMPANY, INC.,  
Defendant

**ORDER OF SETTLEMENT**

The Natural Gas Pipeline Safety Act, 49 U.S.C. § 60101 *et seq.* ("Act"), requires the Secretary of Transportation ("Secretary") to establish minimum federal safety standards for the transportation of gas and pipeline facilities. The Secretary is further authorized to delegate to an appropriate state agency the authority to prescribe safety standards and enforce compliance with such standards over gas pipeline facilities used for intrastate transportation.

The Virginia State Corporation Commission ("Commission") has been designated as the appropriate state agency for the Commonwealth of Virginia. In Case No. PUE890052, the Commission adopted Parts 191, 192, 193, and 199 of Title 49 of the Code of Federal Regulations to serve as minimum gas pipeline safety standards ("Safety Standards") in Virginia. The Commission is authorized to enforce the Safety Standards under § 56-5.1 of the Code of Virginia, which allows the Commission to impose fines and penalties not exceeding those specified by § 11(a)(1) of the Natural Gas Pipeline Safety Act of 1968, as amended 49 U.S.C. § 60122(a)(1), formerly 49 U.S.C. App. § 1679a (a)(1).

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

The Commission's Division of Energy Regulation ("Division"), charged with investigation of each jurisdictional gas company's compliance with the Safety Standards, has conducted various inspections of construction, operation, and maintenance activities involving the United Cities Gas Company, Inc. ("UCGC" or "Company"), the Defendant, and alleges that:

- (1) UCGC is a public service corporation as that term is defined in § 56-1 of the Code of Virginia and, specifically a natural gas company within the meaning of § 56-5.1 of the Code of Virginia; and
- (2) The Company violated the Commission's Safety Standards by the following conduct:
  - a) 49 C.F.R. § 192.145(c) – Failing on several occasions to have valves that met the operating conditions;
  - b) 49 C.F.R. § 192.201(a) – Failing on several occasions to ensure adequate pressure relief capacity;
  - c) 49 C.F.R. § 192.303 – Failing on several occasions to install coating repairs according to Scotchkote Hot Melt Compounds Installation Guide, General Application Steps, Step 2;
  - d) 49 C.F.R. § 192.303 – Failing to have comprehensive written specifications relative to the use of metal banded rubber straps for casing insertion;
  - e) 49 C.F.R. § 192.303 – Failing on several occasions to follow Company Construction Manual, Section 13.0, Welding Procedure WP-3, by striking an arc at a location other than the weld groove;
  - f) 49 C.F.R. § 192.303 – Failing to follow Company Construction Manual, Section 2.4.2 by not using a combustible gas indicator to determine gas concentration in a bell hole where gas is known to be present;
  - g) 49 C.F.R. § 192.303 – Failing to follow Company Construction Manual, Section 2.2.8, Welding Area Safety, by welding in a bell hole that is leaking without a fellow employee free from the affected area having a fire extinguisher immediately available;
  - h) 49 C.F.R. § 192.707(d)(2) – Failing to display the telephone number (including area code) where the operator can be reached at all times on a pipeline marker; and
  - i) 49 C.F.R. § 192.739(b) – Failing to verify adequate capacity of a pressure limiting device.

The Company neither admits nor denies these allegations but admits the Commission's jurisdiction and authority to enter this Order. As an offer to settle all matters arising from the allegations made against it, UCGC represents and undertakes that:

- (1) The Company will pay a fine to the Commonwealth of Virginia in the amount of \$11,500 to be paid contemporaneously with the entry of this Order. This payment will be made by check, payable to the Treasurer of Virginia, and directed to the attention of the Director of the Division of Energy Regulation;
- (2) Any fines paid in accordance with this Order shall not be recovered in the Company's rates as part of UCGC's cost of service. Any such fines and costs shall be booked in Uniform System of Account No. 426.3. The Company shall verify its booking by filing a copy of the trial balance showing this entry with the Commission's Division of Public Utility Accounting.

The Commission being fully advised in the premises and finding sufficient basis herein for the entry of this Order, and in reliance on the Defendant's representations and undertakings set forth above, is of the opinion and finds that UCGC has made a good faith effort to cooperate with the Staff during the investigation of this matter and, therefore, the offer of compromise and settlement should be accepted.

Accordingly, IT IS ORDERED THAT:

- (1) Pursuant to the authority granted the Commission by § 12.1-15 of the Code of Virginia, the offer to compromise and settle made by UCGC be, and it hereby is, accepted.
- (2) Pursuant to § 56-5.1 of the Code of Virginia, UCGC be and it hereby is, fined in the amount of \$11,500.
- (3) The sum of \$11,500 tendered contemporaneously with the entry of this Order is accepted.
- (4) This case is hereby dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. PUE010531  
MARCH 5, 2002****APPLICATION OF  
C&P ISLE OF WIGHT WATER COMPANY**

For approval of acquisition of water supply facility assets and for certificates of public convenience and necessity pursuant to §§ 56-265.2 and 56-265.3

**FINAL ORDER**

On November 5, 2001, C&P Isle of Wight Water Company ("C&P Isle of Wight" or "Company") completed an application requesting authority, pursuant to the Utility Transfers Act, Chapter 5 of Title 56 of the Code of Virginia ("Code"), for C&P Isle of Wight to acquire from Pat Carpenito and S. V. Camp the water facility assets serving the subdivision known as Cypress Cove Gardens. Cypress Cove Gardens is located within the County of Southampton, Virginia.

The Company also requests, pursuant to § 56-265.2, a certificate of public convenience and necessity for C&P Isle of Wight to acquire such water facilities and requests, pursuant to § 56-265.3, an amended certificate to provide water service to the residents of the above-referenced subdivision. In addition, the Company requests approval of the rates, rules, and regulations of service proposed for that subdivision. Specifically, the Company proposes a \$30.00 bimonthly flat rate and the fees, charges, and rules and regulations currently approved by the Commission for serving the Company's other customers.

On November 14, 2001, the State Corporation Commission ("Commission") issued an Order for Notice and Comment. In that Order, the Commission docketed the matter, directed the Company to provide notice, provided interested persons with an opportunity to file comments and request a hearing, and directed its Staff to investigate the matter and file a report detailing its findings and recommendations.

On January 22, 2002, the Company filed the proofs of service and notice required by the Commission's Order of November 14, 2002. There were no comments or requests for hearing filed pursuant to that Order.

On February 14, 2002, Staff filed its Report. Staff noted that there were no significant service problems with systems owned and operated by C&P Isle of Wight. Staff found that there was no indication that the proposed transfer would have any adverse impact on the provision of adequate service to the public at just and reasonable rates. Staff, therefore, recommended approval of the above-referenced acquisition and disposition of water facility assets. Staff also recommended that C&P Isle of Wight submit a report to the Commission's Director of Public Utility Accounting providing certain details with respect to that transfer within thirty (30) days of such transaction.

Staff also found that it was in the public interest to grant C&P Isle of Wight the requested certificates. In addition, Staff recommended approval of the rates, rules, and regulations proposed for the above-referenced subdivision. Staff also recommended that the Company submit a new tariff for the Cypress Cove water system.

On February 25, 2001, the Company filed comments on the Staff's Report. In its comments, C&P Isle of Wight requests that the Commission adopt Staff's recommendations as detailed in its Report.

NOW THE COMMISSION, having considered the application, the Staff's Report, and the comments thereto, is of the opinion and finds that this application should be approved. We find that the public convenience and necessity requires that C&P Isle of Wight acquire the above-referenced water system. We also believe that such transfer will not impair or jeopardize the provision of adequate service to the public at just and reasonable rates.

Moreover, we find that it is in the public interest for C&P Isle of Wight to provide water service to the subdivision referenced herein and that the rates proposed for such subdivision do not appear unjust and unreasonable. We will, therefore, amend C&P Isle of Wight's Certificate to include such subdivision and cancel the Certificate previously granted to the Company.

Accordingly, IT IS ORDERED THAT:

(1) Pursuant to §§ 56-89 and 56-90 of the Code of Virginia, Pat Carpenito and S. V. Camp are hereby granted authority to convey to C&P Isle of Wight the water facility assets of the Cypress Cove Gardens Subdivision in Southampton County, Virginia.

(2) C&P Isle of Wight is hereby authorized to acquire from Pat Carpenito and S. V. Camp the water facility assets detailed herein.

(3) The granting of the above-referenced authority shall have no ratemaking implications.

(4) The Company shall submit a Report of Action to the Commission's Director of Public Utility Accounting no later than thirty (30) days from the date of the transfer, subject to extension by the Director of Public Utility Accounting. Such Report shall detail the date of the transfer, the sales price, and accounting entries reflecting that transfer.

(5) C&P Isle of Wight Water Company's Certificate No. W-283(d) is hereby canceled.

(6) C&P Isle of Wight Water Company shall be granted a certificate of public convenience and necessity, Certificate No. W-283(e), to provide water service to the above-referenced subdivision in Southampton County, Virginia, as well as those subdivisions authorized in Certificate No. W-283(d).

(7) The Company's proposed rates, charges, fees, and rules and regulations of service for the above-referenced subdivision are hereby approved.

(8) The Company shall within sixty (60) days from the date of this Order submit to the Commission's Division of Energy Regulation a new tariff incorporating the rates approved herein.

(9) This matter is hereby dismissed.

**CASE NO. PUE010533  
FEBRUARY 19, 2002**

PETITION OF  
INTERNATIONAL PAPER COMPANY

v.

VIRGINIA ELECTRIC AND POWER COMPANY, d/b/a DOMINION VIRGINIA POWER

For arbitration and redress of billing complaint

**ORDER GRANTING MOTION TO DISMISS**

On October 5, 2001, International Paper Company ("International Paper") filed with the State Corporation Commission ("Commission") a petition and complaint ("Petition") for arbitration or other appropriate resolution of a dispute with Virginia Electric and Power Company, d/b/a Dominion Virginia Power ("DVP"). International Paper filed this Petition pursuant to §§ 56-35, 56-38, and 56-6 of the Code of Virginia and Rules 5 VAC 5-20-100 B and C of the Commission's Rules of Practice and Procedure.

Union Camp Corporation, International Paper's predecessor, and DVP entered into a Power Purchase and Operating Agreement on August 26, 1986, amended September 27, 1988 (the "Contract"). International Paper owns and operates a paper mill in Franklin, Virginia, and also operates facilities at the Franklin Mill for the generation of electric energy. Under the Contract with DVP, International Paper simultaneously buys electricity from, and sells electricity to, DVP. According to the Contract, International Paper has an obligation to provide a certain amount of dependable capacity to DVP during each calendar year. The practice is for DVP to make payments for this capacity via credits to International Paper's monthly invoice for retail electric service that DVP provided to International Paper. Pursuant to the Contract, when the required level of dependable capacity is not provided, International Paper is to refund capacity payments received from DVP.

In its Petition, International Paper asserts that it notified DVP that, as a result of damages from flooding caused by Hurricane Floyd in calendar year 1999, its facility at the Franklin Mill had to be taken off-line for repairs in calendar year 2000. International Paper argues that floods and storms are events of force majeure excusing it from performance pursuant to the Contract, and that it should not be penalized for failing to meet the dependable capacity requirement. International Paper states that DVP advised that, notwithstanding the force majeure clause, International Paper had breached the contract. International Paper further states that DVP demanded a refund of calendar year 2000 payments<sup>1</sup>, and discontinued crediting its monthly invoice for electricity provided by International Paper. International Paper notes that it has recalculated each invoice to retain the capacity payments allegedly due to it.

According to the Petition, International Paper made a request to DVP that the parties petition the Commission for arbitration of this issue under an arbitration provision appearing in the Contract. Subsequent to this request, DVP filed a breach of contract suit in the United States District Court for the Eastern District of Virginia to recover the alleged refund due.<sup>2</sup> On October 22, 2001, DVP filed with the Commission a Motion to Dismiss International Paper's Petition, arguing that: (i) the Commission lacks jurisdiction because the Petition is based on a common law contractual dispute, (ii) International Paper did not provide an adequate legal basis for Commission jurisdiction under §§ 56-35 or 56-38 of the Code, and (iii) the arbitration provision in the contract would be inappropriately applied in this instance. On November 5, 2001, International Paper filed a Response to DVP's Motion, disputing DVP's contentions, and on November 15, 2001, DVP filed a Reply to International Paper's Response, rebutting the Response.

NOW THE COMMISSION, upon consideration of the Petition, the Motion to Dismiss, and the other pleadings filed in this matter, is of the opinion and finds that International Paper has failed to provide sufficient legal basis for the Commission's jurisdiction over this dispute; therefore, DVP's Motion to Dismiss should be granted.

International Paper asserts that the Commission has jurisdiction over its Petition under § 56-35 of the Code of Virginia because DVP's billing practices are part of its public duties. Section 56-35 of the Code of Virginia charges the Commission with the duty to supervise, regulate, and control public service companies doing business in the Commonwealth in all matters relating to their public duties and to correct any abuses therein by such companies. We are not persuaded that the allegations contained in the pleadings contain the type of abuses contemplated by this statute. This is not a dispute over a tariff filed with the Commission or a pattern of allegedly questionable practices by a public service corporation, for example. Rather, this appears to be a classic contractual dispute arising under a contract executed solely between the two parties involving the interpretation of a force majeure clause and an amount purported to be due under the contract. The dispute did not arise from DVP's failure to perform a public duty imposed upon it by law, but rather from a privately negotiated and executed power purchase contract between the parties. Therefore, it would be improper for the Commission to assert jurisdiction over the Petition pursuant to § 56-35 of the Code of Virginia.

Next, International Paper argues that § 56-38 of the Code of Virginia provides sufficient legal basis for the Commission's jurisdiction. Section 56-38 of the Code of Virginia requires the Commission, upon the request of interested parties, to mediate controversies between public service

<sup>1</sup> According to DVP, the amount in dispute is \$1,993,101.60, plus interest and costs.

<sup>2</sup> International Paper filed with the Court a Motion to Dismiss or in the Alternative to Stay Proceedings Pending Arbitration. On November 14, 2001, the Court denied International Paper's motion, finding that the Contract between the parties does not require the issue to be referred to the Commission for arbitration, rather than being litigated in federal court. The Court found that the controversy could be resolved as a breach of contract issue. Virginia Electric and Power Company v. International Paper Company, No. 2:01CV703 (E.D.Va. Norfolk Division Nov. 14, 2001) (order denying motion to dismiss or in the alternative to stay the proceedings).



companies and their employees and patrons. This statute requires that both interested parties request mediation by the Commission. Although the Contract may bind the parties with respect to requesting arbitration by the Commission,<sup>3</sup> both parties have not petitioned the Commission for mediation of the controversy, as is required by § 56-38 of the Code of Virginia. Therefore, we find that § 56-38 of the Code of Virginia does not apply to this dispute.

Finally, we find that International Paper has not provided sufficient legal basis for the Commission's jurisdiction under § 56-6 of the Code of Virginia, which provides that a corporation aggrieved by a public service corporation in violation of any provisions of Title 56 may file a petition outlining its grievance and seeking relief from the Commission. This statute applies to the claim of "[any] person or corporation aggrieved by anything done or omitted in violation of any of the provisions of this or any other chapter under this title, by any public service corporation." (emphasis added.) We have determined that neither §56-35 nor § 56-38 of the Code of Virginia applies to this dispute, and International Paper has not alleged violation of any other provisions of Title 56. Section 56-6, as alleged by International Paper in its Petition, is therefore inapplicable.

Accordingly, IT IS ORDERED THAT DVP's Motion to Dismiss the Petition is hereby granted.

There being nothing further to come before the Commission, this case shall be dismissed and the papers filed herein placed in the file for ended causes.

<sup>3</sup> It is not necessary for us to decide this issue in this proceeding, and we will not do so.

**CASE NO. PUE-2001-00538  
APRIL 16, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION  
v.  
CENTRAL LOCATING SERVICE, LTD.,  
Defendant

**ORDER OF SETTLEMENT**

Pursuant to § 56-265.30 of the Code of Virginia, the Virginia State Corporation Commission ("Commission") is charged with enforcing the provisions of the Underground Utility Damage Prevention Act, §§ 56-265.14 *et seq.* of the Code of Virginia ("Act"). The Commission's Division of Energy Regulation ("Division"), charged with the investigation of probable violations of the Act, has completed investigations of certain incidents between May 09, 2001, and July 30, 2001, listed in Attachment A, involving Central Locating Service, Ltd. ("Company"), and alleges that:

- (1) The Company is a contract locator as that term is defined in § 56-265.15 of the Code of Virginia;
- (2) During the aforementioned period the Company violated the Act by committing the following violations:
  - (a) Failing on certain occasions to mark the approximate horizontal location of the underground utility lines on the ground to within two feet of either side of the underground utility lines, in violation of §§ 56-265.19 A and D of the Code of Virginia.
  - (b) Failing on certain occasions to mark within the time prescribed in the Act, in violation of § 56-265.17 B and §§ 56-265.19 A and D of the Code of Virginia.
  - (c) Failing on certain occasions to report to the notification center that lines had been marked or they were not in conflict with the proposed excavation, in violation of §§ 56-265.19 A, B, and D of the Code of Virginia.

As evidenced in the attached Admission and Consent document, the Company neither admits nor denies these allegations but admits the Commission's jurisdiction and authority to enter this Order. As an offer to settle all matters before the Commission arising from the Division's allegations made herein, which includes all probable violations presented to the Underground Utility Damage Prevention Advisory Committee on September 5, 2001, and set out in Attachment A hereto, the Company represents and undertakes that it will pay a civil penalty to the Commonwealth of Virginia in the amount of \$27,100 to be paid contemporaneously with the entry of this Order. This payment will be made by cashier's check or money order, payable to the Treasurer of Virginia and directed to the attention of the Director of the Division of Energy Regulation.

The Commission, being advised by the Staff and finding sufficient basis herein for the entry of this Order, hereby accepts this settlement.

Accordingly, IT IS ORDERED THAT:

- (1) Pursuant to the authority granted the Commission by § 12.1-15 of the Code of Virginia, the offer of settlement made by the Company be, and it hereby is, accepted.
- (2) The sum of \$27,100 tendered contemporaneously with the entry of this Order is accepted.
- (3) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. PUE010539  
MARCH 12, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION  
v.  
UTILIQUEST, LLC,  
Defendant

**ORDER OF SETTLEMENT**

Pursuant to § 56-265.30 of the Code of Virginia, the Virginia State Corporation Commission ("Commission") is charged with enforcing the provisions of the Underground Utility Damage Prevention Act, §§ 56-265.14 *et seq.* of the Code of Virginia ("Act"). The Commission's Division of Energy Regulation ("Division"), charged with the investigation of probable violations of the Act, has completed investigations of certain incidents between May 16, 2001, and July 31, 2001, listed in Attachment A, involving Utiliquest, LLC ("Company"), and alleges that:

- (1) The Company is a contract locator as that term is defined in § 56-265.15 of the Code of Virginia;
- (2) During the aforementioned period the Company violated the Act by committing the following violations:
  - (a) Failing on certain occasions to mark the approximate horizontal location of the underground utility lines on the ground to within two feet of either side of the underground utility lines, in violation of §§ 56-265.19 A and D of the Code of Virginia.
  - (b) Failing on certain occasions to mark within the time prescribed in the Act, in violation of § 56-265.17 B and §§ 56-265.19 A and D of the Code of Virginia.
  - (c) Failing on certain occasions to report to the notification center that lines had been marked or they were not in conflict with the proposed excavation, in violation of §§ 56-265.19 A, B, and D of the Code of Virginia.

As evidenced in the attached Admission and Consent document, the Company neither admits nor denies these allegations but admits the Commission's jurisdiction and authority to enter this Order. As an offer to settle all matters before the Commission arising from the Division's allegations made herein, which includes all probable violations presented to the Underground Utility Damage Prevention Advisory Committee on September 5, 2001, and set out in Attachment A hereto, the Company represents and undertakes that it will pay a civil penalty to the Commonwealth of Virginia in the amount of \$21,750 to be paid contemporaneously with the entry of this Order. This payment will be made by cashier's check or money order, payable to the Treasurer of Virginia and directed to the attention of the Director of the Division of Energy Regulation.

THE COMMISSION, being advised by the Staff and finding sufficient basis herein for the entry of this Order, hereby accepts this settlement.

Accordingly, IT IS ORDERED THAT:

- (1) Pursuant to the authority granted the Commission by § 12.1-15 of the Code of Virginia, the offer of settlement made by the Company be, and it hereby is, accepted.
- (2) The sum of \$21,750 tendered contemporaneously with the entry of this Order is accepted.
- (3) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. PUE010573  
FEBRUARY 11, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION  
v.  
UTILIQUEST, LLC,  
Defendant

**ORDER OF SETTLEMENT**

Pursuant to § 56-265.30 of the Code of Virginia, the Virginia State Corporation Commission ("Commission") is charged with enforcing the provisions of the Underground Utility Damage Prevention Act, §§ 56-265.14 *et seq.* of the Code of Virginia ("Act"). The Commission's Division of Energy Regulation ("Division"), charged with the investigation of probable violations of the Act, has completed investigations of certain incidents between May 7, 2001, and August 29, 2001, listed in Attachment A, involving Utiliquest, LLC ("Company"), and alleges that:

- (1) The Company is a contract locator as that term is defined in § 56-265.15 of the Code of Virginia;
- (2) During the aforementioned period the Company violated the Act by committing the following violations:
  - (a) Failing on certain occasions to mark the approximate horizontal location of the underground utility lines on the ground to within two feet of either side of the underground utility lines, in violation of §§ 56-265.19 A and D of the Code of Virginia.

(b) Failing on certain occasions to mark within the time prescribed in the Act, in violation of §§ 56-265.19 A and D of the Code of Virginia.

(c) Failing on certain occasions to report to the notification center that lines had been marked or they were not in conflict with the proposed excavation, in violation of §§ 56-265.19 A and D of the Code of Virginia.

As evidenced in the attached Admission and Consent document, the Company neither admits nor denies these allegations but admits the Commission's jurisdiction and authority to enter this Order. As an offer to settle all matters before the Commission arising from the Division's allegations made herein, which includes all probable violations presented to the Underground Utility Damage Prevention Advisory Committee on October 2, 2001, and set out in Attachment A hereto, the Company represents and undertakes that it will pay a civil penalty to the Commonwealth of Virginia in the amount of \$18,150 to be paid contemporaneously with the entry of this Order. This payment will be made by cashier's check or money order, payable to the Treasurer of Virginia and directed to the attention of the Director of the Division of Energy Regulation.

THE COMMISSION, being advised by the Staff and finding sufficient basis herein for the entry of this Order, hereby accepts this settlement.

Accordingly, IT IS ORDERED THAT:

- (1) Pursuant to the authority granted the Commission by § 12.1-15 of the Code of Virginia, the offer of settlement made by the Company be, and it hereby is, accepted.
- (2) The sum of \$18,150 tendered contemporaneously with the entry of this Order is accepted.
- (3) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. PUE-2001-00574  
APRIL 16, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION  
v.  
CENTRAL LOCATING SERVICE, LTD.,  
Defendant

**ORDER OF SETTLEMENT**

Pursuant to § 56-265.30 of the Code of Virginia, the Virginia State Corporation Commission ("Commission") is charged with enforcing the provisions of the Underground Utility Damage Prevention Act, §§ 56-265.14 *et seq.* of the Code of Virginia ("Act"). The Commission's Division of Energy Regulation ("Division"), charged with the investigation of probable violations of the Act, has completed investigations of certain incidents between May 18, 2001, and August 17, 2001, listed in Attachment A, involving Central Locating Service, Ltd. ("Company"), and alleges that:

- (1) The Company is a contract locator as that term is defined in § 56-265.15 of the Code of Virginia;
- (2) During the aforementioned period the Company violated the Act, by committing the following violations:
  - (a) Failing on certain occasions to mark the approximate horizontal location of the underground utility lines on the ground to within two feet of either side of the underground utility lines, in violation of §§ 56-265.19 A and D of the Code of Virginia.
  - (b) Failing on certain occasions to mark within the time prescribed in the Act, in violation of §§ 56-265.19 A and D of the Code of Virginia.
  - (c) Failing on certain occasions to report to the notification center that lines had been marked or they were not in conflict with the proposed excavation, in violation of §§ 56-265.19 A, and D of the Code of Virginia.

As evidenced in the attached Admission and Consent document, the Company neither admits nor denies these allegations but admits the Commission's jurisdiction and authority to enter this Order. As an offer to settle all matters before the Commission arising from the Division's allegations made herein, which includes all probable violations presented to the Underground Utility Damage Prevention Advisory Committee on October 2, 2001, and set out in Attachment A hereto, the Company represents and undertakes that it will pay a civil penalty to the Commonwealth of Virginia in the amount of \$14,900 to be paid contemporaneously with the entry of this Order. This payment will be made by cashier's check or money order, payable to the Treasurer of Virginia and directed to the attention of the Director of the Division of Energy Regulation.

The Commission, being advised by the Staff and finding sufficient basis herein for the entry of this Order, hereby accepts this settlement.

Accordingly, IT IS ORDERED THAT:

- (1) Pursuant to the authority granted the Commission by § 12.1-15 of the Code of Virginia, the offer of settlement made by the Company be, and it hereby is, accepted.
- (2) The sum of \$14,900 tendered contemporaneously with the entry of this Order is accepted.
- (3) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. PUE-2001-00583  
APRIL 29, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION  
v.  
COLUMBIA GAS OF VIRGINIA, INC.,  
Defendant

**ORDER SUSPENDING FINE AND DISMISSING PROCEEDING**

On December 14, 2001, the State Corporation Commission ("Commission") entered an Order of Settlement under which Columbia Gas of Virginia, Inc., ("Columbia" or "the Company") undertook remedial actions and agreed to pay \$29,100, as an offer to settle various alleged violations of the Commission's gas pipeline safety standards.

In Paragraph (3) found on page 4 of the December 14, 2001, Order, Columbia agreed to tender to the Commission a notarized affidavit by its President ("Affidavit") certifying that all of the Company's markers now comply with 49 C.F.R. § 192.707 of the Commission's safety standards. Paragraph (4), found on pages 4-5 of the Order of Settlement, provided that upon the timely receipt of said Affidavit, the Commission may suspend \$10,000 of the amount specified on page 4, Paragraph (1) of the December 14, 2001, Order of Settlement.

The Company submitted the Affidavit of Peggy Landini, Executive Vice President and Chief Operating Officer of Columbia Gas of Virginia, Inc., to the Division of Energy Regulation on January 23, 2002. The January 23, 2002, Affidavit certified that "to the best of the Company's knowledge", all of its pipeline markers comply with § 192.707 of the Commission's safety standards as of December 31, 2001.

NOW UPON consideration of the foregoing, the Commission is of the opinion and finds that \$10,000 of the \$29,100 fine provided for in the December 14, 2001, Order of Settlement should be suspended, and this matter should be dismissed from the Commission's docket of active proceedings. We note, after reviewing the referenced Affidavit, that if it is subsequently discovered that any of the Company's line markers do not satisfy the requirements found in 49 C.F.R. §192.707 of our pipeline safety requirements, these instances of noncompliance with this regulation may be the subject of investigation by our Staff and may be the subject of further enforcement actions, if necessary, to assure compliance with our pipeline safety regulations.

Accordingly, IT IS ORDERED THAT:

- (1) In accordance with Paragraph (4), found at pages 4 and 5 of the December 14, 2001, Order, and Ordering Paragraph (6) of the December 14, 2001 Order of Settlement, \$10,000 of the \$29,100 fine is hereby suspended.
- (2) There being nothing further to be done herein, this matter shall be dismissed from the Commission's docket of active proceedings.

**CASE NO. PUE-2001-00584  
DECEMBER 10, 2002**

APPLICATION OF  
AES NEWENERGY, INC.  
and  
CONSTELLATION NEWENERGY GROUP, INC.

**ORDER REISSUING LICENSES**

On December 14, 2001, the State Corporation Commission ("Commission") issued to AES NewEnergy, Inc. ("AES"), License Nos. E-11 and A-12 to provide competitive electric service and aggregation services to commercial and industrial customers in the electric retail access programs and to conduct business as an aggregator of natural gas services throughout the Commonwealth of Virginia as the Commonwealth opens up to retail access and customer choice. As part of its original application, AES provided a surety bond ("Bond") to demonstrate its financial fitness and responsibility.

On October 8, 2002, AES made a filing with the Commission advising that it had changed its corporate name to Constellation NewEnergy, Inc. ("Constellation"), and had undergone an ownership change. Effective September 9, 2002, AES was purchased by Constellation Energy Group, Inc. Constellation noted that by letter dated September 19, 2002, it advised utilities of the name change and that this change would in no way affect its continuing efforts to serve customers in Virginia. As part of its ownership change, Constellation now offers a guarantee from its new parent, Constellation Energy Group, Inc., as a replacement for the Bond that the Commission previously accepted.

NOW THE COMMISSION, upon consideration of this matter, finds that AES' License Nos. E-11 and A-12 to conduct business as a competitive electric service provider and as an aggregator of natural gas services, shall be canceled and reissued in the name of Constellation NewEnergy, Inc. Further, we find that it is appropriate for Constellation to be released from the Bond, and we will accept the proposed parental guarantee as a replacement form of security.

Accordingly, IT IS ORDERED THAT:

- (1) License No. E-11 authorizing AES NewEnergy, Inc. to provide competitive electric supply service to commercial and industrial customers in conjunction with the retail access programs is hereby canceled, and shall be reissued as License No. E-11A in the name of Constellation NewEnergy, Inc.

(2) License No. A-12 authorizing AES NewEnergy, Inc., to provide competitive natural gas aggregation services to commercial and industrial customers in conjunction with the retail access programs is hereby canceled, and shall be reissued as License No. A-12A in the name of Constellation NewEnergy, Inc.

(3) These licenses are granted subject to the maintenance of the parental guarantee.

(4) Constellation NewEnergy, Inc., shall operate under these licenses as reissued pursuant to the same terms and conditions as set forth in our Order Granting Licenses entered in this docket on December 14, 2001.

(5) This case shall remain open for consideration of any subsequent amendments or modifications to these licenses.

**CASE NO. PUE-2001-00585  
AUGUST 6, 2002**

APPLICATION OF  
SALTVILLE GAS STORAGE COMPANY, L.L.C.

For a certificate of public convenience and necessity under the Utility Facilities Act

**ORDER GRANTING CERTIFICATE**

On October 26, 2001, Saltville Gas Storage Company, L.L.C. ("Saltville," "LLC," or the "Company"), filed an application with the State Corporation Commission ("Commission") requesting the Commission to issue a certificate of public convenience and necessity under the Utility Facilities Act, Chapter 10.1 (§ 56-265.1, *et seq.*) of Title 56 ("Utility Facilities Act") of the Code of Virginia ("Code"), authorizing Saltville to construct, develop, own, operate, and maintain an underground natural gas storage facility, along with related facilities, at Saltville, Virginia (the "Storage Facility"), and to grant all approvals required under the Utility Facilities Act and any regulations or guidelines issued thereunder. In its application, the Company proposed to construct, develop, own, operate, and maintain an attendant pipeline facility, approximately seven miles in length, originating at the proposed Storage Facility and terminating in Chilhowie, Virginia, along with certain related facilities. The Company also proposed to provide firm storage services and an interruptible storage service consisting of normal interruptible storage, park and loan services, and a negotiated service available primarily for a shorter term interruptible service. According to Saltville, its underground natural gas storage facility will be connected with Virginia Gas Pipeline Company's ("VGPC") existing P-25 intrastate pipeline system, and East Tennessee Natural Gas Company's ("ETNG") interstate pipeline system.

On November 16, 2001, VGPC filed a motion to participate as a party in this proceeding. In its motion, VGPC agreed that it would reduce the site certificated to VGPC to reflect the scope of its operations at VGPC's Saltville Gas Storage Facility, consistent with the Commission's approval of Saltville's application. VGPC's motion indicated that it wished to reduce the site certificated to VGPC only if Saltville is granted a final certificate to develop, construct, own, operate, and maintain the natural gas Storage Facility that was the subject of the application. VGPC maintained that if Saltville's application is approved, the reduced facility site certificated to VGPC would be contiguous with the proposed facility site certificated to Saltville. VGPC noted that it planned to file a joint application to transfer certain assets it owns to the Company and to file revised tariff and cost of service sheets to reflect, among other things, the transfer of certain assets. VGPC reiterated that it has no desire to reduce the site certificated to VGPC unless the Commission acted favorably on Saltville's application.

In its December 3, 2001, procedural Order, the Commission docketed the proceeding, granted VGPC's motion to participate as a party to this proceeding, scheduled the matter for hearing on February 20, 2002, before a Hearing Examiner, and established a procedural schedule for the filing of comments and testimony by Saltville, respondents, public witnesses, and Staff.

On the appointed hearing date, the matter came before the Hearing Examiner assigned to this matter. Counsel appearing were JoAnne L. Nolte, Esquire, Danielle L. Smith, Esquire, and Mary Patricia Keefe, Esquire, counsel for Saltville and VGPC; Edward L. Petrini, Esquire, counsel for Public Service Company of North Carolina, Inc. ("Public Service"); J. Patrick Nevins, Esquire, and James R. Kibler, Jr., Esquire, counsel for Dominion Greenbrier, Inc. ("Greenbrier"); and Joseph W. Lee, III, Esquire, and Sherry H. Bridewell, Esquire, counsel for the Commission Staff. No public witnesses appeared at the hearing. The proofs of publication and notice to the public were accepted as Exhibits A, B, and C. At the conclusion of the proceeding, the Hearing Examiner invited the parties and Staff to file post-hearing briefs within ten business days of the transcript. Post-hearing briefs were filed by the Company, Staff, Greenbrier, and Public Service.

On May 31, 2002, the Hearing Examiner issued his report in this matter, wherein he made the following findings and recommendations:

(1) Saltville has satisfied the criteria for issuance of a preliminary CPCN [certificate of public convenience and necessity], pursuant to § 56-265.2 of the Code of Virginia, to test, develop, construct, maintain and own an underground natural gas storage facility in Saltville, Virginia;

(2) The Commission should defer issuing Saltville its final CPCN allowing it to operate the Storage Facility until after the filing of certain test results, engineering studies, operations manuals, and engineering plans and specifications with the Commission, as detailed in this Report;

(3) Since the viability and timely completion of the project may be impacted by Saltville's ability to dispose of brine produced in cavern development, the Commission should monitor Saltville's brine disposal throughout Phase I of the project. Saltville's CPCN should contain a requirement that it file a report with the Commission on or before January 31, 2003, and annually thereafter, identifying the amount of brine actually processed during the preceding calendar year, the brine on hand in the retention ponds at the end of the calendar year, the remaining space available in the retention ponds, a projection of the brine to be produced in the

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upcoming calendar year from cavern development, a projection of the amount of brine to be processed during the upcoming calendar year, and the method of processing;

(4) Saltville's CPCN should specifically state that it is limited to Phase I of the Storage Facility project, and that Phase II is excluded from the CPCN;

(5) Saltville's CPCN should contain a sunset provision that if Phase I of the project extends beyond December 31, 2007, Saltville shall request additional authority from the Commission to continue development of the project;

(6) Saltville's CPCN should contain a sunset provision that if Saltville fails to develop or operate the Storage Facility, its CPCN will lapse on December 31, 2007, unless Saltville timely files a petition with the Commission requesting an extension of its CPCN, and demonstrates good cause for its delay;

(7) Saltville should be required to file a copy of its management committee's 'policies' prior to the issuance of a final CPCN to confirm that the committee exercises supervision and control over the operating manager;

(8) Saltville should be required to file a complete list of the permits required to construct, own, and operate the Storage Facility, and identify the entity required by law, statute, or regulation to hold such permit;

(9) Saltville should be entitled to a business risk, or small company, adjustment in determining its cost of equity capital;

(10) Saltville's 14.45% cost of equity capital is reasonable;

(11) Saltville should be permitted to capitalize interest in accordance with the methodology approved by the Commission in Virginia Gas Pipeline Co., Case No. PUE980627, 1999 S.C.C. Ann. Rep. 443;

(12) Saltville should be required to make an Annual Informational Filing after one year of operational data has been accumulated;

(13) Saltville should be required to file a FERC Form 2 within 120 days of the end of the Company's fiscal year;

(14) Saltville's accounting records should comply with the FERC System of Accounts (Conservation of Power and Water Resource, Number 18, Parts 1 to 399, revised as of April 1, 2001);

(15) Saltville should be required to file an application under the Utility Transfers Act to transfer the facilities outlined in this case from VGPC to Saltville;

(16) Saltville's proposed Firm Storage Service and Interruptible Storage Service charges, as modified at the hearing, are reasonable;

(17) Saltville should be afforded an opportunity after it is issued its preliminary CPCN to file amendments to its tariff to address the concerns raised by Public Service and the Staff;

(18) Saltville should be required to provide the cavern test results to the Staff, for an independent review of the results by the Staff's geotechnical expert;

(19) Saltville should be required to comply with the following operations parameters and continued operations monitoring recommendations: (a) in situ leakage testing and mechanical integrity tests should be performed on the proposed caverns; (b) maximum cavern pressures should not exceed the equivalent of .75 psi per foot of depth from the ground surface to the cavern roof unless the caverns are hydraulically interconnected. If they are interconnected, the maximum operating pressure should not exceed .70 psi per foot depth; (c) minimum cavern pressures should not fall below .30 psi per foot during the first three years of operation and rapid drops of pressure should be avoided. At the end of three years, the minimum cavern pressure may be reduced to .25 psi, if done in a gradual manner, i.e., less than 150 psi/day; (d) periodic ground level surveys should be conducted using the benchmark network; (e) a survey specialist should be engaged to review the existing survey procedure to improve the accuracy and repeatability of the present survey readings; (f) yearly gamma ray and caliper logging of all active wells; (g) periodic sonar surveys should be used to monitor the dimension and shape of the caverns; (h) injection pressures, flow rates, and cumulative gas volumes should be monitored and recorded according to federal EPA requirements; and (i) the collected data should be integrated to develop a model of ground behavior on a yearly basis;

(20) Saltville should be required to comply with the recommendations contained in Department of Environmental Quality's Coordinated Environmental Review;

(21) Saltville should be required to make corrections to the manuals already filed with the Commission to separately identify the owner of the Storage Facility from the operator of the Storage Facility. Additionally, the Commission should require Saltville to file its Operator Qualification Manual;

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(22) Saltville should be required to provide the Staff with the comprehensive specifications for all portions of the pipeline facilities at least 30 days prior to the commencement of construction;

(23) Saltville's CPCN should include the natural gas storage service territory and the natural gas pipeline territory requested in its Application, as more particularly described in the Commission's Order for Notice and Hearing; and

(24) The Commission should direct VGPC to submit a request identifying with particularity the service territory it desires to abandon, and the service territory it desires to retain.

The Hearing Examiner recommended that the Commission enter an Order adopting the findings contained in his Report; granting Saltville preliminary approval, pursuant to § 56-265.2 of the Code, to test, develop, construct, maintain, operate, and own a natural gas storage facility and attendant natural gas pipeline facilities in Saltville, Virginia; deferring final approval to Saltville to operate its natural gas Storage Facility until certain filings are made with the Commission; and retaining jurisdiction of this case until further Order of the Commission.

The Hearing Examiner invited the parties to the proceedings to file comments within twenty-one days of the date of his Report.

On June 21, 2002, Saltville and VGPC filed joint comments to the Hearing Examiner's Report. In these comments, the Company and VGPC indicated that they generally supported the Hearing Examiner's recommendations, but requested that the Commission grant the Company a certificate of public convenience and necessity subject to conditions that must be fulfilled after the certificate is issued. Saltville maintains that it requires the certificate to enter into contracts and to obtain financing. The Company asserted that the issuance of a certificate should not be delayed because of the requirement that reports relative to the development and operation of the facility be filed.

Saltville asserted that the recommended 14.45% return on equity was fair, reasonable, and conservative, and supported the Hearing Examiner's application of a small company investment adjustments as recognizing the risk factors involved in the storage project.

The joint comments further noted that VGPC had requested a reduction in the facility site certificated to VGPC and asserted, contrary to the recommendations of the Hearing Examiner, that VGPC had identified with particularity the portion of the certificated facility site it proposed to abandon. The comments requested the Commission to grant VGPC's requested reduction in the certificated facility site.

On June 21, 2002, the Staff filed its comments on the Hearing Examiner's Report. In its comments, the Staff noted that the Commission should condition Saltville's receipt of a certificate on a further demonstration of (i) how the Company will obtain and maintain control of the proposed salt cavern facility and associated facilities; (ii) proof that critical regulatory permits from the Department of Environmental Quality and the Environmental Protection Agency have been issued to Saltville; (iii) proof that Saltville will take responsibility for the day-to-day operations and safety of the subject caverns; and (iv) proof that the Company's management policies have been precisely defined and provide for the exercise of control by Saltville over the operations of the project.

The Staff requested that finding paragraph (18) of the May 31, 2002, Hearing Examiner's Report be clarified to change the reference from "the Staff's geotechnical expert" to Staff or to a technical expert retained by Staff. Staff contended that if the Commission grants Saltville a certificate, the filings required by finding paragraph (19) of the Hearing Examiner's Report be made directly with the Staff on a quarterly basis in an electronic format.

Staff recommended that the Commission reject the Hearing Examiner's findings as to Saltville's cost of equity and overall cost of capital, and the Hearing Examiner's acceptance of a small firm adjustment to Saltville's equity. Staff supported a return on equity in the range of 12% - 13%, with an overall cost of capital within a range of 9.40% - 9.75%.

Staff further recommended that the Commission grant a certificate to Saltville only after the Company receives the requisite regulatory approvals necessary under Chapters 4 and 5 of Title 56, and upon receipt of further certificate amendments by the Company and VGPC to clarify who would actually be furnishing the utility service at issue in the application.

The Utility Facilities Act governs Saltville's application to: (1) develop, construct, own, operate, and maintain an underground natural gas Storage Facility, along with related facilities, at Saltville, Virginia; (2) construct, develop, own, operate, and maintain an attendant pipeline facility approximately seven miles in length originating at the Storage Facility and terminating in Chilhowie, Virginia, along with related facilities; and (3) provide both firm and interruptible natural gas storage services to customers consistent with the Company's proposed gas tariff. In accordance with this statute, the following issues, among others, have been considered by the Hearing Examiner and, in turn, the Commission, in this case:

- (1) Whether Saltville has demonstrated that, upon granting of its CPCN, its management and control of the facility is adequate?
- (2) Whether Saltville has satisfied the requisite geotechnical and engineering tests and specifications for the construction and maintenance of the facility?
- (3) What is the appropriate determination of the cost of equity capital recommendation for the Saltville operation?

We will accept recommendations (1), (3), (4), (5), (6), (11), (12), (13), (14), (15), (16), (17), (18), (19), (20), (21), (22), and (23) set out in the May 31, 2002, Hearing Examiner's Report as modified below. We will discuss the issues raised regarding management and control of the facility, the geotechnical tests and specifications for construction, maintenance and operation of the facility, as well as the appropriate cost of equity and cost of capital for Saltville's facility addressed in the comments of Staff and of the Company.

### Management and Control of the Facility

With regard to the management and control issues raised by Saltville's project, the questions of adequate management and control and the determination of which entity should rightly hold the CPCN for the Storage Facility developed is based upon the unusual organizational and physical location of the Storage Facility. VGPC currently operates a salt cavern natural gas storage facility on a site that overlaps the area for which Saltville seeks a CPCN. VGPC does not have the right to develop unilaterally the remaining salt caverns in the site certificated to VGPC for the development of natural gas storage caverns. According to the application, in 1996, VGPC entered into a transfer agreement with Tennessee Energy Resources Company that permitted VGPC to develop the caverns it now operates, Caverns 16 and 20. That agreement provided that subsequent caverns would be developed in a joint venture between the parties. Duke Energy was the successor in interest to the agreement as a result of its purchase of Tennessee Energy Resources Company's parent. The formation of a joint venture resulted from the parties in interest choosing a limited liability company with Duke Storage and NUI Storage as the two members of the LLC.

In addition, Saltville entered into an operating agreement with VGPC to operate the Storage Facility. Under the agreement, VGPC would manage the facility on a day-to-day basis utilizing its expertise in the operations of a salt cavern natural gas storage facility. The Commission approved this operating agreement on March 12, 2002, subject to the grant of a CPCN to Saltville.<sup>1</sup> Saltville's management committee consists of an equal number of representatives from Duke Storage and NUI Storage, and it is anticipated that this committee will develop the policies under which VGPC must conduct day-to-day operations at the facility.

The Utility Facilities Act defines a "public utility" as any company that owns or operates a natural gas storage facility in the Commonwealth of Virginia and requires a public utility to obtain a CPCN from the Commission before furnishing such service. The extent of a public utility's exercise of supervision and control over its contract operator or subcontractors determines the necessity of whether the public utility should be the only entity required to obtain a CPCN. In this case, we will grant Saltville a certificate of public convenience and necessity, conditioned on Saltville obtaining, maintaining, and exercising management and control over the operations of this facility. Saltville shall obtain, in its own name, the necessary permits and certificates from the appropriate local, state, and federal agencies. We remind the Company that this is an important condition, and failure to comply with this or any other condition may result in revocation of the certificate granted by this Order.

The geographic configuration of the Storage Facility site consists of the enlarged LLC area which envelopes the smaller facility site previously certificated to VGPC. In the captioned application,<sup>2</sup> we have been advised that the Storage Facility site will involve a voluntary reduction by VGPC of its certificated site. Consequently VGPC will be directed to file, within thirty (30) days of the completion of Staff's or Staff's geotechnical expert's review of the geotechnical and engineering test results provided by Saltville, in this docket: (a) the necessary documents relinquishing its right to own, operate, and maintain that portion of the storage site that Saltville will be authorized to operate under Saltville's CPCN; (b) an application, under the appropriate statutes, for the transfer of its real property rights to Saltville; and (c) a document identifying the specific geographic area and adjacent caverns that it wishes to continue operating, exclusive of the LLC's Storage Facility site. When it requests reduction of its certificated facility site, VGPC shall notify the Commission of any effect on VGPC's current rates and tariffs resulting from a reduction of VGPC's certificated site. Finally, in its next AIF or rate proceeding, whichever is filed first, VGPC must reflect the effect on its cost of service of any transfers or sharing of its associated equipment, facilities, employees, or any other impacts associated with any reduction in the site certificated to it.

We will attach certain conditions to the CPCN issued herein, including the following: First, no later than thirty (30) days prior to commencement of construction of the storage and pipeline facilities, the Company must provide the specifications and procedures to be used during construction of the facilities for the storage project to the Staff. No later than one hundred twenty (120) days prior to the commencement of construction of the facilities, the Company must provide to Staff or to Staff's geotechnical expert the necessary geotechnical and engineering testing of the caverns that indicate that the project is viable, as described at pp. 32-33 of the May 31, 2002, Hearing Examiner's Report. Staff or Staff's geotechnical expert will complete its review of said data within sixty (60) days. Staff will promptly communicate with the Company concerning any necessary additional information it requires to complete its review and shall advise the Company that no additional information is necessary and that the Staff has completed its review. After the Company provides this initial report, quarterly reports concerning the continued viability and progress of the construction of the Storage Facility site should be provided in an electronic format to the extent practicable.<sup>3</sup> Further, Saltville, as a condition of its certificate, must obtain, in its own name, the necessary permits and certification from the appropriate local, state, and federal agencies. Saltville shall be required to comply with certain operational and monitoring parameters. Saltville also must comply with the recommendations contained in the Department of Environmental Quality's Coordinated Environmental Review. Finally, the Company's certificate shall contain the condition that it will be limited to Phase I and will lapse on December 31, 2007, if Saltville fails to develop, construct, and operate the Storage Facility unless, prior to that date, the sunset period is extended for good cause shown. We emphasize, however, that we have no reason to believe that this project will be delayed.

### Geotechnical and Engineering Issues

With regard to geotechnical and engineering issues raised by Saltville's project, the structural integrity and viability of the Storage Facility site must be assured as a condition of the CPCN conferred upon the LLC. We agree with the Hearing Examiner's Report that Saltville should be required to provide the cavern test results to the Staff for an independent review of the results by the Staff or the Staff's geotechnical expert; however, we modify the Examiner's finding to require that such test results be made directly with the Staff on a quarterly basis in an electronic format, if practicable.

### Cost of Equity and Cost of Capital for Saltville

Staff and the Company continue to disagree on the appropriate cost of equity estimate for Saltville. It is difficult to analyze the cost of equity for the Saltville facility because there is no market data readily available for companies sufficiently comparable to Saltville and its operations to examine, and it

<sup>1</sup> See, Application of Virginia Gas Pipeline Company and Saltville Gas Storage Company, L.L.C., For approval of a transaction between affiliates, Case No. PUA-2001-00076, D.C.C. No. 020320084 (March 12, 2002, Order Granting Approval).

<sup>2</sup> VGPC intends to file an application under Chapter 5 with the Commission for the transfer of equipment and facilities identified in that application to Saltville.

<sup>3</sup> If the project is not technically viable, it is our expectation that the Company will so advise us.



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is difficult to evaluate the appropriate risk for this particular Company. The Staff's recommended cost of equity, in our view, is too low; however, the Company's estimated cost of equity is excessive. On balance, we believe the evidence supports a cost of equity within the range of 12.5%-13.5%, with the midpoint of the range (13%) being used to calculate revenues for the Company. Employing the capital structure ratios and debt cost rates accepted by Staff and the Company, Saltville's overall cost of capital would be within a range of 9.575% to 9.925%, as shown below:

SALTVILLE GAS STORAGE COMPANY, L.L.C.  
Hypothetical Ratemaking  
Capital Structure and Cost of Capital

<u>Component</u>	<u>Weight</u>	<u>Cost Rate</u>	<u>Weighted Cost</u>
Long-Term Debt	65%	8.00	5.200
Common Equity	<u>35%</u>	<u>12.50 13.00 13.50</u>	<u>4.375 4.550 4.725</u>
Total Capitalization	100%		9.575 9.750 9.925%

The Company's projected cost of service employed a 15% return on equity and indicates that Saltville will not earn even the return on equity found reasonable herein within its first few years of operation. Therefore, there is no need to adjust the Company's rates proposed in this proceeding. We will, however, require the Staff to monitor the earnings and return on equity for the Company as part of the LLC's succeeding AIF or any rate proceeding. As actual operating data becomes available, the Company, Staff, or any interested party may subsequently move for an adjustment of the Company's rates if Saltville is found to be earning a return in excess of, or less than, that found reasonable herein.

Accordingly, IT IS ORDERED THAT:

(1) The recommendations of the May 31, 2002, Hearing Examiner's Report, as modified herein, are hereby adopted.

(2) Pursuant to the provisions of the Utility Facilities Act, upon filing appropriate Virginia Department of Transportation county road maps with the Division of Energy Regulation, and subject to the conditions set forth below in Ordering Paragraph (3), the Company shall be granted Certificate of Public Convenience and Necessity No. GS-3 to construct, own, operate, and maintain an underground natural gas storage facility in Smyth and Washington Counties, Virginia, together with an associated 24-inch pipeline facility approximately seven miles in length, employing a permanent right-of-way of 50 feet in width, originating at the Storage Facility and terminating in Chilhowie, Virginia. The Storage Facility site certificated herein is described as follows:

Beginning at an iron pin in the Right-of-way of Palmer Avenue, a common corner with Salt Theatre Corporation, thence with the new property line of Virginia Gas Company (VGC) and Palmer Avenue ten calls: S20°13'19"W 86.28'; S0°25'09"W 39.57'; S3°32'48"E 180.87'; S2°21'34"W 79.67'; S10°54'32"W 110.21'; S18°27'47"W 53.83'; S24°17'41"W 114.63'; S24°53'49"W 127.93'; S28°29'27"W 112.35'; S30°48'03"W 233.87' to an iron pin in the right-of-way of Palmer Avenue, common corner to William Hayden, thence leaving said right-of-way and with the line of Hayden N53°54'01"W 601.46' to 24" Double Ash; thence with Hayden S55°09'27"W 178.96' to an iron pin; thence (S18°41'27"W 788.68') to a point in the new property line of VGC intersecting the old SCC certification line of VGC; thence with the old certification line S50°05'15"E 160.43' to a point of intersection of aforesaid lines; thence with the new property line of VGC S61°23'37"E 371.51' to an iron pin, common corner to David Doane; thence with Doane S14°56'49"W 80.34' to a point in the new property line of VGC intersecting the old SCC certification line of VGC; thence with the old certification line S50°05'15"E 39.10' to a point; thence N58°31'18"E 1716.29' to a point, crossing Palmer Avenue at ±250'; thence with the old certification line three calls: S21°21'38"E 944.42'; S47°37'31"W 1515.13'; and S36°35'37"W 644.14', the last call crossing Palmer Avenue at ±235', to a point in the new property line of VGC and Dorothy Debord, said point bearing S58°10'02"E 5.55' from a fence post; thence with Debord four calls: S58°10'02"E 44.45' to a point; thence S59°04'38"E 250.09' to a fence post; thence N26°52'42"E 219.43' to an iron pin; thence S63°44'18"E 338.87' to a point, common corner to VGC, Debord and Betty Hicks; thence with Hicks S65°13'34"E 100.00' to a point common to VGC and Hicks; thence with Hicks N25°38'42"E 145.00' to a point in the right-of-way of Palmer Avenue; thence with said right-of-way S71°05'33"E 95.44' to a point: thence with the line of the J.K. Hicks Estate two calls: S61°36'55"E 169.65'; S54°13'55"E 454.31' to an iron pin in the right-of-way of Palmer Avenue; thence with said right-of-way N64°08'48"E 5.17'; thence S30°34'10"E 77.21' to an iron pin, common corner to Billy Boardwine; thence with Boardwine S60°16'07"W 141.97' to a post; thence S30°13'35"E 317.67' to a post, common corner to Jimmy Ferguson; thence with Ferguson S22°29'01"W 118.32' to a post; thence with Ferguson and Lula Clapp S5°03'19"W 299.46' to an iron pin, common corner to N/F the Hayden Property; thence with said property S58°38'16"W 149.88' to a post; thence S34°33'44"E 524.43' to an iron pin in the right-of-way of VA State Route 610, Old Quarry Road; thence with said right-of-way two calls: S58°42'08"W 324.29'; S57°32'01"W 192.86' to a post, common corner to Bridgette Smith; thence N29°19'16"W 1774.59' to an iron pin, common corner to Patricia Lowery; thence N72°37'22"W 602.91' to a post, common corner to Gerald Allison; thence with Allison N35°41'02"W 297.45' to a point in the new property line of VGC intersecting the old SCC certification line of VGC; thence with old certification line S74°56'48"W 168.01' to a point of intersection of aforesaid lines; thence with Allison S14°36'09"E 232.31' to a point; thence S68°34'33"W 507.35' to a post; thence S33°19'28"W 330.24' to a 20" Cherry; thence S48°58'59"W 290.98' to a post; thence N23°02'38"W 615.85' to a point in the new property line of VGC intersecting the old SCC certification line of VGC; thence with the old certification line S74°56'48"W 663.92' to a point of intersection of aforesaid lines; thence with the new property line of VGC and Allison S57°52'16"W 953.27' to an iron pin, common corner to James Perry; thence with Perry seven calls: N1°22'42"W 193.29' to an 18" Walnut; S53°36'55"W 139.19';

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S49°14'04"W 192.87'; S53°02'42"W 259.97'; S39°09'54"W 66.33'; S48°48'17"W 202.36'; S44°12'07"W 52.00' to a post, common corner to Harold Puckett; thence N31°38'06"W 433.76' to a post; thence S62°28'05"W 468.72' to an iron pin, common corner to Daisy Gates; thence N29°19'39"W 411.58' to a point within the right-of-way of American Electric Power, common corner to Don Roberts; thence with Roberts S62°04'12"W 447.25' to the corner of Mike Jackson; thence with Jackson four calls: S65°57'57"W 176.00'; S25°36'43"W 72.12'; S60°01'53"W 13.23'; S75°22'33"W 38.88' to the corner of the Sylvester McElraft Estate; thence with said estate N61°08'26"W 18.99' to the corner of Ed Talbert; thence with Talbert fourteen calls: N10°52'39"E 142.26' to an iron pin; N1°27'45"W 247.20'; N37°40'05"E 463.33 to a post; N41°12'57"E 1062.09' to a post; N1°06'50"E 306.06' to an 18" Cherry; N87°08'28"W 475.18' to a post; S15°36'32"W 903.00' S46°51'32"W 140.00'; S48°51'32"W 240.00' S41°51'32"W 164.00'; S46°51'32"W 35.00'; S41°08'28"E 15.00'; S34°51'32"W 291.00' to an 8" Cherry; N88°50'07"W 205.00' to a point in the right-of-way of U.S. Highway 91; thence with said right-of-way five calls: curve to the left-delta=11°58'11", A=239.21', R=1145.00', B=N51°40'29"W and distance of 238.77'; N57°39'23"W 174.76'; a curve to the right-delta=34°46'18", A=262.62', R=432.74', B=S40°16'21"E and distance of 258.61'; N22°53'21"W 271.46'; a curve to the left-delta=19°42'26", A=388.83', R=1130.47', B=N32°44'30"W and distance of 386.92' to an iron pin; common corner to the Town of Saltville Witt Spring Property; thence N48°28'18"E 121.74' to an iron pin; thence N49°05'42"W 87.00' to an iron pin; thence with the Saltville Corporate Line N65°49'33"E 1445.62' to an iron pin; thence with said line N35°17'25"W 377.34' to a point in the corporation line, a common corner to Saltville's Buena Vista Cemetery Reservation; thence with the Reservation Line six calls: S76°09'16"E 90.51' to an iron pin; N7°01'28"E 241.39'; S56°07'13"W 50.06'; S83°02'43"W 50.64'; S65°31'30"W 85.19'; S65°31'30"W 44.22' to a point in the Saltville Corporation Line; thence with said line N35°17'25"W 1351.78' to an iron pin, being the rear line of the "Smokey Row" Properties; thence along the Southeastern edges of said properties fifteen calls: N50°00'31"E 548.50'; S35°07'00"E 218.92'; N50°00'31"E 350.73'; S35°07'00"E 135.65'; N56°04'39"E 157.15'; N51°09'32"E 283.00'; S40°58'14"E 150.00'; N54°22'10"E 153.03'; N37°34'55"W 6.16'; N58°21'; 27"E 59.53'; N37°34'55"W 156.16'; N52°25'05"E 70.54'; S37°30'36"E 22.44'; N54°41'38"E 610.10'; N29°41'13"W 162.13' to an iron pin, common corner to the Town of Saltville; thence with the new property line of VGC and Town of Saltville twelve calls; N82°26'35"E 1205.23' to a post; N64°42'19"E 175.14'; N65°31'25"E 249.12' to an iron pin; S29°47'29"E 491.73' to an iron pin; S71°34'32"W 835.24' to an iron pin; S2°05'56"W 501.65' to an iron pin; S61°06'40"E 741.56' to an iron pin; N46°00'50"E 743.33' to an iron pin; N41°14'43"W 284.02' to an iron pin; N5°31'39"E 1049.55' to an iron pin; N80°00'07"E 514.57' to an iron pin; 567°02'15"E 2020.14' to an iron pin, common corner to Salt Theatre Corporation; thence with Salt Theatre Corporation Line (L1) to the point of BEGINNING, and containing 639.61 acres, more or less.

The route for Saltville's pipeline corridor for which a certificate is issued is as follows:

BEGINNING at a point marking a corner to the area encompassing the Virginia Gas Pipeline Company storage facility; THENCE with the southerly line of same North 36 degrees 35 minutes 57 seconds East for a distance of 503.1 feet to a point; THENCE leaving said southerly line of the storage facility South 47 degrees 07 minutes 52 seconds East for a distance of 820.28 feet to a point; THENCE South 26 degrees 27 minutes 22 seconds East for a distance of 1846.84 feet to a point; THENCE South 02 degrees 03 minutes 24 seconds East for a distance of 1092.01 feet to a point; THENCE South 52 degrees 47 minutes 29 seconds West for a distance of 1104.05 feet to a point; THENCE South 09 degrees 46 minutes 34 seconds East for a distance of 3343.20 feet to a point; THENCE South 81 degrees 51 minutes 00 seconds East for a distance of 3555.74 feet to a point; THENCE South 56 degrees 56 minutes 43 seconds East for a distance of 2504.88 feet to a point; THENCE South 65 degrees 33 minutes 40 seconds East for a distance of 3675.98 feet to a point; THENCE South 39 degrees 57 minutes 47 seconds East for a distance of 3593.73 feet to a point; THENCE South 32 degrees 23 minutes 00 seconds East for a distance of 910.41 feet to a point; THENCE South 26 degrees 27 minutes 27 seconds East for a distance of 1569.93 feet to a point; THENCE South 66 degrees 32 minutes 58 seconds East for a distance of 3620.55 feet to a point; THENCE South 70 degrees 31 minutes 28 seconds East for a distance of 2211.16 feet to a point; THENCE South 19 degrees 28 minutes 32 seconds West for a distance of 1000.00 feet to a point; THENCE North 70 degrees 31 minutes 28 seconds West for a distance of 2245.86 feet to a point; THENCE North 66 degrees 32 minutes 58 seconds West for a distance of 4020.13 feet to a point; THENCE North 26 degrees 27 minutes 27 seconds West for a distance of 1883.05 feet to a point; THENCE North 32 degrees 23 minutes 00 seconds West for a distance of 792.41 feet to a point; THENCE North 39 degrees 57 minutes 47 seconds West for a distance of 3300.31 feet to a point; THENCE North 65 degrees 33 minutes 40 seconds West for a distance of 3524.13 feet to a point; THENCE North 56 degrees 56 minutes 43 seconds West for a distance of 2359.39 feet to a point; THENCE North 81 degrees 51 minutes 00 seconds West for a distance of 2445.33 feet to a point; THENCE North 81 degrees 51 minutes 00 seconds West for a distance of 1617.12 feet to a point; THENCE North 09 degrees 46 minutes 34 seconds West for a distance of 4678.35 feet to a point; THENCE North 52 degrees 47 minutes 29 seconds East for a distance of 1192.79 feet to a point; THENCE North 02 degrees 03 minutes 24 seconds West for a distance of 356.92 feet to a point; THENCE North 26 degrees 27 minutes 22 seconds West for a distance of 1448.23 feet to a point; THENCE North 47 degrees 07 minutes 52 seconds West for a distance of 896.32 feet to a point on the southerly line of the area encompassing the storage facility; THENCE with the line of same North 74 degrees 56 minutes 40 seconds East for a distance of 590.09 feet to the point of BEGINNING.

Together with and subject to covenants, easements, and restrictions of record. Said property contains 693.58 acres more or less.

(3) The Certificate of Public Convenience and Necessity granted herein shall be expressly subject to the following conditions: (i) Saltville shall obtain, in its own name, the necessary permits and certifications from the appropriate local, state, and federal agencies, and shall exercise supervisory control and ownership over the operation of the Storage Facility; (ii) Saltville shall provide to the Staff, no later than thirty (30) days prior to commencement of

construction of the storage and pipeline facilities, the specifications and procedures to be used during construction of the Storage Facility, pipeline, and other associated facilities; (iii) Saltville shall provide, no later than 120 days prior to the commencement of construction of the Storage Facility and associated facilities, to Staff or to Staff's geotechnical expert, the necessary geotechnical and engineering testing of the caverns that indicate that the project is viable, as described at pp. 32-33 of the May 31, 2002, Hearing Examiner's Report. Staff or Staff's geotechnical expert will complete its review of said data within sixty (60) days. Staff will promptly communicate with the Company concerning any necessary additional information it requires to complete Staff's review and shall advise the Company that no additional information is necessary and that the Staff has completed its review.<sup>4</sup> After the Company provides this initial report, quarterly reports concerning the continued viability and progress of the construction of the Storage Facility site shall be provided in an electronic format, to the extent practicable; (iv) the Company's CPCN shall be limited to Phase I of the project as described in the Application. Certificate No GS-3 shall expire if Phase I of the underground gas storage facility has not been constructed and operation commenced by December 31, 2007, unless such date is extended by the Commission prior thereto for good cause; (v) Saltville shall be required to comply with the following operational parameters and continued operations monitoring recommendations as a condition of its certificate: (a) *in situ* leakage testing and mechanical integrity tests should be performed on the proposed caverns; (b) maximum cavern pressures should not exceed the equivalent of .75 psi per foot of depth from the ground surface to the cavern roof unless the caverns are hydraulically interconnected. If they are interconnected, the maximum operating pressure should not exceed .70 psi per foot depth; (c) minimum cavern pressures should not fall below .30 psi per foot during the first three years of operation, and rapid drops of pressure should be avoided. At the end of three years, the minimum cavern pressure may be reduced to .25 psi if done in a gradual manner; *i.e.*, less than 150 psi/day; (d) periodic, on an annual basis, ground level surveys should be conducted using the benchmark network, and the results of such surveys shall be filed by the Company with the Staff; (e) a survey specialist should be engaged to review the existing survey procedures to improve the accuracy and repeatability of the present survey readings; (f) yearly gamma ray and caliper logging of all active wells; (g) periodic, on an annual basis, sonar surveys should be used to monitor the dimension and shape of the caverns, and the results of such surveys shall be filed with the Company by the Staff; (h) injection pressures, flow rates, and cumulative gas volumes should be monitored and recorded according to federal EPA requirements; and (i) the collected data should be integrated to develop a model of ground behavior on a yearly basis. Saltville shall file these data electronically (to the extent practicable) with the Division of Energy Regulation, on a quarterly basis, except as otherwise provided in this Order; (vi) Saltville must comply with the recommendations contained in the Department of Environmental Quality's Coordinated Environmental Review; and (vii) VGPC shall file with the Commission, in this docket, within thirty (30) days of the completion of Staff's or Staff's geotechnical expert's review of the geotechnical and engineering test results provided by Saltville, as detailed in (iii), the following: (a) the necessary documents relinquishing its right to construct, develop, operate, and maintain that portion of the storage site that is granted to Saltville under the CPCN granted herein, (b) an application, under the appropriate statutes, for the transfer of its real property rights to Saltville, and (c) a document identifying the specific geographic area and adjacent caverns that VGPC will continue to serve, exclusive of Saltville's Storage Facility site.

(4) Saltville shall be required to make an Annual Informational Filing after one year of operational data has been accumulated in the event that it does not seek rate relief.<sup>5</sup>

(5) Saltville shall file a FERC Form 2 within 120 days of the end of the Company's fiscal year.

(6) Saltville shall correct the manuals already filed with the Commission to identify each owner and operator of the Storage Facility. Additionally, Saltville shall file its Operator Qualification Manual within thirty (30) days of the entry of this Order with the Staff.

(7) Saltville shall file revised Firm Storage Service and Interruptible Storage Service charges reflecting the modifications agreed to by the Company at the public hearing held herein, with the Commission's Division of Energy Regulation.

(8) Saltville may file with the Commission amendments to its tariffs as contemplated in Recommendation (17) of the May 31, 2002, Hearing Examiner's Report.

(9) VGPC shall reflect, in its next AIF or rate application in the event VGPC determines to file a rate case rather than AIF, the impact on its cost of service of any transfer or sharing of its associated equipment, facilities, employees, or any other cost of service impact associated with a reduction in the site certificated to VGPC.

(10) This matter shall be continued to accommodate the receipt of the documents required to be filed herein.

<sup>4</sup> We anticipate that once the Staff communicates that it has completed its review, the Company may proceed.

<sup>5</sup> While we will permit the capitalization of interest as discussed at page 17 of the May 31, 2002, Hearing Examiner's Report, the inclusion of capitalized interest in the Company's rate base will be dependent on the results of the Company's annual earnings test. Interest deemed to have been recovered shall not be capitalized for future recovery. Indeed, as explained at page 17 of the Hearing Examiner's Report, there may be a time when the capitalization of interest will no longer be justified.

**CASE NO. PUE-2001-00585  
OCTOBER 7, 2002**

APPLICATION OF  
SALTVILLE GAS STORAGE COMPANY, L.L.C.

For a certificate of public convenience and necessity under the Utility Facilities Act

**ORDER FOR CLARIFICATION**

On August 6, 2002, the State Corporation Commission ("Commission") issued its Order Granting Certificate. In its Order, the Commission granted to Saltville Gas Storage Company, L.L.C. ("Saltville," "LLC," or the "Company"), subject to conditions stated therein, Certificate of Public

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

Convenience and Necessity No. GS-3 to construct, own, operate, and maintain an underground natural gas storage facility in Smyth and Washington Counties, Virginia, together with an associated 24-inch pipeline facility.

On September 9, 2002, Saltville, filed a motion requesting clarification of the Commission's August 6, 2002, Order.

In support of its motion, Saltville stated that it viewed the conditions of the August 6, 2002, Order as requiring that the Company give the Commission's Staff 120 days notice prior to beginning any construction by providing to the Staff the geotechnical information relating to the cavern development, and then waiting until the expiration of that same 120 day period to allow Staff time to review such information. Saltville indicated that it faced critical time constraints with respect to construction of its facilities and the August 6, 2002, Order's timing provisions would prevent the Company from meeting its critical construction deadlines, and could prevent Saltville from achieving its goal of completing construction by December 2007. Finally, Saltville requested that the Commission modify the time limits imposed by the August 6, 2002, Order as follows:

- A) Saltville should provide geotechnical data to Staff on an ongoing basis, first for Cavern One and then for the remaining caverns as they are developed;
- B) the notice period required by the Commission should be reduced from 120 days to 60 days;
- C) the phrase "commencement of construction" as used in the Order should not include ancillary construction; and
- D) after the successful completion of a Mechanical Integrity Test (MIT) on Cavern One, SGSC may begin injecting gas, while Staff reviews the geotechnical data.

On September 23, 2002, the Staff of the State Corporation Commission ("Staff") filed its Response to Saltville's Motion For Clarification. In its response, Staff stated its support of the Commission's August 6, 2002, Order and the conditions set forth therein relating to timing issues regarding the submission of Saltville's geotechnical data. The Staff contended that it was necessary that it be provided the appropriate time period to review such geotechnical data submitted by Saltville and prepare a response, if any. Furthermore, the Staff maintained that they had no accurate gauge of the amount of time that would be needed to make a complete appraisal of the Company's geotechnical data, but, the Staff believed that the one-hundred and twenty (120) day period set forth by the August 6, 2002, Order would be adequate.

NOW THE COMMISSION, having considered the motion and the Staff's response, is of the opinion and finds that the Motion for Clarification should be granted, except with respect to the one-hundred and twenty (120) day period reserved for the Staff's review of the necessary geotechnical data in the August 6, 2002, Order. The Commission expects the Company to submit complete and accurate geotechnical data for an analysis by the Staff and for the Staff to complete its review within one-hundred and twenty (120) days from when all necessary information is submitted or sooner. Upon the submission of all the geotechnical data and the Staff's completion of its review of said data, the Staff should notify the Company that it has completed its review of the geotechnical data as soon as feasible. The Commission encourages the Company to continue to submit the necessary geotechnical data on an as available basis to the Staff. We expect the Staff to review the data as promptly as practicable. We understand that certain data may lend themselves to review on a piecemeal basis and others may not. Finally, it appears that the Staff agrees with the other clarifying items requested by Saltville.

Accordingly, IT IS ORDERED THAT:

- (1) Saltville shall provide geotechnical data to Staff on an ongoing basis, first for Cavern One and then for the remaining caverns as they are developed.
- (2) The phrase "commencement of construction" as used in the August 6, 2002, Order does not include ancillary construction, with the exception of any construction pertaining to the cavern.
- (3) Saltville may begin injecting gas, after the Staff concludes that the Company has successfully completed the Mechanical Integrity Test on Cavern One, while Staff reviews other data.
- (4) The August 6, 2002, Order shall retain the one-hundred and twenty (120) day notice period to the Commission's Staff; Saltville may submit complete geotechnical data on an as available basis to Staff; and Staff shall review the data and, upon completion of its review, contact the Company as soon as practicable.
- (5) This matter shall be continued pending further order of the Commission.

**CASE NO. PUE010586  
APRIL 3, 2002**

IN THE MATTER OF  
SOUTHWESTERN VIRGINIA GAS COMPANY

2001 Annual Informational Filing

**ORDER CLOSING PROCEEDING**

As required by the Commission's Rules Governing Rate Increase Applications and Annual Informational Filings, 20 VAC 5-200-30, Southwestern Virginia Gas Company ("Southwestern" or "Company") has filed its annual informational filing for the period ending June 30, 2001. By

Order Granting Waiver of Filing Requirements of November 16, 2001, the Commission waived the requirement to provide certain information as part of the annual informational filing and fixed dates for the filing of a Staff Report and any Company comments.<sup>1</sup>

The Staff Report was filed on March 7, 2002. As part of its accounting analysis, the Staff made a number of adjustments and prepared a fully adjusted rate-of-return statement. According to the Staff, the Company had a return on rate base of 5.87 percent for the period ending June 30, 2001. The Staff also analyzed Southwestern's earnings and regulatory asset for the period. The Staff concluded that normal amortization of the regulatory asset was appropriate. Southwestern did not comment on the Staff Report.

There appears to be nothing further for the Commission to consider in this proceeding. Accordingly, IT IS ORDERED that this matter be dismissed and removed from the Commission's docket.

<sup>1</sup> By Order Extending Filing Date of February 5, 2002, the Commission set new dates for the Staff Report and any Company comments.

**CASE NO. PUE-2001-00587  
JUNE 6, 2002**

APPLICATION OF  
COLUMBIA GAS OF VIRGINIA, INC.

For Approval of a Retail Supply Choice Plan as Authorized by § 56-235.8 of the Code of Virginia Phase I

To Change Rates, Charges, Rules, and Regulations Phase II

**ORDER**

Before the Commission is Columbia Gas of Virginia, Inc.'s ("Columbia" or "Company"), retail supply choice plan filed on January 2, 2002, pursuant to § 56-235.8 A of the Code of Virginia ("Code"). Columbia also proposed in the same application changes in rates, charges, rules, and regulations and new services. For the reasons explained in this Order, the Commission will consider the retail supply choice plan in Phase I of this proceeding. The Commission is mindful that, as provided by § 56-235.8 B of the Code, we need to approve, disapprove, or modify Columbia's retail supply choice plan by July 1, 2002. While several matters touching on the retail supply choice plan will be discussed generally in this Order, the Commission will address the plan in detail on or before July 1.

In Phase II of this proceeding, the Commission will consider Columbia's proposed tariff revisions and proposed new services that are not within the scope of a retail supply choice plan proposed pursuant to § 56-235.8 of the Code. These proposed tariff revisions and new services affect primarily large gas and transportation service customers. Columbia's proposals also include revision of its purchased gas adjustment ("PGA") clause. Columbia also seeks a waiver of the Commission's *Rule governing utility customer deposit requirements*, 20 VAC 5-10-20, which limits deposits to the equivalent of the customer's estimated liability for two months usage. The Company seeks a waiver to change risk-based deposits for certain services. We will consider this waiver request in Phase II as well. Columbia's rate schedules and general terms and conditions under review in Phase II are listed in ordering paragraph (1) of this Order.

As authorized by our previous orders in this proceeding, several interested persons filed comments and requests for hearing on Columbia's proposed revisions to transportation services and other services.<sup>1</sup> The Office of the Attorney General, Division of Consumer Counsel filed comments on the proposed PGA revisions. Upon consideration of the comments and the requests for a hearing, the Commission finds that a hearing should be held on the proposed tariff revisions, which we designate and will consider as Phase II in this Order.

As provided by §§ 56-235, 56-237 and 56-240 of the Code, the proposed revised rates, charges, rules, and regulations and the proposed new services may take effect on July 1, 2002, subject to the power of the Commission to fix and order substituted rates, charges, rules, and regulations and to order credits and refunds. We will direct Columbia to collect and retain all records and other information required to apply the rates, charges, rules and regulations, including the PGA, in effect on June 30, 2002, to all services rendered on and after July 1, 2002, in the event a refund with interest is ordered. We will also assign this matter to a hearing examiner and establish a procedural schedule.

Several comments, the Staff's Motion for Extension of Dates for Filing Reports of April 4, 2002, Columbia's response to the Staff's motion of April 4, and other pleadings identified the scope of a retail supply choice plan filed pursuant to § 56-235.8 of the Code as an issue. With reference to this proceeding, the issue may be stated in these terms: which tariff revisions filed by Columbia on January 2, 2002, will take effect as provided by § 56-235.8 B of the Code and be considered in Phase I and which proposed revisions will take effect and be considered in Phase II under the general body of law, *e.g.*, Article 2 (§ 56-234 et seq.) of Chapter 10 and related provisions of Title 56 of the Code and the decisions of the Commission and the Supreme Court?

Our analysis must begin with the language of § 56-235.8 A, which provides that "each public utility authorized to furnish natural gas service in Virginia (gas utility) is authorized to offer to all of the gas utility's customers not eligible for transportation service under tariffs in effect on the effective date of this section, direct access to gas suppliers (retail supply choice) . . ." This provision took effect on July 1, 1999. Columbia's filing of January 2, 2002, clearly includes the elements of a retail supply choice plan identified in § 56-235.8 A 1-7 of the Code. In Phase I of this proceeding, the Commission will adhere to the procedures and standards set out in § 56-235.8 A through E of the Code in considering Columbia's retail supply choice plan for customers that were not eligible for tariffed transportation services on July 1, 1999.

The Company's filing of January 2, 2002, also contains numerous proposed revisions affecting customers that were eligible for transportation service under Columbia's tariffs in effect on July 1, 1999. The Commission cannot extend the procedures and standards of § 56-235.8 of the Code to these

<sup>1</sup> In addition to commenting and requesting a hearing, Stand Energy Corporation and the Virginia Industrial Gas Users Association have moved for bifurcation or severing of issues for separate consideration.

proposed revisions to existing services or proposed new services. Proposed revisions to services now offered and the new proposed services, which are beyond the scope of § 56-235.8 of the Code, are designated for investigation in Phase II of this proceeding. The Phase II investigation and hearing will proceed under the general body of ratemaking law for local gas distribution companies.

Likewise, our promulgation of the Rules Governing Retail Access to Competitive Energy Services, 20 VAC 5-312-10 et seq. ("Retail Access Rules"), cannot expand the scope of a retail supply choice plan under § 56-235.8 of the Code. Some Retail Access Rules provisions apply to local gas distribution companies offering retail supply choice plans under § 56-235.8 A and licensed gas suppliers who participate in the plans. Our rules, however, can only implement the statute as enacted.<sup>2</sup>

Columbia has opposed bifurcation of this proceeding. In its application, supporting testimony filed on March 5, 2002, and subsequent pleadings, Columbia has described the interrelationship between its retail supply choice plan and revisions to Rate Schedule TS1/TS2, Transportation Service 1 and 2, Rate Schedule LVTS, Large Volume Transportation Service and new rate schedules: Rate Schedule AS, Aggregation Service, Rate Schedule GPLS, Gas Parking and Lending Service, and Rate Schedule TS3/TS4, Transportation Service 3 and 4. According to Columbia, numerous changes to proposed tariffs, rates, and terms and conditions are inextricably intertwined with retail supply choice issues and are issues that, without resolution, will make it very difficult if not impossible for the Company to move forward with its retail supply choice plan. The Company also has explained that the vast majority of its revisions and new schedules are intended to conform those schedules and agreements to the Commission's Retail Access Rules, consistent with Commission precedent. Moreover, Columbia states that the Commission previously applied the Retail Access Rules to large commercial and industrial customers.

We are not unmindful of Columbia's concerns in this regard. While we have chosen to limit Phase I of this proceeding to those proposals that fall squarely under § 56-235.8 and, thus, to which we must apply a separate set of standards and procedures, we recognize the potential interrelationship between matters in Phases I and II of this case as discussed by the Company. Accordingly, we have established herein a procedural schedule for Phase II that will facilitate a resolution of Phase II issues as soon as practicable. We also note that a retail supply choice plan will be approved by July 1, 2002, and the Phase II tariff provisions also will take effect as proposed on July 1, 2002 (subject to later modification and refund as provided by §§ 56-235 and 56-240 of the Code). In addition, schedules or agreements that need to be conformed to the Retail Access Rules may be addressed in Phases I and II of this case, as appropriate.

As noted previously, a number of interested persons filed comments and requests for hearing on the various proposed tariff revisions not part of a retail supply choice plan as defined in § 56-235.8. For purposes of Phase II of this proceeding, we will treat these comments and requests filed by interested persons or groups as notices of intent to participate as a respondent in Phase II. The Office of the Attorney General, Division of Consumer Counsel also filed comments, and the Commission welcomes its participation in this proceeding.

Finally, the Company has requested the Commission to direct its Staff to convene a conference, or series of conferences, between the participants in this case to discuss issues that may continue to be in dispute. We support Columbia's suggestion and encourage the participants in this case to discuss potential resolution of issues that may continue to be in dispute in both Phases of this proceeding.

Accordingly, IT IS ORDERED THAT:

(1) As provided by §§ 56-235, 56-237, 56-240 and related provisions of Title 56 of the Code of Virginia, the following proposed revisions to the schedules and general terms and conditions and the following proposed new schedules filed by Columbia on January 2, 2002, and bearing an effective date of July 1, 2002, are effective July 1, 2002, and designated for investigation in Phase II of this proceeding:

Rate Schedule LGS, Large General Service  
 Rate Schedule TS1/TS2, Transportation Service 1 and 2,  
 Rate Schedule LVTS, Large Volume Transportation Service  
 Rate Schedule LVEDTS, Large Volume Economic Development Transportation Service  
 Rate Schedule SAS, Special Agency Service  
 Rate Schedule LSS, Limited Sales Service  
 Rate Schedule DES, Distributor Exchange Service  
 Experimental Natural Gas Vehicle Service  
 Rate GPLS, Gas Parking and Lending Service  
 Rate Schedule AS, Aggregation Service  
 Rate Schedule TS3/TS4, Transportation Service 3 and 4  
 Form of Service Agreement for Large General Service  
 Form of Service Agreement for TS-1 and TS-2 Gas Transportation  
 Form of Service Agreement for Gas TS-1 and TS-2 Transportation Service (sic)  
 Form of Service Agreement for TS-3 and TS-4 Gas Transportation Service  
 Aggregation Service Service (sic) Agreement  
 Industrial/Commercial Competitive Service Provider Coordination Agreement  
 General Terms and Conditions 7.1, Rate Schedules Other than RS, RTS, MPS, UGLS, UGLTS, PDS, SGTS, ACS, AND ACTS  
 General Terms and Conditions 17.5, Computation of Banking and Balancing PGA  
 General Terms and Conditions 17.6, Actual Cost Adjustment  
 General Terms and Conditions 17.7, Gas Cost Incentive Mechanism  
 General Terms and Conditions 17.8, Capacity Release.  
 Request for waiver of the Commission's *Rule governing utility customer deposit requirements*, 20 VAC 5-10-20 (Company Application, Attachment E-Request for Waivers at 6).

<sup>2</sup> The applicability of a proposed tariff revision or availability of a new service to a gas supplier which is licensed under § 56-235.8 F does not automatically result in application of subsections A through E of that section. Only if the proposal is integral to offering a choice of suppliers to customers not previously eligible for transportation service, will it be within the scope of § 56-235.8 of the Code.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

(2) On or before June 17, 2002, Columbia shall file with the Commission's Division of Energy Regulation appropriate replacement tariff sheets showing all changes or new services for all schedules, forms, and general terms and conditions listed in ordering paragraph (1). The following caption shall appear at the foot of each sheet showing any change or new service: "Effective July 1, 2002, subject to investigation and modification by the Virginia State Corporation Commission in Case No. PUE-2001-00587, Phase II." Columbia shall serve copies of these replacement tariff sheets on all parties.

(3) As provided by § 56-235.8 and related provisions of Title 56 of the Code of Virginia, all other proposed revisions related to a retail supply choice plan filed by Columbia on January 2, 2002, and bearing an effective date of July 1, 2002, be considered in Phase I of this proceeding.

(4) Until further order of the Commission, Columbia shall collect and retain all records and other information required to apply the rates, charges, rules and regulations, including the PGA, in effect on June 30, 2002, to all services rendered on and after July 1, 2002.

(5) The motions of Stand Energy Corporation and the Virginia Industrial Gas Users Association for bifurcation or severing of issues and for a hearing and the motion of MeadWestvaco Corporation for a hearing are granted to the extent provided for in this Order and are otherwise denied.

(6) A public hearing be held on September 4, 2002, at 10:00 a.m. in the Commission's Courtroom, Second Floor, Tyler Building, 1300 East Main Street, Richmond, Virginia, to receive comments from members of the public and to receive evidence on the tariff revisions designated in Phase II.

(7) As provided by § 12.1-31 of the Code of Virginia and the Commission's Rules of Practice, 5 VAC 5-20-120, *Procedure before hearing examiners*, a hearing examiner be appointed to conduct all further proceedings in this matter on behalf of the Commission and to file a final report.

(8) On or before June 21, 2002, Columbia shall file with the Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118, an original and fifteen (15) copies of any additional testimony and exhibits by which it expects to establish its case in Phase II of this proceeding and shall serve a copy on counsel to respondents and on the Office of the Attorney General, Division of Consumer Counsel.

(9) The following interested persons and groups shall be respondents in Phase II of this proceeding: Virginia Industrial Gas Users Association, Stand Energy Corporation, MeadWestvaco Corporation, Tractebel North America, Donald S. Wheeler, America's Energy Alliance, Inc., Washington Gas Energy Services, Inc., Dominion Retail, Inc., and Pepco Energy Services, Inc.

(10) On or before June 21, 2002, any person not listed in paragraph (8) who expects to participate as a respondent in Phase II of this proceeding shall file with the Clerk at the address set out in ordering paragraph (7) an original and fifteen (15) copies of a notice of participation as a respondent, as required by the Rules of Practice, 5 VAC 5-20-80 B, *Participation as a respondent*, and shall serve a copy on counsel to Columbia, Mark C. Darrell, General Counsel, Columbia Gas of Virginia, Inc., 9001 Arboretum Parkway, Richmond, Virginia 23236-3488, and on Commission Staff counsel assigned to the matter, Wayne N. Smith, Office of General Counsel, State Corporation Commission, P.O. Box 1197, Richmond, Virginia 23218-1197. The notice of participation shall be filed and served as required by the Rules of Practice, 5 VAC 5-20-140, *Filing and service*, and 5 VAC 5-20-150, *Copies and format*. Any organization, corporation, or government entity participating as a respondent must be represented by counsel as required by the Rules of Practice, 5 VAC 5-20-30, *Counsel*.

(11) Within five (5) business days of receipt of a notice of participation as a respondent, the Company shall serve upon each respondent a copy of this Order, a copy of the application, and all materials filed with the Commission, unless these materials have already been provided to the respondent.

(12) On or before July 15, 2002, each respondent shall file with the Clerk an original and fifteen (15) copies of the testimony and exhibits by which it expects to establish its case in Phase II of this proceeding and shall serve a copy of the testimony and exhibits on counsel to Columbia and on all other parties. The respondents shall comply with the Rules of Practice, 5 VAC 5-20-140, *Filing and service*, 5 VAC 5-20-150, *Copies and format*, and 5 VAC 5-20-240, *Prepared testimony and exhibits*.

(13) The Commission Staff shall investigate Phase II of Columbia's application. On or before July 29, 2002, the Staff shall file with the Clerk the testimony and exhibits that it intends to present at the hearing and copies of any workpapers that support the recommendations made in its testimony. Copies of the testimony and exhibits shall be served on all parties.

(14) On or before August 19, 2002, the Company may file with the Clerk an original and fifteen (15) copies of all testimony and exhibits that it expects to offer in rebuttal to testimony and exhibits of the respondents and the Commission Staff and shall serve one copy on all parties.

(15) The Rules of Practice, 5 VAC 5-20-260, *Interrogatories to parties or requests for production of documents and things*, shall be modified for this proceeding as follows: (i) answers and objections shall be served within twelve (12) days after receipt of interrogatories, counting weekends and holidays; (ii) motions on the validity of any objections raised shall be filed within four (4) business days of receipt of the objection; and (iii) answers, objections, and motions on the validity of objections shall be served by 3:00 p.m. on the date due, unless the Staff or party upon whom service must be made agrees in advance to other arrangements.

**CASE NO. PUE-2001-00587  
JUNE 28, 2002**

APPLICATION OF  
COLUMBIA GAS OF VIRGINIA, INC.

For Approval of a Retail Supply Choice Plan as Authorized by § 56-235.8 of the Code of Virginia	Phase I
To Change Rates, Charges, Rules, and Regulations	Phase II

**ORDER**

On January 2, 2002, Columbia Gas of Virginia, Inc. ("Columbia" or "Company"), applied for approval of a retail supply choice plan as authorized by § 56-235.8 A and B of the Code of Virginia ("Code"). A retail supply choice plan would offer Columbia's customer classes not eligible for transportation services on July 1, 1999, the option of purchasing gas from an alternative supplier. The Company proposed in the same application changes in rates, charges, rules, and regulations and new services for customer classes that are not part of a retail supply choice plan as defined in § 56-235.8 A of the Code.

The Commission's Order of June 6, 2002, designated consideration of the retail supply choice plan as Phase I of this proceeding. Other proposed tariff revisions and new services filed on January 2, 2002, were designated for hearing in Phase II. In this Order, the Commission approves, with modifications, Columbia's retail supply choice plan. We also address the Company's requests for waiver of provisions of the Commission's Rules Governing Retail Access to Competitive Energy Services, 20 VAC 5-312-10 et seq. ("Retail Access Rules"). Issues raised by other tariff revisions and new services proposed by the Company will be addressed in Phase II of this proceeding.

In our Order for Notice and for Filing Comments and Requests for Hearing of February 7, 2002, as modified by our Order Revising Schedule of February 14, 2002, the Commission directed Columbia to give notice of its application for approval of a retail supply choice plan and for revision of other tariff provisions and for approval of new services. Columbia has filed proof of publication and service of notice, and we find that proper notice of this matter has been given.

As authorized by the Commission's orders, licensed gas suppliers Washington Gas Energy Services, Inc., and Dominion Retail, Inc., filed with the Clerk comments on the retail supply choice plan, and the Office of Attorney General, Division of Consumer Counsel, commented on the retail supply choice plan and tariff revisions designated for hearing in Phase II. In addition, licensed gas suppliers America's Energy Alliance, Inc., and Bollinger Energy Corporation advised the Commission of their interest. While Dominion Retail stated that formal proceedings might be required to address some issues, it did not explicitly request a hearing. The Division of Consumer Counsel advised that it would not oppose a hearing, but it did not make a request. On April 17, 2002, the Commission Staff filed its report, which analyzed the Company's retail supply choice plan and the comments on the plan and offered recommendations.

On May 6, 2002, Dominion Retail moved for leave to file additional comments on the Staff report and its additional comments. Dominion Retail served copies of its motion and comments on Columbia, and the Company filed on May 24, 2002, its response. Columbia opposed receipt of the supplemental comments on the grounds that the Commission had not authorized additional comments, but the Company did not claim that it was prejudiced. The Company also addressed in detail the points that Dominion Retail raised in the additional comments. The Commission will grant Dominion Retail's motion and consider its comments and Columbia's response.

On June 19, 2002, Columbia filed on its own behalf and on behalf of Washington Gas Energy Services a Motion for Consideration of Stipulation and a Stipulation. Columbia and WGES proposed a resolution of five issues identified in Phase I of this proceeding by the Commission Staff, the parties, and the Division of Consumer Counsel. By Order Permitting Responses and Replies of June 19, 2002, the Commission authorized the Staff and the parties in this proceeding to file responses to the motion and stipulation and replies. The Staff and Dominion Retail filed responses to the five proposals made by the Company and Washington Gas Energy Services. The Virginia Industrial Gas Users' Association also filed a response addressing several points in the stipulation. On June 26, 2002, Columbia filed a reply to the responses. We will address the stipulation in our discussion of the issues before the Commission.

In addition, Washington Gas Energy Services filed comments on June 24, 2002, which it acknowledged did not address the stipulation. Our Order of June 19, 2002, authorized responses to the motion and stipulation. We did not authorize another round of comments on Columbia's retail supply choice plan, which all parties have had ample opportunity to address. Accordingly, we will not consider Washington Gas Energy Services' comments filed on June 24, 2002.

The Commission will now turn to the issues raised by the pleadings in this case. As provided by § 56-235.8 B of the Code, the Commission must approve a retail supply choice plan unless we determine that, as provided by the statute, the plan would:

1. Adversely affect the quality, safety, or reliability of natural gas service by the gas utility or the provision of adequate service to the gas utility's customers;
2. Result in rates charged by the gas utility that are not just and reasonable rates within the contemplation of § 56-235.2 or that are in excess of levels approved by the Commission under § 56-235.6, as the case may be;
3. Adversely affect the gas utility's customers not participating in the retail supply choice plan;
4. Unreasonably discriminate against one class of the gas utility's customers in favor of another class (provided, however, that a gas utility's recovery of nongas fixed costs on a nonvolumetric basis shall not necessarily constitute unreasonable discrimination); or



## 5. Not be in the public interest.

Section 56-235.8 B of the Code.

Further, § 56-235.8 B of the Code provides that the Commission may also modify a gas utility's proposal to ensure that the plan conforms to the listed criteria and is otherwise in the public interest. Applying the standards and authority set out in the Code, the Commission will consider the retail supply choice plan before us.

Many of the issues raised in the comments concern the terms of Columbia's proposed Rate Schedule CSPS, Competitive Service Provider Service, which is found at Sheet Numbers 236 through 251 of Columbia's tariff.<sup>1</sup> In addition, the Staff and the Division of Consumer Counsel commented on the Transition Costs Recovery Mechanism, which Columbia would apply to residential and small commercial customers regardless of their participation in retail supply choice. We must also address proposed changes in budget billing and other aspects of service. Finally, the Commission will consider Columbia's requests for waivers of certain provisions of the Retail Access Rules.

*Capacity Assignment and Transition Cost Recovery*

In Rate Schedule CSPS, Sections 7 and 8, at Sheet No. 242, and in the Statewide Choice Gas Supply Operations Plan filed on January 2, 2002, as Attachment B to the application (hereinafter "Operations Plan") at 7-12, Columbia proposed assignment of capacity to licensed gas suppliers participating in its plan at the licensees' election. In accordance with the terms of Schedule CSPS and the Operations Plan, a licensee could take an assignment of capacity and reassign the capacity.

In conjunction with the optional assignment of capacity, the Company proposed General Terms and Conditions Section 17.13, Transition Costs Recovery Mechanism, Sheet Nos. 393 through 393a. Pursuant to the formula set out in this section, Columbia would calculate annually a Transition Costs Recovery Charge ("TCRC") that, as authorized by § 56-235.8 A 3 of the Code, is based on unmitigated transition costs. The unmitigated costs recovered in the TCRC would include a portion of the demand charges for firm capacity associated with sales volumes converting to transportation. The TCRC would also recover information technology costs, customer education costs, and unrecovered costs of Columbia's pilot choice program.<sup>2</sup> The TCRC would be applied to all residential and small general service customers whether they participated in the retail supply choice plan or not.

The Division of Consumer Counsel recognized that a surcharge which recovered the costs of offering a retail supply choice plan could be justified. The Division of Consumer Counsel expressed concern about including stranded costs in a TCRC that applied to customers who did not participate in Columbia's choice program. The imposition of this charge on small customers who may have limited opportunities to participate in a choice program could be unreasonable. If the Commission approved the TCRC, the Division of Consumer Counsel urged that the component of the charge attributable to stranded costs be capped.

In its initial comments and its supplemental comments filed on May 6, 2002, Dominion Retail, a licensed gas supplier, opposed optional capacity assignment. According to Dominion Retail, transportation of gas into Columbia's system is constrained, and capacity assignment should be mandatory. Without mandatory capacity assignment, Dominion Retail anticipates risk exposure to the difference between the market value of transportation service and the tariff price.

In its report, the Staff noted that the Transition Costs Recovery Mechanism would include two categories of costs identified in § 56-235.8 A 3 of the Code for recovery. The first category is defined as prudently incurred contract obligations associated with acquiring, maintaining, or terminating interstate and intrastate pipeline and storage capacity contracts, less revenues generated by mitigating such contract obligations, whether by off-system sales, capacity release, pipeline supplier refunds, or otherwise. A second category, transition costs, include costs associated with educating the public on retail supply choice and redesigning facilities, operations, and systems to permit retail supply choice.

The Staff recommended that the Commission modify Columbia's plan to require mandatory capacity assignment to reduce the cost of contract obligations. With mandatory capacity assignment, Columbia could reduce its contract obligations for upstream capacity for balancing and peaking to the extent that customers migrated to licensed gas suppliers. Reduction in contract obligation costs would reduce the TCRC previously discussed.

In its May 3, 2002, comments on the Staff's report and other comments, Columbia agreed to modify its retail supply choice plan to provide for mandatory capacity assignment of upstream firm transportation service equal to up to 37 percent of the licensed gas suppliers' peak demand. Columbia noted that this modification would address the Division of Consumer Counsel's concerns about recovery of stranded costs. The Commission will accept the Company's modification.

In the Stipulation filed June 19, 2002, Columbia proposed to include a delivery tolerance for the Daily Delivery Obligation ("DDO"). On days in which an Operational Flow Order ("OFO") was not in effect, a participating licensed gas supplier could deliver plus or minus 5 percent of its DDO without incurring a penalty. The tolerance would not apply on days covered by an OFO. This tolerance was offered in lieu of assigning contracted pipeline storage capacity to licensed gas suppliers participating in its retail supply choice plan.

In its comments on the stipulation, the Staff urged acceptance of the tolerance. Staff also recommended that Columbia modify Schedule CSPS and the Operations Plan to clarify the relationship between the tolerance and the optional Enhanced Balancing Service (EBS). Dominion Retail stated that the tolerance was less than desirable, but it appeared to be workable. The Gas Users' Association would have the tolerance also apply when an OFO had been issued. The Association expressed concern about the OFO procedure and stated that it would be raised in Phase II.

<sup>1</sup> For simplicity in the discussion which follows, the Commission will omit certain numbers and designations of the tariff sheets, which are proposed for the Company's Gas Tariff Fourth Revised Volume 1. To assist the reader, we will also refer to the various sections of Schedule CSPS. The Commission will follow the same convention in referring to other schedules and terms and conditions in this Order.

<sup>2</sup> The history of the pilot program is reviewed in Columbia Gas of Virginia, Inc., Case No. PUE-2001-00350, Order Granting Extension and Directing the Filing of a Plan for Retail Gas Supply Choice of September 25, 2001.

The Commission will modify the retail supply choice plan to incorporate the tolerance. Columbia shall revise Schedule CSPS Section 9 and the Operations Plan to incorporate the 5 percent tolerance.

As Columbia also noted in its comments of May 3, 2002, the Company proposes to recover accumulated unassumed capacity costs of its pilot program through the TCRC. According to the Company, the costs incurred in developing the plan and in conducting its pilot should be recovered in a non-passable and neutral charge.

The subdivision which authorizes annual surcharges like the TCRC, § 56-235.8 A 3 of the Code, lists specific costs that may be recovered. Costs of a pilot program are not among the listed costs. Further, § 56-235.8 A specifically provides that the provisions of this section do not apply to pilot programs. Accordingly, the Company shall not include costs of the pilot program in the TCRC. We do not reach the issues of whether Columbia has unrecovered costs of the pilot program and, if so, how the costs should be recovered. We find only that the statute does not permit recovery of pilot program costs through the TCRC, and we direct modification to exclude that component.

We will approve the Transition Cost Recovery Mechanism, General Terms and Conditions Section 17.13, with any necessary modifications to reflect mandatory capacity assignment and the removal of the unrecovered costs of the pilot program as a component. In addition, under mandatory capacity assignment there will be no stranded capacity costs. Accordingly, the language in 17.13 b) 1) (i) and 17.13 b) 2) (i) should be deleted.

As provided by Section 17.13 b) 3), at Sheet No. 393a, Columbia proposes to apply a projected TCRC from July 1, 2002, through December 31, 2002. As shown on Sheet Nos. 3 and 3a, this projected charge is \$0.020 per Mcf. We will direct the Company to recalculate and file a revised TCRC effective from July 1, 2002, through December 31, 2002, to reflect mandatory capacity assignment and removal of unrecovered costs of the pilot program.

As provided by Section 17.13 b) 3), at Sheet No. 393a, a new TCRC effective January 1, 2003, would be calculated after October 31, 2002. We will direct Columbia to file annually the revised TCRC with the Commission's Division of Energy Regulation by the first business day of December beginning in 2002. The Company shall simultaneously file with the Commission's Division of Energy Regulation and the Division of Public Utility Accounting work papers supporting the TCRC calculation and the Transition Costs Recovery Mechanism. The Staff will review the calculation. As part of its annual review, we will also direct the Staff to evaluate the continued necessity for the TCRC.

#### *Pricing and Rate-Making Treatment of Optional Services*

In Rate Schedule CSPS, Section 10, at Sheet Nos. 245 through 246, Columbia proposes two optional services for gas licensees, Enhanced Balancing Service ("EBS") and System Integration Service ("SIS"). EBS would provide an automatic balancing tolerance for delivery obligation, and SIS would provide automatic redelivery of gas to other locations. According to Columbia, these optional services would enable licensed gas suppliers to improve management of gas supplies. Both services would be offered at a negotiated prices.

Columbia also proposes in Rate Schedule CSPS, Section 6, at Sheet Nos. 240 through 241, optional billing and collection services. These services would also be offered at negotiated prices.

Columbia made two arguments in support of negotiated pricing for these optional services. Comparable services are available from other sources, and negotiation is consistent with the introduction of competitive forces.

In its comments, the Division of Consumer Counsel expressed concerns about additional revenues generated by the optional services in Rate Schedule CSPS. The Division of Consumer Counsel suggested that Columbia calculate additional revenues by rate class and credit revenues from balancing services against its PGA. Dominion Retail did not oppose the offer of optional services, but it expressed concern about affiliate abuse. In its Report, the Staff recommended that the optional services should be offered at rates based on cost. Further, the Staff recommended that the revenues from these services be credited to the PGA.

Columbia opposes any departure from negotiated pricing for EBS, SIS, and optional billing and collections services. Instead of crediting these revenues to the PGA, Columbia would include the revenue "above the line" with other Company revenues to be reviewed in subsequent rate cases.

In the Stipulation filed June 19, 2002, Columbia takes the same positions it has held throughout this proceeding. The optional services should be offered at negotiated rates, and the revenues will be treated as above-the-line revenues. In its comments, the Gas Users' Association supported Columbia's position. The Staff continued to recommend that the optional services be priced on the basis of cost and that revenues be reflected in the PGA.

The Commission will direct the Company to offer the optional services at rates based on cost and substitute these rates for the language in Schedule CSPS providing for negotiated pricing of EBS and SIS. While Columbia contends that the services are available from other sources, it is unclear whether these providers are active in Virginia and willing to deal with the licensed gas suppliers. Should Columbia develop information that the services are readily available, it may propose revisions to its tariff. Further, we agree with the Staff and the Division of Consumer Counsel that any revenues from these services should be credited to the PGA, and Columbia shall modify its methodology accordingly.

With regard to billing and collection service, the Commission will not modify Columbia's plan. Various services involved in billing such as data processing, mailing, lock box service, and the like may be available from a variety of sources. In addition, revenues from any optional billing services provided by Columbia will be treated above the line with revenues from other activities.

#### *Daily Delivery Obligation and Operational Flow Orders*

Columbia's proposed Schedule CSPS Sections 9(a) and (b), Sheet Nos. 242 through 243, would require a licensed gas supplier to deliver to the Company a set quantity of gas each day. This requirement is defined in Schedule CSPS as the DDO, and the procedure for determining the DDO is explained in the Operations Plan at 2-4. In simple terms, the DDO is determined by customer usage patterns, air temperature, and season of the year. The optional EBS previously discussed would provide some tolerance in satisfying the DDO to licensed gas suppliers taking the service. Failure to satisfy the DDO would result in imposition of the penalties set out in Rate Schedule CSPS, Section 9(c)(1), at Sheet No. 243.

Embedded in the DDO is a balancing service described in the Operations Plan at 12-15. Columbia would provide any difference between the volume of gas licensees deliver and the volume of gas the licensees' customers actually consume on any day. The DDO for the months of April through September would require delivery of an additional volume of gas, which Columbia defines as the CSP Balancing Quantity. To maintain the required CSP Balancing Quantity, the licensees may have to purchase storage capacity or gas from Columbia. Purchases would be at the higher of the city gate price or the last in-first out price of gas in the Company's inventory.

Columbia would reserve the right, at its discretion, to vary the licensed gas suppliers' DDO by issuing an OFO. As explained in Schedule CSPA Section 9(b), at Sheet No. 243, and the Operations Plan, at 20-21, the Company might issue an OFO to adjust delivery quantity to support system operations. Failure to comply with an OFO would subject the licensed gas supplier to the penalties set out in Rate Schedule CSPA, Section 9(c)(2), at Sheet No. 244. These penalties are significantly higher than those proposed for failure to satisfy the DDO when an OFO is not in effect.

In its comments, licensee Washington Gas Energy Services advocated modification of the plan to require Columbia to assign pipeline storage capacity to participating licensees. If Columbia provided storage capacity to licensees participating in the retail supply choice plan, in Washington Gas Energy's view, these licensees could meet system needs and avoid unnecessary transactions. Washington Gas Energy Services noted the potential costs and operational problems that the OFO procedure could create for licensees.

Washington Gas Energy Services also expressed concern over the pricing of any gas purchased to satisfy the CSP Balancing Quantity. Requiring purchases at the market price or the last price Columbia paid would add uncertainty and complicate licensees' pricing. Washington Gas Energy Services suggested that any purchases be at the weighted average cost of Columbia's inventory. This average would be reasonably predictable over time, and provide some certainty to licensees participating in the retail choice plan.

Washington Gas Energy Services and the Division of Consumer Counsel expressed concerns that the various components of balancing requirements established by Schedule CSPA and the Operations Plan could discourage competition. The Staff and Dominion Retail also questioned whether the penalties for failure to meet the DDO might discourage entry of licensed gas suppliers. The penalties would be in addition to gas costs and upstream penalties Columbia might incur, and they would not bear any relation to these costs.

In its comments on the Staff report filed May 3, 2002, Columbia justified its proposed OFO procedure and balancing requirements on the grounds that its system is constrained during peak heating months. To assure the reliability of its system and adequacy of gas supplies, these measures are necessary. Columbia maintained that the balancing service embedded in the DDO and the optional services offered to licensees provided the equivalent of storage capacity.

While the Company maintained that its penalty structure set out in Schedule CSPA Section 9 was justified and reasonable, Columbia proposed modifications. The modified penalties for OFO periods would include a tiered commodity component plus upstream penalties. In addition, a set penalty of \$10 per MCF would be imposed. For non-OFO periods, Columbia proposed tiered penalties based on gas price. The Company has proposed a penalties structure, which addresses many objections of the Staff and the commenting licensed gas suppliers.

In the stipulation filed June 19, 2002, Washington Gas Energy Services accepted the revised penalty schedule proposed by Columbia. In comments on the stipulation, the Staff supported the revised schedule. The Industrial Gas Users' Association recommended that any penalties collected by Columbia be reflected in the PGA so that Columbia would have no incentive to levy them.

The Commission will accept Columbia's modified penalty schedule. The Company will file revisions to Schedule CSPA Section 9 replacing the penalty schedule proposed on January 2, 2002. We will not require Columbia, at this time, to reflect any penalties collected under Rate Schedule CSPA in its PGA. As we discuss below, issues concerning licensed gas suppliers who participate in Columbia's retail supply choice plan are related to some issues that will be addressed in Phase II of the proceeding. The level of penalties appears to be an issue common to both phases. While we approve the penalties, as modified by Columbia, as part of the retail supply choice plan, we may address the proper treatment of penalties collected by the Company in Phase II or in another appropriate proceeding.

As noted, Washington Gas Energy Services commented on the pricing of gas required to meet the CSPA Balancing Quantity and suggested an alternative. While the Commission declines, in Phase I of this proceeding, to adopt the suggested alternative, Washington Gas Energy Services has drawn attention to a possible source of confusion and controversy.

Schedule CSPA identifies two situations in which a licensed gas supplier might purchase gas, and the rate schedule establishes a pricing mechanism for each situation. Section 9(c), at Sheet Nos. 243 and 244, addresses purchases when a licensee fails to deliver enough gas. Section 13, at Sheet Nos. 246 and 247, deals with purchases as part of the annual reconciliation.

The Operations Plan, at 3-4, provides a licensed gas supplier the option of providing the incremental supply or paying Columbia for required gas when temperatures fall below the design peak day temperature. The pricing formula is not specified. In addition, the Operations Plan, at 12-15, describes the balancing service and the licensed gas supplier's obligation to deliver the CSP Balancing Quantity. As part of this balancing service, the Operations Plan, at 15, requires the licensee to purchase gas from the Company in some situations at a price set by another formula.

The record does not support modification of any of the pricing mechanisms. We will, however, require Columbia to revise Schedule CSPA to address the two instances where a licensee may be required to purchase gas and the pricing mechanism for these transactions identified in the Operations Plan. An operating plan separate from the tariff and standard agreements may be necessary for administration of the retail supply choice plan. The Commission finds, however, that all obligations imposed on a licensee to purchase gas from Columbia and the pricing for such purchases should be in the tariff.

In addressing the foregoing aspects of Columbia's retail supply choice plan, the Commission notes the procedural posture of this case. As we discussed in our Order of June 6, 2002, in which we established Phases I and II of this proceeding, pursuant to § 56-235.8 of the Code we need to approve, disapprove, or modify Columbia's retail supply choice plan, in Phase I, by July 1, 2002. The comments filed in this proceeding show that there are transportation issues common to both phases. The licensed gas suppliers participating in the retail supply choice plan covered principally by the Company's Schedule CSPA and the Operations Plan share characteristics and interests with the transportation service customers affected by Phase II. For example,

issues concerning delivery of gas, balancing of supply and demand, the prices for gas and services charged by Columbia, penalties, and other issues are common to both phases. Our decisions in Phase I are not intended to limit full consideration of issues in Phase II.

#### *Creditworthiness and Evaluation Fee*

The Company proposes in Schedule CSPS Section 4(a), Sheet No. 237, a fee of \$280 for each evaluation of a licensee's creditworthiness. The Staff investigated the fee and explained in its report that the sum represented data processing costs of \$240 for establishing the licensee as a participant in the program and \$40 for a credit report.

In its comments filed May 3, 2002, Columbia clarified that it would not apply the evaluation fee to licensed gas suppliers participating in its pilot program. The Company also stated that it would divide the aggregate fee into a set-up charge and a credit report charge.

With one exception, the Commission will approve the evaluation fee as revised by Columbia. We will require this section of Schedule CSPS to have language that clearly provides that no additional credit report fee may be collected whenever Columbia elects to evaluate creditworthiness. The cost of credit reports is a recurring expense of conducting business, and it does not merit imposition of a separate charge at the Company's election.

In addition to a fee for evaluation, Columbia also identified in Schedule CSPS Section 4(a), Sheet No. 237, examples of factors it would consider in evaluating creditworthiness. The Company pledged to apply these factors without discrimination. In Sections 4(b) and (c), Sheet Nos. 237 through 238, Columbia identified the financial assurances it would require from licensees participating in its retail supply choice program.

In its report, the Staff concluded that disclosure of the creditworthiness evaluation to each licensee and resort to the dispute resolution process was sufficient protection from abuse or discrimination. The Commission agrees with the Staff's assessment.

#### *Monthly Administrative Charge*

Columbia proposed in Schedule CSPS Section 11(a), Sheet No. 246, a monthly administrative charge of \$0.41 for each customer of licensed gas suppliers participating in the program. The administrative charge would be no less than \$100.00 per month.

In the stipulation filed on June 19, 2002, Columbia and Washington Gas Energy Services proposed a reduction of the monthly administrative charge proposed in Rate Schedule CSPS from \$0.41 per customer to \$0.20 per customer. In conjunction with this reduction, Columbia will recover demonstrable incremental costs in the Transition Costs Recovery Charge applied to all residential and small commercial customers.

Both Dominion Retail and the Staff questioned the level of this charge and the lack of any cost-support material in the application. The Staff noted that the customer charge in Columbia's pilot program was \$0.10 per month. The Staff also expressed its view that most of the incremental costs identified by the Company for recovery may be included in the cost-of-service and that rates were designed to recover these costs.

After considering the record, the Commission will direct modification of Schedule CSPS Section 11(a) to continue the monthly administrative charge approved for the pilot program, which was \$0.10 per customer. After some experience with the plan we approve in this Order, the Company may develop sufficient information to support a higher charge and to establish that administrative expenses are not included in cost-of-service.

In addition to issues raised with provisions of proposed Schedule CSPS and the Operations Plan, the Staff and parties addressed proposed revisions to other rates and terms.

#### *Gas Transportation Rate*

Columbia has proposed new services, including Residential Transportation Service, Schedule RTS, and Small General Transportation Service, Schedule STS, for customers that obtain gas from licensed suppliers. The proposed rates for these services cover Columbia's administrative expenses and costs of transporting the gas over the Company's system. In its Rates, at Sheet No. 3A, the Company has proposed a Base Gas Rate of \$0.614 per Mcf for both services.

Dominion Retail noted in its comments that Columbia had provided no justification for this rate. The Staff investigated the rate and offered an analysis in its report. The Staff concluded that the Company applied the same methodology for developing the rates that was used in the pilot program and accepted by the Commission. The Staff attributed the difference between the rate accepted in the pilot program and the rate proposed in this program to the increase in pipeline capacity required for licensees participating in the permanent program. The Commission will not modify the proposed rates.

#### *Budget Billing*

Columbia now offers its customers a Budget Payment Plan. In its proposed General Terms and Conditions Section 12.5, at Sheet No. 377, Columbia would limit the Budget Payment Plan. Customers participating in the retail supply choice plan and taking service under the schedules for the customer selecting a licensed gas supplier, primarily proposed Schedules RTS and SGTS, would not be eligible to enroll in a budget payment plan.

Washington Gas Energy Services and the Staff expressed concern over the elimination of the budget billing option for residential and small commercial customers that might participate in retail supply choice. In its comments filed May 3, 2002, Columbia advised the Commission that it would continue to offer budget billing with certain conditions. According to Columbia, the budget billing must cover both its charges and the licensed gas suppliers' charges. Consequently, the licensees must agree to participate and to coordinate the exchange of information on customer balances and changes in suppliers. Columbia also stated that it might need to revise its criteria for creditworthiness to reflect possible default of a licensee participating in a budget payment plan.

The Company states that due to the nature of its programming infrastructure, the budget billing methodology must be applied to the entire customer bill. The Company further explains that, essentially, it proposes to continue to treat budget payments in the same manner as they were treated during the pilot program. The Commission will require the Company to continue the budget payment plan in effect during its pilot program and to conform

its tariffs and standard agreements accordingly. If, after some experience, Columbia determines that budget billing bears on creditworthiness, appropriate revisions to Schedule CSPS could be proposed in a future proceeding.

#### *Waivers of the Retail Access Rules*

The remaining matters we must address concern Columbia's requests for waivers of numerous provisions of the Commission's Retail Access Rules as provided by 20 VAC 5-312-20 A. The Company requested numerous waivers listed in Attachment E of its application filed on January 2, 2002. A number of the requests prompt the Commission to clarify the scope of these rules adopted to develop competition in retail energy markets.

As provided by 20 VAC 5-312-10 A, the Retail Access Rules were promulgated pursuant, in part, to the provisions of § 56-235.8 of the Code, which provides for retail supply choice. Columbia cites our Order on Requests for Clarification, Waiver, and/or Additional Time to Comply with the Rules Governing Retail Access to Competitive Energy Services of August 28, 2001, in Allegheny Power, Case No. PUE-2001-00365, at 7, as authority for its position that the Retail Access Rules extend beyond a retail supply choice plan.

In the cited portion of Allegheny Power, the Commission addressed a request from Washington Gas Light Company for guidance on application of the Retail Access Rules. Specifically, Washington Gas Light Company raised the issue of waivers of 20 VAC 5-312-80, Enrollment and Switching, for its customers taking interruptible service. We noted in Allegheny Power, at 7 and in footnote 3, several subsections of 20 VAC 5-312-80 concerning relations between a local distribution company, a customer, and a competitive service provider permit compliance with an approved tariff or the provisions of 20 VAC 5-312-80. As defined in the Retail Access Rules, 20 VAC 5-312-10, a "competitive service provider" includes a licensed gas supplier, and "customer" means a retail customer. We concluded our discussion by observing that Washington Gas Light Company did not require a broad waiver since its tariff appeared to apply. Columbia interprets our response to a specific inquiry about application of several subsections that refer to tariffs as a broad ruling that the Retail Access Rules extend to all services subject to competition.

The Commission has, up to this point, licensed only gas suppliers proposing to serve retail and small commercial customers that were not eligible for transportation services under tariffs in effect on or before July 1, 1999. We have licensed gas suppliers pursuant to § 56-235.8 F of the Code to participate in retail supply choice plans implemented under § 56-235.8 A to B and in various pilot programs such as Columbia's. The Retail Access Rules establish standards for these licensed gas suppliers and the local distribution companies' retail supply choice plans.

The Commission is aware of the variety of providers of gas, gas transportation service, gas storage service, and related services who compete for the business of large customers. Large customers have had for many years the option of purchasing gas from the local distribution company or from other sources. We also recognize that an entity could secure a license as a gas supplier so that it might participate in retail supply choice plans while also serving customers that were eligible for transportation services on or before July 1, 1999.

The Commission will dismiss a number of Columbia's requests for waiver of the subsections of the Retail Access Rules. By dismissal, the Commission clarifies its intention that the following subsections apply only to retail supply choice plans and not to other competitive services:

20 VAC 5-312-20 N  
 20 VAC 5-312-20 O  
 20 VAC 5-312-80 F  
 20 VAC 5-312-80 I  
 20 VAC 5-312-80 K and L  
 20 VAC 5-312-80 N and P  
 20 VAC 5-312-90 C  
 20 VAC 5-312-90 I  
 20 VAC 5-312-90 K  
 20 VAC 5-312-90 L  
 20 VAC 5-312-90 M.

The Commission will dismiss the following requests for waiver on the grounds that the subsections apply to licensed gas suppliers and not to local distribution companies like Columbia:

20 VAC 5-312-70 C and D  
 20 VAC 5-312-80 J  
 20 VAC 5-312-80 M  
 20 VAC 5-312-90 A and B.

In its comments filed May 3, 2002, Columbia withdrew its request for a waiver of 20 VAC 5-312-60 B 3.

We will now consider the remaining requests.

#### *20 VAC 5-312 60 B*

Columbia seeks a waiver of 20 VAC 5-312-60 B to the extent that the provision requires one list. The Commission will deny the request as unnecessary. It is not our intention to prescribe the physical nature of the lists or the method of compilation. Any reasonable method of providing all of the information identified in 20 VAC 5-312-60 B 1 in a usable manner satisfies the rule.

#### *20 VAC 5-312 60 B 1*

This subsection requires local distribution companies to provide licensed gas suppliers a list of eligible customers. The list shall include the following customer information: load profile reference category, if not based on rate class (20 VAC 5-312-60 B 1(viii)), and up to twelve months of cumulative historic energy usage and annual peak demand information as available (20 VAC 5-312-60 B 1(ix)).

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

The Company requests waiver of 20 VAC 5-312-60 B 1(viii) and (ix) for residential and small commercial customers on the grounds that Columbia provides the information by means of supply curves available to licensees. We will grant this request for waiver of the literal language of the rules, but we will require the Company to provide annual consumption and annual peak demand information for customers taking service under Company Rate Schedules RS, RTS, SGS, SGTS, ACS, ACTS, UGLS, and UGLTS.

To the extent that it applies to large commercial and transportation customers, the Company seeks a waiver of 20 VAC 5-312-60 B 1. A waiver is not required, as this section applies only to customers eligible to participate in a retail supply choice plan filed and approved as provided by § 56-235.8.

*20 VAC 5-312-90 H*

This subsection establishes a hierarchy for crediting a customer's payment when the customer makes only a partial payment and does not designate a distribution of the payment. The Company poses the question of whether the hierarchy applies if Columbia purchases the licensee's receivables. This subsection is intended to afford equitable treatment for customers, local distribution companies, and licensed gas suppliers. Consequently, the hierarchy applies regardless of any sale of the receivables for services included in a retail supply choice plan. No waiver is necessary.

*20 VAC 5-312-100*

This section of the Retail Access Rules requires local distribution companies to develop and distribute load profiles. Subsection A directs the local distribution company to conduct load profiling in a nondiscriminatory manner; subsection B provides that load profile classes be identifiable and representative; and subsection C mandates that access to information be provided. Columbia proposes to satisfy the intent of these subsections by providing actual usage data for large customers and information to licensees on smaller customers on a monthly basis. The Commission concludes that Columbia's proposal satisfies the requirements of subsections A and B with regard to customers eligible to participate in a retail supply choice plan filed and approved as provided by § 56-235.8, and no waiver is required. Since Columbia intends to provide actual data on customers eligible to participate in its retail supply choice plan rather than samples, we will grant waivers of subsection C and subsection D of 20 VAC 5.312-100, which address design and validation of load profile samples.

Subsection E requires the local distribution companies to provide load profile data via readable electronic media such as a Website. Columbia's proposal would satisfy this rule, and no waiver is necessary.

The Commission takes this opportunity to clarify that subsection F applies only to electricity supply. Since it is inapplicable to Columbia, no waiver of subsection F is required.

The load samples must, according to subsection G, include both the local distribution company's customers and the licensed gas supplier's customers. Columbia will satisfy this requirement, and no waiver is required.

According to Columbia, it does not employ the technology to provide interval metering covered by subsection H. We will clarify that subsection H does not require a local distribution company to offer interval metering. The subsection applies only when interval metering is available. Accordingly, Columbia does not require a waiver.

Subsection I requires local distribution companies to post distribution and transmission loss factors. As Columbia notes in its application, these losses are considered retainage and are factored into its gas supply curves. So long as Columbia advises licensed gas suppliers of this component of the supply curves, the Company will satisfy subsection I. No waiver is required for Columbia.

Finally, we note that issuance of this Order does not end our continuing oversight of Columbia's plan. We expect that circumstances may require subsequent review of the plan and our response to matters raised by Columbia, licensed gas suppliers, and other interested persons.

Accordingly, IT IS ORDERED THAT:

- (1) As provided by § 56-235.8 of the Code, Columbia's retail supply choice plan is approved with the modifications directed in this Order, and it shall be effective on and after July 1, 2002.
- (2) Columbia shall recalculate its Transition Cost Recovery Charge (TCRC) effective July 1, 2002, in accordance with the modifications made in this Order. The Company shall file revised tariff sheets showing the recalculated charge as provided below.
- (3) On or before the first work day of December of 2002, and on or before such day every subsequent year, Columbia shall file its revised Transition Costs Recovery Charge (TCRC) determined pursuant to its General Terms and Conditions Section 17.13 b) 3), as modified in this Order, with the Commission's Division of Energy Regulation and shall simultaneously file with the Division of Energy Regulation and the Commission's Division of Public Utility Accounting work papers supporting the calculation, including all information required for the Transition Costs Recovery Mechanism, for Staff review.
- (4) Columbia shall modify its methodology for calculating its Purchased Gas Adjustment Clauses (PGA) on and after July 1, 2002, to reflect revenues from Enhanced Balancing Service (EBS) and System Integration Service (SIS) offered in Rate Schedule CSPS, Section 10.
- (5) On or before July 26, 2002, Columbia shall file with the Commission's Division of Energy Regulation two copies of revised tariff sheets, revisions to standard agreements, and revisions to the Operating Plan incorporating all modifications directed by the Order.
- (6) Columbia's requests for waivers of various subsections of the Retail Access Rules are granted, denied, or dismissed as directed in this Order.

**CASE NO. PUE-2001-00587  
JULY 18, 2002**

APPLICATION OF  
COLUMBIA GAS OF VIRGINIA, INC.

For Approval of a Retail Supply Choice Plan as Authorized by § 56-235.8 of the Code of Virginia	Phase I
To Change Rates, Charges, Rules, and Regulations	Phase II

**ORDER**

By Order of June 28, 2002, in Phase I of this Case No. PUE-2002-00587, the Commission approved, with modifications, a retail supply choice plan authorized by § 56-235.8 A and B of the Code of Virginia ("Code") for Columbia Gas of Virginia, Inc. ("Columbia" or "Company"). Now before the Commission are the petitions filed by Washington Gas Energy Services, Inc., and Columbia for reconsideration. As discussed in this Order, the Commission grants the petitions and orders, in part, the relief requested.

On July 15, 2002, Columbia petitioned for reconsideration of two aspects of our Order of June 28, 2002. First, Columbia urged reconsideration of the pricing and allocation of revenues for two optional services. In its retail supply choice plan filed with the Commission, the Company proposed to offer licensed gas suppliers two optional services, Enhanced Balancing Service and System Integration Service, at negotiated prices. In our Order of June 28, the Commission directed Columbia to modify its plan to offer the two services at rates based on cost. Columbia now proposes to negotiate the prices for Enhanced Balancing Service and System Integration Service with a cap or ceiling of a cost-based rate. The Commission also directed that Columbia credit all revenues from Enhanced Balancing Service and System Integration Service to the Company's PGAs. The Company now proposes to credit half of the revenues to the PGAs and to include the balance in jurisdictional revenues. If these modifications are not authorized, Columbia proposes to withdraw the optional services.

In addition to the modifications for optional services, Columbia also requested a deferral of the effective date of its retail supply choice plan. Columbia proposed that its plan take effect on July 1, 2002, and the Commission approved that effective date. According to the Company's request for reconsideration, additional time is required to implement the modifications required by the Commission's Order of June 28, and Columbia requested an extension of the effective date to October 1, 2002. In conjunction with the deferral of the effective date of its system-wide retail supply choice plan, the Company requested authority to extend its pilot program in the Gainesville area through September 30, 2002.

Columbia's proposal to price Enhanced Balancing Service and System Integration Service through negotiations with a price ceiling is a new alternative for its retail supply choice plan. Likewise, the proposal to withdraw Enhanced Balancing Service and System Integration Service, and the proposal to credit half of the revenues from these services to the PGA, constitute a significant change to the plan. Such modifications should properly be considered after interested parties have notice and, at a minimum, an opportunity to file written comments. For that reason, the Commission will not consider these modifications on reconsideration. We emphasize, however, that we do not reach the merits of the proposals. Rather, as the Commission recognized at several points in the Order of June 28, Columbia may determine that modifications to its retail supply choice plan are needed, and the Company may make subsequent application to the Commission accordingly.

With regard to extending the effective date of the Company's system-wide retail supply choice program to October 1, 2002, the Commission will grant the requested relief. We expect the Company to be fully ready to begin its retail choice plan on October 1, 2002. In addition, since the effective date of the plan has been extended, the Commission will grant the requested relief and authorize the pilot program to continue through September 30, 2002, under the terms and conditions now in effect. This authorization will be retroactive to July 1, 2002.

On July 10, 2002, Washington Gas Energy Services petitioned the Commission to reconsider approval of the billing and collection services that Columbia proposed to offer licensed gas suppliers participating in its retail supply choice plan. According to Washington Gas Energy Services, the Commission implicitly approved Columbia's procedure of dropping charges owed to a licensed gas supplier if the supplier and customer agree to a price change. Washington Gas Energy Services contends that Columbia's billing procedure may be contrary to the Commission's Rules Governing Retail Access to Competitive Energy Services, 20 VAC 5-312-90 M, which requires a local distribution company to track and bill arrearages for two billing cycles. Specifically, Washington Gas Energy Services requests that the Commission (1) order Columbia to bill for arrearages on consolidated bills when a price change occurs under a currently effective supplier contract, and (2) rule that 20 VAC 5-312-90 M does not allow a gas utility to treat a legitimate contract price change as a service termination.

In support of its request for relief, Washington Gas Energy Services refers to Columbia's Comments of May 3, 2002, at 64, where the Company states that it is modifying its billing system to comply with 20 VAC 5-312-90 M to track supplier arrearages on consolidated bills. In these comments, Columbia further states its "intention to treat an arrearage resulting from a customer's change of supplier, *change of rate code*, or a return to Columbia in the same fashion" (emphasis added).

According to Washington Gas Energy Services' petition for reconsideration, "change of rate code" is Columbia's billing term for a contract price change. Treating a customer's change of supplier, a change of rate code, or a return to Columbia in the same fashion would result in treating a contract price change as a service termination for purposes 20 VAC 5-312-90 M. Consequently, after a contract price change, Columbia would track and bill arrearages owed to the licensed gas supplier for only two billing cycles before returning such arrearages to the licensed supplier for collection. Washington Gas Energy Services argues that it is unreasonable to treat a change in contract price as a service termination subject to application of 20 VAC 5-312-90 M. Columbia should continue to bill arrearages in the event of a contract price change.

The Commission finds that Washington Gas Energy Services' petition for reconsideration should be granted and that Columbia should modify its billing procedures. A change in contract price may not be interpreted as a service termination for the purpose of application of 20 VAC 5-312-90 M to local distribution company consolidated billing. This provision of our rules addresses the treatment of the "... customer account arrearages owed to former competitive service providers ...." By any reasonable definition, a licensed gas supplier that continues to provide uninterrupted supply service to a customer after a change in contract price cannot be termed a "former competitive service provider." Further, pursuant to 20 VAC 5-312-90 I 8 g of the Retail Access

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Rules, the billing party must include the customer balance forward, or arrearage, of the non-billing party on consolidated bills. Thus, a standard component of consolidated billing service includes billing for customer account arrearages owed the competitive service provider.

Accordingly, IT IS ORDERED that:

- (1) Columbia's motion for reconsideration and Washington Gas Energy Services petition for reconsideration be granted.
- (2) The effective date of Columbia's retail supply choice plan be extended from July 1, 2002, to October 1, 2002.
- (3) The copies of revised tariff sheets, revisions to standard agreements, and revisions to the Operating Plan incorporating all modifications directed by the ordering paragraph (5) of the Order of June 28, 2002, show an effective date of October 1, 2002.
- (4) Columbia be authorized to continue its pilot program in the Gainesville area through September 30, 2002, pursuant to the same terms and conditions previously approved by the Commission, and that this authorization be retroactive to July 1, 2002.
- (5) On or before July 26, 2002, Columbia shall file with the Commission's Division of Energy Regulation two copies of all tariff sheets governing the pilot program in the Gainesville area bearing an expiration date of September 30, 2002, and the following caption at the foot of each sheet: "By order of the Virginia State Corporation Commission in Case No. PUE-2001-00587, the pilot program originally authorized in Case No. PUE970455 will terminate on September 30, 2002." Columbia shall also file two copies of all tariff sheets revised to remove references to the pilot program and these tariff sheets shall bear an effective date of October 1, 2002.
- (6) Columbia's requests for relief from, or modification of, the requirements of the Commissions Order of June 28, 2002, in Case No. PUE-2001-00587 are otherwise denied.
- (7) No later than the effective date of its retail supply choice plan, Columbia shall modify its billing procedures applicable to licensed gas suppliers that participate in its retail supply choice plan to comply with the requirements of the Commission's Rules Governing Retail Access to Competitive Energy Services, 20 VAC 5-312-10 *et seq.*, as discussed in this Order.

**CASE NO. PUE-2001-00590  
OCTOBER 25, 2002**

APPLICATION OF  
THE FRANKLIN WAVERLY WATER COMPANY

For a certificate of public convenience and necessity for water service

**FINAL ORDER**

On November 7, 2001, The Franklin Waverly Water Company ("Franklin Waverly" or the "Company") filed an application with the State Corporation Commission ("Commission") for a certificate of public convenience and necessity to provide water service to the subdivision known as Waverly in Franklin County, Virginia.

Franklin Waverly requests approval of the following rates and rules and regulations of service:

1. Service Connections:
 

(a) 3/4" Connection	\$1,000
(b) Connection over 3/4"	Actual cost of increased service connection plus 3/4" connection fee
2. Minimum Charge: \$90 per quarter for first 12,000 gallons used, effective when water service is connected to the lot.
3. Overage Charge: \$3 per 1,000 gallons used over 12,000 per quarter (rounded to nearest 1,000).

The Company renders its bills for service quarterly in arrears.

Franklin Waverly proposes a customer deposit not to exceed the customer's estimated liability for two quarters' usage, with such deposit not to be held beyond a one-year period during which the customer establishes satisfactory credit or after final settlement of the customer's account, whichever is first. The Company proposes a late payment charge of up to one and one half percent (1 1/2%) per month on any customer charges not timely paid. In addition, Franklin Waverly proposes a late charge of \$25 on any payment received by the Company more than 30 days after the due date and a bad check charge of \$25. The Company proposes a turn-on charge of \$60 during regular business hours, or \$120 at any other time, to restore service in the event it has been disconnected for nonpayment of any bill or for violation of the Company's rules and regulations of service. Further, Franklin Waverly proposes a \$120 charge when it is necessary to remove the meter at a customer's premises.

On February 22, 2002, the Commission directed Franklin Waverly to give notice of its application and to provide the public with an opportunity to comment and request a hearing. The Commission also directed the Staff to file a report detailing its findings and recommendations on or before June 24, 2002. The deadline for the Staff Report to be filed was ultimately extended to August 30, 2002.<sup>1</sup>

<sup>1</sup> The Commission issued orders extending the time for filing the Staff Report on June 28, 2002, and August 16, 2002.



On March 25, 2002, the Company filed proof of notice to all of the customers located in the Waverly subdivision and the County Manager and the Chairman of the Board of Supervisors of Franklin County. No comments or requests for hearing were received.

The Staff Report was filed on August 30, 2002. The Staff recommends that the Commission grant Franklin Waverly a certificate of public convenience and necessity and approve the Company's proposed usage rates and certain of its proposed charges and fees. The Staff makes several recommendations, however, regarding certain other proposed charges and fees, as well as the Company's accounting practices. First, based on the cost for the installation of a meter, the Staff recommends that the Commission approve only a \$165 service fee for a 3/4" connection, rather than the \$1,000 requested. The Staff recommends that Franklin Waverly's deposit requirement equal the customer's estimated bill for two months' usage. Further, the Staff recommends that the Commission not approve a proposed late payment fee of \$25 for any payment received by the Company more than 30 days after the due date.

Finally, the Staff recommends several accounting changes. Specifically, the Staff recommends that Franklin Waverly: (i) record depreciation expense and amortization expense using a three percent (3%) rate in account 403 – Depreciation Expense; (ii) capitalize future plant repairs and maintenance according to instructions in the Uniform System of Accounts for Class C Water Utilities; (iii) record future service connection fees as Contributions in Aid of Construction in account 271 - Contributions in Aid of Construction; (iv) defer and amortize any future expenditures which are significant, such as tank repainting, over a period of time; (v) file with the Division of Public Utility Accounting an Annual Financial and Operating Report based on calendar year information by April 1 each year; and (vi) record certain journal entries to properly state the Company's books as of December 31, 2001.

On September 24, 2002, Franklin Waverly filed a letter stating that the Company would incorporate the recommendations into the Company's operations and accounting procedure with two exceptions: the two-month deposit and the \$165 service connection fee. The Company states that a deposit of two months' usage does not provide adequate security since it bills quarterly. Franklin Waverly modified its proposed deposit and requests that the deposit approved be the base rate for one quarter. The Company asserts that a \$165 service connection fee covers the cost of installation only and does not allow the Company to maintain adequate cash reserves or to cover any additional costs that might be incurred, such as repair, relocation, administrative costs, and other unforeseen expenses.

NOW THE COMMISSION, having considered the application, the Staff Report, the Company's response to the Staff Report, and the applicable law, finds that it is in the public interest to grant Franklin Waverly a certificate of public convenience and necessity to provide water service. We will approve the Company's rates, charges, and rules, as modified by the Staff, with one exception.

In Commonwealth of Virginia, ex rel. State Corporation Commission, Ex Parte, in re: Investigation to determine the reasonableness of certain practices and charges by public utilities, Case No. 19589, 1977 S.C.C. Ann. Rept. 124, 133, the Commission determined that a utility may require a customer deposit to protect against uncollectable accounts, and that the maximum amount of any deposit may not exceed the equivalent of the customer's estimated liability for two months' usage. Franklin Waverly, however, bills quarterly in arrears. A deposit in the amount of two months' usage would not ensure adequate security for an outstanding bill for one quarter, a minimum charge of \$90.00, and protect against uncollectable accounts. We therefore find it reasonable for the Company to require a deposit in the amount of the base rate for one quarter's usage and will approve the Company's proposed deposit of one quarter's usage, or \$90.00.

We will not approve Franklin Waverly's request to charge \$1,000 for a service connection fee. The Commission has previously declared that service connection fees may not be used for ordinary operating expenses. In Application of Lake Monticello Service Company, To revise its tariffs, Case No. PUE-1982-00054, 1983 S.C.C. Ann. Rept. 371, 376, the Hearing Examiner stated in his Report that "it is clearly the function of monthly usage fees to cover the expenses of the daily operations of the [c]ompany."<sup>2</sup> A one-time fee, paid for the purpose of service connection, is not the type of charge intended to fund daily operations. We will require the Company to base its service connection fees on the average cost of providing the connection, or \$165.00. Should Franklin Waverly determine that it can not cover its operating costs, the Company may seek rate relief from the Commission.

Accordingly, IT IS THEREFORE ORDERED THAT:

- (1) Franklin Waverly is hereby granted Certificate No. W-303 to provide water service to the Waverly subdivision of Franklin County, Virginia.
- (2) Franklin Waverly's rates are hereby approved. Specifically, the Commission authorizes the Company to charge \$90 per quarter for the first 12,000 gallons used and \$3 per 1,000 gallons used over 12,000 per quarter.
- (3) Franklin Waverly's proposed charges, rules, and regulations, as modified herein, are hereby approved.
- (4) On or before November 27, 2002, Franklin Waverly shall file with the Commission's Division of Energy Regulation a revised tariff incorporating the changes in its rules and regulations of service as adopted herein.
- (5) The Company shall implement Staff's accounting and booking recommendations as detailed herein.
- (6) This case is hereby dismissed from the Commission's docket of active cases.

<sup>2</sup> The Commission adopted the findings of the Hearing Examiner in Application of Lake Monticello Service Company, To revise its tariffs, Case No. PUE-1982-00054, 1983 S.C.C. Ann. Rept. 383, 385.

**CASE NOS. PUE-2001-00601, PUE-2000-00560, and PUE-2000-00305  
OCTOBER 25, 2002**

COMMONWEALTH OF VIRGINIA, ex rel.  
STATE CORPORATION COMMISSION

v.  
JESSICA ANNETTE MORRIS, INDIVIDUALLY, AND T/A MADISON COUNTY CABLE TV, INC.,  
Defendant

**FINAL ORDER**

On June 19, 2002, the State Corporation Commission ("Commission") issued a Rule to Show Cause ("Rule") against Jessica Annette Morris, individually, and t/a Madison County Cable TV, Inc., ("Defendant"). The Rule alleged that the Defendant had violated § 56-265.24 A of the Underground Utility Damage Prevention Act ("Act"), Chapter 10.3 of Title 56 of the Code of Virginia.

This Rule assigned the matter to a Hearing Examiner; scheduled an evidentiary hearing for September 24, 2002; ordered the Defendant to appear at the hearing to show cause why she should not be penalized pursuant to § 56-265.32 A of the Act for the alleged violations of the Act as set forth in the Rule; and ordered the Defendant to file a responsive pleading on or before July 19, 2002, expressly admitting or denying the allegations set forth in the Rule.

The Defendant failed to file an answer or other responsive pleading by the date set forth in the Rule.

On September 24, 2002, the matter was heard by Howard P. Anderson, Jr., Hearing Examiner. Counsel appearing at the hearing was Katharine A. Hart, Esquire, for the Commission Staff. Although the Defendant received notice of the hearing and was properly served, the Defendant failed to appear at the hearing. The prefiled written testimonies of Henry Philip Sadler, Jr., and Andrew Kvasnicka of the Commission Staff were marked as exhibits and submitted for the record. Counsel for the Staff moved for a default judgment based on the Defendant's failure to appear at the hearing. The Hearing Examiner granted this motion for default judgment and issued his ruling from the bench.

The Hearing Examiner found that: (1) proper service was obtained on the Defendant; (2) the Staff had met its burden of proof and that the Defendant had violated § 56-265.24 A of the Act by failing to take all reasonable steps necessary to protect the underground utility lines located near 6413 Cranston Lane, Fox Point, Virginia, 2021 Buoy Drive, Garrisonville, Virginia, the intersection of Aquia Road and Harpoon Drive, Stafford, Virginia, and 2100 Harpoon Drive in Stafford, Virginia; and (3) the Defendant should be penalized pursuant to § 56-265.32 A of the Code of Virginia in the amount of \$2500 for each violation. The Hearing Examiner recommended that the Commission adopt his findings and impose on the Defendant a penalty in the amount of \$2500 for each violation, a total of \$10,000.

The Defendant did not file any comments and responses to the Hearing Examiner's ruling.

NOW THE COMMISSION, upon consideration of the Rule, the record, the Hearing Examiner's ruling, and the applicable statutes, is of the opinion and finds that there is clear and convincing evidence that the Defendant violated § 56-265.24 A of the Act and failed to take all reasonable steps necessary to protect the underground utility lines described herein. The findings and recommendations of the Hearing Examiner's ruling shall be adopted.

Accordingly, IT IS ORDERED THAT:

- (1) The findings and recommendations of the Hearing Examiner are hereby adopted.
- (2) In accordance with the Commission's regulatory duties and powers and pursuant to § 56-265.32 A of the Act, judgment is entered for the Commonwealth and against Jessica Annette Morris, individually, and t/a Madison County Cable, TV, Inc., and a civil penalty of \$2500 for each violation, a total of \$10,000, shall be imposed on the Defendant for the violation described herein of § 56-265.24 A of the Act.
- (3) The Defendant shall pay the civil penalty in the amount of \$10,000 to the Commonwealth within 30 days of the issuance of this Order. This payment shall be made by cashier's check or money order, payable to the Treasurer of Virginia and directed to the attention of Massoud Tahamtani, Director, Division of Utility and Railroad Safety, 1300 East Main Street, Richmond, Virginia 23219.
- (4) The Defendant is hereby enjoined from any further violations of the Act.
- (5) There being nothing further to be done herein this matter should be dismissed from the Commission docket of active cases, and the papers filed herein placed in the Commission's file for ended causes.

**CASE NOS. PUE-2001-00617, and PUE-1999-00772  
OCTOBER 31, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION

v.

HYLAND SERVICES INCORPORATED

and

JOHN DAVID HYLAND, AS TRUSTEE IN LIQUIDATION FOR HYLAND SERVICE INCORPORATED,  
Defendants

**FINAL ORDER**

On June 28, 2002, the State Corporation Commission ("Commission") issued a Rule to Show Cause ("Rule") against Hyland Services Incorporated ("Hyland Services" or the "Company") and John David Hyland, as Trustee in Liquidation for Hyland Services Incorporated ("John David Hyland"). The Rule alleged that Hyland Services had violated the Underground Utility Damage Prevention Act ("Act"), Chapter 10.3 of Title 56 of the Code of Virginia.

Specifically, the Rule alleged that, on or about May 24, 2001, Hyland Services damaged an underground utility line located at or near 1176 Sheffield Drive, Lynchburg, Virginia. The Rule further alleged that, on or about August 27, 1999, the Company damaged an underground utility line located at or near 675 J. Clyde Morris Boulevard, Newport News, Virginia. In addition, the Rule alleged that, on or about July 17, 1999, the Company damaged an underground utility line located at or near 800 Victoria Boulevard, Hampton, Virginia. Finally, the Rule alleged that, on the occasions detailed above, Hyland Service failed to take all reasonable steps to protect the lines in violation of § 56-265.24 A of the Act.

The matter was assigned to a Hearing Examiner and an evidentiary hearing was scheduled for September 26, 2002. John David Hyland was ordered to appear at the hearing to show cause why Hyland Services should not be penalized pursuant to § 56-265.32 A of the Act for the alleged violations set forth in the Rule. Further, John David Hyland was directed to file a responsive pleading on or before July 22, 2002, expressly admitting or denying the allegations.

John David Hyland was properly served notice of the hearing and filed a responsive pleading on July 22, 2002. In this responsive pleading, John David Hyland denied most of the substantive allegations made in the Rule and indicated that he intended to appear at the September 26, 2002, hearing. Prior to the hearing, however, counsel for the Staff was advised that John David Hyland would not be appearing at the evidentiary proceeding.

On September 26, 2002, the matter was heard by Alexander F. Skirpan, Jr., Hearing Examiner. Katharine A. Hart, Esquire, appeared on behalf of the Commission Staff. The Staff presented the testimony of 12 witnesses: G. Paul Moses, Jr., Henry Philip Sadler, Jr., and Thomas Michael Upshaw of Staff; Milton Keesee and Richard Neal Cunningham of Utiliquist, LLC; Kent Eugene Carr and Darrell Wayne Litchford of Columbia Gas of Virginia, Inc.; Gary Owens, Willie Burton Jones, Jr., and William Stuart Davis of Central Locating Service, Ltd.; Billy Nichols of Virginia Natural Gas, Inc.; and Donald Brian Marcella formerly of Virginia Natural Gas, Inc. At the conclusion of its case, counsel for the Staff noted the Rule, which provides that John David Hyland shall be in default if he files a responsive pleading and fails to make an appearance at the hearing, and moved for a default judgment based on his failure to appear at the hearing. The Hearing Examiner granted the default motion and issued his ruling from the bench.

The Hearing Examiner found that the Staff had proven that Hyland Services had violated the Act as alleged in the Rule and recommended that the Commission adopt his findings and impose a penalty on Hyland Services in the amount of \$2500 for each violation, for a total fine of \$7500.

John David Hyland did not file any comments and responses to the Hearing Examiner's ruling.

NOW THE COMMISSION, upon consideration of the Rule, the record, the Hearing Examiner's ruling, and the applicable statutes, is of the opinion and finds that the findings and recommendations of the Hearing Examiner's ruling should be adopted. We find that there is clear and convincing evidence that Hyland Services violated § 56-265.24 A of the Act by failing to take all reasonable steps necessary to protect the underground utility lines located at or near 1176 Sheffield Drive, Lynchburg, Virginia, 675 J. Clyde Morris Boulevard, Newport News, Virginia, Virginia, and 800 Victoria Boulevard, Hampton, Virginia. We find that a penalty in the amount of \$2500 for each violation, a total fine of \$7500, should be imposed.

Accordingly, IT IS ORDERED THAT:

- (1) The findings and recommendations of the Hearing Examiner are hereby adopted.
- (2) In accordance with the Commission's regulatory duties and powers and pursuant to § 56-265.32 A of the Act, judgment is entered for the Commonwealth and against Hyland Services Incorporated, and, for each of the violations of the Act described herein, a civil penalty of \$2500, a total fine of \$7500, shall be imposed.
- (3) John David Hyland as Trustee in Liquidation for Hyland Services Incorporated shall pay the civil penalty in the total amount of \$7500 to the Commonwealth within 30 days of the issuance of this Order. This payment shall be made by cashier's check or money order, payable to the Treasurer of Virginia and directed to the attention of Massoud Tahamtani, Director, Division of Utility and Railroad Safety, 1300 East Main Street, Richmond, Virginia 23219.
- (4) Hyland Services Incorporated is hereby enjoined from any further violations of the Act.
- (5) There being nothing further to be done herein this matter should be dismissed from the Commission docket of active cases, and the papers filed herein placed in the Commission's file for ended causes.

**CASE NO. PUE010655  
MARCH 12, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION  
v.  
UTILIQUEST, LLC,  
Defendant

**ORDER OF SETTLEMENT**

Pursuant to § 56-265.30 of the Code of Virginia, the Virginia State Corporation Commission ("Commission") is charged with enforcing the provisions of the Underground Utility Damage Prevention Act, §§ 56-265.14 *et seq.* of the Code of Virginia ("Act"). The Commission's Division of Energy Regulation ("Division"), charged with the investigation of probable violations of the Act, has completed investigations of certain incidents between March 26, 2001, and October 15, 2001, listed in Attachment A, involving Utiliquest, LLC ("Company"), and alleges that:

- (1) The Company is a contract locator as that term is defined in § 56-265.15 of the Code of Virginia;
- (2) During the aforementioned period the Company violated the Act, by committing the following violations:
  - (a) Failing on certain occasions to mark the approximate horizontal location of the underground utility lines on the ground to within two feet of either side of the underground utility lines, in violation of §§ 56-265.19 A and D of the Code of Virginia.
  - (b) Failing on certain occasions to mark within the time prescribed in the Act, in violation of § 56-265.17 B and §§ 56-265.19 A and D of the Code of Virginia.
  - (c) Failing on certain occasions to report to the notification center that lines had been marked or they were not in conflict with the proposed excavation, in violation of §§ 56-265.19 A, B, and D of the Code of Virginia.

As evidenced in the attached Admission and Consent document, the Company neither admits nor denies these allegations, but admits the Commission's jurisdiction and authority to enter this Order. As an offer to settle all matters before the Commission arising from the Division's allegations made herein, which includes all probable violations presented to the Underground Utility Damage Prevention Advisory Committee on November 6, 2001, and set out in Attachment A hereto, the Company represents and undertakes that it will pay a civil penalty to the Commonwealth of Virginia in the amount of \$31,950 to be paid contemporaneously with the entry of this Order. This payment will be made by cashier's check or money order, payable to the Treasurer of Virginia and directed to the attention of the Director of the Division of Energy Regulation.

THE COMMISSION, being advised by the Staff and finding sufficient basis herein for the entry of this Order, hereby accepts this settlement.

Accordingly, IT IS ORDERED THAT:

- (1) Pursuant to the authority granted the Commission by § 12.1-15 of the Code of Virginia, the offer of settlement made by the Company be, and it hereby is, accepted.
- (2) The sum of \$31,950 tendered contemporaneously with the entry of this Order is accepted.
- (3) This case is dismissed and the papers herein be placed in the file for ended causes.

**CASE NO. PUE-2001-00656  
APRIL 16, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION  
v.  
CENTRAL LOCATING SERVICE, LTD.,  
Defendant

**ORDER OF SETTLEMENT**

Pursuant to § 56-265.30 of the Code of Virginia, the Virginia State Corporation Commission ("Commission") is charged with enforcing the provisions of the Underground Utility Damage Prevention Act, §§ 56-265.14 *et seq.* of the Code of Virginia ("Act"). The Commission's Division of Energy Regulation ("Division"), charged with the investigation of probable violations of the Act, has completed investigations of certain incidents between March 1, 2001, and October 2, 2001, listed in Attachment A, involving Central Locating Service, Ltd. ("Company"), and alleges that:

- (1) The Company is a contract locator as that term is defined in § 56-265.15 of the Code of Virginia;
- (2) During the aforementioned period the Company violated the Act, by committing the following violations:
  - (a) Failing on certain occasions to mark the approximate horizontal location of the underground utility lines on the ground to within two feet of either side of the underground utility lines, in violation of §§ 56-265.19 A and D of the Code of Virginia.

- (b) Failing on certain occasions to mark within the time prescribed in the Act, in violation of § 56-265.17 B and §§ 56-265.19 A and D of the Code of Virginia.
- (c) Failing on certain occasions to report to the notification center that lines had been marked or they were not in conflict with the proposed excavation, in violation of § 56-265.19 A, B, and D of the Code of Virginia.

As evidenced in the attached Admission and Consent document, the Company neither admits nor denies these allegations but admits the Commission's jurisdiction and authority to enter this Order. As an offer to settle all matters before the Commission arising from the Division's allegations made herein, which includes all probable violations presented to the Underground Utility Damage Prevention Advisory Committee on November 6, 2001, and set out in Attachment A hereto, the Company represents and undertakes that it will pay a civil penalty to the Commonwealth of Virginia in the amount of \$24,700 to be paid contemporaneously with the entry of this Order. This payment will be made by cashier's check or money order, payable to the Treasurer of Virginia and directed to the attention of the Director of the Division of Energy Regulation.

The Commission, being advised by the Staff and finding sufficient basis herein for the entry of this Order, hereby accepts this settlement.

Accordingly, IT IS ORDERED THAT:

- (1) Pursuant to the authority granted the Commission by § 12.1-15 of the Code of Virginia, the offer of settlement made by the Company be, and it hereby is, accepted.
- (2) The sum of \$24,700 tendered contemporaneously with the entry of this Order is accepted.
- (3) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. PUE-2001-00657  
JUNE 25, 2002**

APPLICATION OF  
BUCHANAN GENERATION, LLC

For permission to construct and operate an electrical generating facility

**FINAL ORDER**

On November 13, 2001, Allegheny Energy Supply Company, LLC ("Allegheny Energy Supply"), a wholly owned subsidiary of Allegheny Energy, Inc., filed an application for a certificate of public convenience and necessity pursuant to § 56-265.2 of the Code of Virginia ("Code") to construct, own and operate electric generation facilities with a capacity of up to 88 MW, an associated 138 kV transmission line, and other associated facilities at a site located in Buchanan County, Virginia. On December 13, 2001, Allegheny Energy Supply filed an amended application and supplemental testimony of Thomas J. Irwin. The amended application seeks approval to construct, own and operate an electric transmission line necessary to interconnect the generation facilities to American Electric Power's ("AEP") Grassy Creek Substation.

By letter and additional testimony filed on February 4, 2002, Allegheny Energy Supply advised the Commission that together with CONSOL Energy, Inc. ("CONSOL"), it had concluded the formation of the special purpose entity known as Buchanan Generation, LLC ("Buchanan Generation" or "Applicant"), and that Buchanan Generation should henceforth be considered the Applicant.

Buchanan Generation is seeking Commission approval to construct, own, and operate an 88 MW simple cycle gas-fired generation facility. The project is to be constructed on a site owned by Consolidation Coal Company, a subsidiary of CONSOL; the site is the former location of a contour strip coal mining operation. The project will consist of two General Electric aeroderivative combustion turbines and associated auxiliary equipment. It will be fueled by coal-bed methane gas collected by Pocahontas Gathering Company, a wholly owned subsidiary of CONSOL, and sold to Buchanan Generation by Buchanan Production Company, a Virginia General Partnership. The project also will include a water treatment facility, a water line to interconnect the water treatment facility with the generation facilities, and a 138 kV transmission line that will be approximately 2.7 miles long.

On February 13, 2002, the Commission entered an order requiring the Applicant to provide public notice of its application, explaining that the Commission will treat the application as if filed under § 56-580 D of the Code, establishing a procedural schedule for the filing of testimony and exhibits, permitting any person or entity to file comments and/or a request for hearing, requiring the Commission Staff to file a report detailing its findings and recommendations, and appointing a Hearing Examiner to hear this case.

The Commission received no comments opposing the project and no requests for hearing. On March 28, 2002, Staff filed a report detailing its findings and recommendations in this matter. Staff found that the project satisfies all criteria contained in § 56-580 D of the Code and recommended that the Commission approve the proposed project. On May 2, 2002, the Hearing Examiner issued a ruling directing the Applicant to file supplemental information to support its project, including information on the environmental impact of this project and the cumulative impact of all proposed projects on the existing air quality in Buchanan County and the surrounding area. On May 17, 2002, the Applicant filed supplemental information as directed.

On May 20, 2002, the Virginia Department of Environmental Quality ("DEQ") filed a letter advising the Commission that it had reviewed the cumulative impact analysis submitted by the Applicant. The DEQ explained that the analysis adequately addressed the predicted impact of the Buchanan Generation facilities and twenty-two (22) other proposed facilities on the air quality in Buchanan County and the surrounding area. The DEQ also submitted a summary of the predicted impact on ozone formation from the proposed project and fifteen (15) other projects existing or proposed in Virginia.

On June 11, 2002, Chief Hearing Examiner Deborah V. Ellenberg entered a Report in which the Examiner summarized the record, and reviewed and analyzed the evidence and issues in this proceeding. The Examiner's Report included the following findings:

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- (1) The proposed project will have no adverse impact on the reliability of the AEP electric system;
- (2) The current level of air quality in Buchanan County is good, and is in attainment of all National Ambient Air Quality Standards ("NAAQS");
- (3) The Applicant's cumulative impact analysis is reasonable;
- (4) The cumulative impact analysis adequately demonstrates that the facility's emissions, when combined to include emissions from twenty-three (23) existing or proposed facilities, will have no material adverse effect on air quality in Buchanan County and the surrounding area;
- (5) The DEQ's analysis shows that the impact on ground level ozone will not be significant in Buchanan County and the surrounding area;
- (6) The facility's emissions will have no material effect on economic development in Buchanan County and the surrounding counties, because the analysis shows no significant deterioration of air quality and maintenance of levels well below the NAAQS;
- (7) The facility will have no adverse effect on competition;
- (8) The facility will have a positive effect on the local and regional economy; and
- (9) The facility will have no adverse impact on the public interest.

The Examiner recommended that the Commission grant the Applicant authority and a certificate of public convenience and necessity pursuant to § 56-580 D of the Code to construct and operate the proposed 88 MW generation facility and associated facilities, including a 138 kV transmission line to interconnect the facility to the AEP system in Buchanan County. The Examiner also recommended that the Applicant be directed to comply with the recommendations of the DEQ. Finally, the Examiner recommended that the certificate be conditioned on the receipt of all permits necessary to operate the facility, and that the Applicant provide a complete list of the same to the Commission's Division of Energy Regulation.

On June 14, 2002, the Applicant filed a letter that, among other things: (1) stated the Applicant was pleased the Chief Hearing Examiner recommended issuance of the certificate; (2) stated the Applicant has no further comments on the Examiner's Report; (3) waived the comment period provided for in the Report; and (4) urged the Commission to act expeditiously to issue a certificate for this project. On June 14, 2002, Staff filed a letter stating that it has no comments on the Report and waiving the comment period provided for in the Report.

NOW THE COMMISSION, having considered the record, the pleadings, the Examiner's Report, and the applicable law, is of the opinion and finds as follows. As set forth in prior orders,<sup>1</sup> the Code of Virginia establishes six general criteria, or areas of analysis, that apply to electric generating plant applications. The six criteria are as follows: (1) reliability;<sup>2</sup> (2) competition;<sup>3</sup> (3) rates;<sup>4</sup> (4) environment;<sup>5</sup> (5) economic development;<sup>6</sup> and (6) public interest.<sup>7</sup> We have evaluated these six areas.

Pursuant to § 56-580 D, we find that the generating facility and associated facilities: (i) will have no material adverse effect upon reliability of electric service provided by any regulated public utility; and (ii) are not otherwise contrary to the public interest. In addition, we have evaluated the application pursuant to § 56-46.1 and have given consideration to the effect of the generating facility and associated facilities on the environment. We grant Buchanan Generation approval, and a certificate of public convenience and necessity, to construct and operate its proposed generating facility and associated facilities.

Accordingly, IT IS ORDERED THAT:

- (1) The findings in the Hearing Examiner's Report of June 11, 2002, are hereby adopted.
- (2) Pursuant to § 56-580 D of the Code of Virginia, Buchanan Generation is hereby granted authority, and a certificate of public convenience and necessity, to construct and operate the 88 MW electric generating facility and associated facilities in Buchanan County, Virginia, as described in this proceeding.
- (3) The certificate of public convenience and necessity granted herein shall be conditioned upon the receipt of all environmental and other permits necessary to operate the facilities.

<sup>1</sup> See, e.g., *Application of Tenaska Virginia Partners, LP, For approval of a certificate of public convenience and necessity pursuant to Virginia Code § 56-265.2, an exemption from Chapter 10 of Title 56, and interim approval to make financial commitments and undertake preliminary construction work*, Case No. PUE-2001-00039, Final Order (April 19, 2002).

<sup>2</sup> Va. Code Ann. §§ 56-580 D(i) and 56-46.1 A.

<sup>3</sup> Va. Code Ann. § 56-596 A.

<sup>4</sup> Va. Code Ann. §§ 56-580 D(ii); 20 VAC 5-302-20 14. See also *Ex Parte: In the matter of amending filing requirements for applications to construct and operate electric generating facilities*, Case Nos. PUE-2001-00313 and PUE-2001-00665, Order Adopting Rules and Prescribing Additional Notice at 6 (Dec. 14, 2001).

<sup>5</sup> Va. Code Ann. §§ 56-580 D and 56-46.1 A.

<sup>6</sup> Va. Code Ann. §§ 56-46.1 and 56-596 A.

<sup>7</sup> Va. Code Ann. §§ 56-580 D(ii).

(4) The Applicant shall comply with the recommendations of the DEQ.

(5) There being nothing further to come before the Commission in this proceeding, this case shall be removed from the docket and the papers transferred to the file for ended causes.

**MOORE, Commissioner, Dissents:**

I respectfully dissent from my colleagues' decision to approve the construction and operation of the Buchanan generation facility based on the record before us. My disagreement is limited to the majority's conclusions with respect to air quality.

In this proceeding, the Hearing Examiner specifically directed the Applicant to supplement its application to address the cumulative air impact issue. The Applicant filed additional information, and the DEQ submitted a letter stating that it had reviewed the cumulative impact analysis submitted by the Applicant, and that the analysis adequately addressed the predicted impacts of the proposed facility and 22 other proposed and existing generating units. The DEQ also provided a summary of the predicted impact on ozone formation from the proposed project and fifteen other proposed and existing plants in Virginia.

After reviewing the material submitted, the Hearing Examiner recommended that a certificate to construct and operate the 88 MW unit be granted. Based on the decision of my two colleagues in the *Tenaska* case,<sup>1</sup> I understand why she might make such a recommendation.

This case suffers from many of the same failings as those of the *Tenaska* case. Additionally, the Applicant here failed to provide data in several areas where such data were provided in the *Tenaska* proceeding. Simply because the proposed plant is smaller than the *Tenaska* facility does not mean that the examination should not be complete and thorough. An 88 MW unit is significant and the air pollution it will add must not be ignored.

In our *Tenaska* order of January 16, 2002, remanding that case,<sup>2</sup> the Commission explained that it must have data showing both the current quality of the air in the area impacted by the proposed facility and the impact on that air quality of the proposed and other facilities. In the *Tenaska* case, the applicant provided data reflecting the current air quality in the area surrounding the facility and the impact of that facility and 22 others on that air quality. These data were provided for the following pollutant standards: NO<sub>2</sub> annual, PM<sub>10</sub> annual, PM<sub>10</sub> 24-hour, SO<sub>2</sub> annual, SO<sub>2</sub> 24-hour, SO<sub>2</sub> three-hour, CO eight-hour, CO one-hour, and O<sub>3</sub> one-hour.<sup>3</sup>

As noted in my dissent in the Final Order in the *Tenaska* case, the analysis of the majority failed for several reasons. First, for several pollutants, the data showed, without explanation, that the current air quality was relatively close to the EPA's National Ambient Air Quality Standards ("NAAQS"), and that the facilities would add significantly to those levels. Specifically, the current PM<sub>10</sub> levels were more than 50% of the NAAQS, and the cumulative impact would increase the current concentration levels under the 24-hour PM<sub>10</sub> analysis by almost 10%.<sup>4</sup> With respect to ozone, the current level presented by the applicant for the impacted area was almost 90% of the one-hour ozone level of 120 ppb, and this level would be pushed even closer to the NAAQS by the proposed facilities.<sup>5</sup>

In this proceeding, the Applicant has provided background, plant specific, and cumulative data for the PM<sub>10</sub> 24-hour, the PM<sub>10</sub> annual, and the NO<sub>2</sub> annual standards. The Applicant also provided background and plant specific data with respect to the following standards: SO<sub>2</sub> annual, SO<sub>2</sub> 24-hour, SO<sub>2</sub> three-hour, CO eight-hour, and CO one-hour. However, no cumulative impact data were provided for SO<sub>2</sub> and CO. For ozone, the DEQ indicated what the effect of the pollutants might be for the impacted area, but current ozone levels for the area were not provided. The Applicant apparently concluded that further analyses were not necessary with respect to SO<sub>2</sub> or CO.<sup>6</sup>

Where background, plant specific, and cumulative data were presented in this case, current pollution concentration levels do not appear to be approaching the NAAQS, and neither the proposed facility alone nor all 23 proposed facilities together would add greatly to those levels in the area of the facility proposed in this case. Unfortunately, data for additional cumulative impact analyses -- data that were presented in *Tenaska* -- were not provided here. Generalities should not be allowed to replace data and information. In this regard, this case falls short of what was presented in *Tenaska*.

Of equal importance is the failure of the Applicant to present data or to address the EPA's PM<sub>2.5</sub> and eight-hour ozone standards. As discussed in some detail in my dissent in *Tenaska*, the ozone and particulate matter standards were updated by the EPA in 1997 because there were very serious health problems related to fine particulate matter and ozone where the PM<sub>10</sub> and one-hour ozone standards were being met. Moreover, the EPA concluded that

<sup>1</sup> *Application of Tenaska Virginia Partners, L.P., For approval of a certificate of public convenience and necessity pursuant to Virginia Code § 56-265.2, an exemption from Chapter 10 of Title 56, and interim approval to make financial commitments and undertake preliminary construction work*, Final Order, Doc. No. 271123 (Apr. 19, 2002) ("Final Order") (Commissioner Moore dissenting).

<sup>2</sup> *Application of Tenaska Virginia Partners, L.P., For approval of a certificate of public convenience and necessity pursuant to Virginia Code § 56-265.2, an exemption from Chapter 10 of Title 56, and interim approval to make financial commitments and undertake preliminary construction work*, Case No. PUE-2001-00039, Doc. Con. Cen. No. 020120072 (Jan. 16, 2002).

<sup>3</sup> In support of its environmental analysis, *Tenaska* filed a study prepared by the Trinity Consultants entitled "Cumulative Impacts Analysis--Tenaska Virginia Generation Station" ("Trinity Report"). This study was included as Exhibit 3 to the direct remand testimony (marked at the hearing as Exhibit 16) of *Tenaska's* environmental witness, Dr. Greg Kunkel. A chart summarizing the pollutants that were included in the cumulative impact analysis is contained in the Trinity Report, Tables 1-3 and 1-4 at pp. 1-9, 1-10.

<sup>4</sup> Final Order, Commissioner Moore's dissent ("Moore Dissent"), 4.

<sup>5</sup> Moore Dissent, 5.

<sup>6</sup> Report of Deborah V. Ellenberg, Chief Hearing Examiner, Case No. PUE-2001-00657, Doc. No. 275567 (June 11, 2002), 10-13.

there was no safe level for fine particulate matter or ozone.<sup>7</sup> In *Tenaska* and here, it appears that the majority has concluded that as long as pollution levels do not exceed the NAAQS, the environment and the citizens of the Commonwealth are safe. As the EPA explained, however, no level of fine particulate matter or ozone is safe, so the current levels, and any increase to these levels, are significant data that need to be considered.

Here, as in *Tenaska*, the Applicant failed to address the revised standards. While these standards are not yet being enforced, the reality of the harm caused to humans, animals, and plants by these pollutants has been and remains real. This is particularly disturbing in light of data related to these revised standards that appear on the DEQ's Internet site. Specifically, Virginia data for eight-hour ozone exceedences for 1990 through 2000 are set forth in charts, along with the exceedences under the one-hour standard for the period 1987 through 2000.<sup>8</sup> Data under both standards for a representative area should have been presented and explained here, but they were not.<sup>9</sup> The DEQ data highlight the need for such information, analysis, and explanation. While it has been generally understood that changing from the one-hour 120 ppb standard to the eight-hour 80 ppb standard would almost certainly increase the number of times the ozone standard would be exceeded in Virginia, the DEQ data may give an idea of the scale of the increase.<sup>10</sup> On a statewide basis, the number of exceedences in Virginia under the one-hour 124 ppb standard total 50 for the five years from 1996 through 2000; using the eight-hour 84 ppb standard for the same period shows 783 exceedences.<sup>11</sup> When we know the ozone standard was tightened to protect the public health and see this indication of possible extraordinary increases in exceedences as a result of the application of the revised standard, the people of the Commonwealth are entitled to the eight-hour data and an explanation. With respect to PM<sub>2.5</sub>, it appears that some data may also be available.<sup>12</sup> Given the increasing health concerns related to PM<sub>2.5</sub>, citizens, again, are entitled to the data that are available and to an explanation.

The sad part about this proceeding is that it may be that the proposed facility should be built. Adequate data and analysis, however, have not been provided, and Virginia government is ignoring that fact. As a result, the environment of the Commonwealth and the health of her citizens may be at risk. This should not, and need not, be the case. It is reassuring that, under new legislation effective July 1, the DEQ will be evaluating the environmental impacts of proposed power plants thoroughly.

<sup>7</sup> See Moore Dissent, 6-8, 9-10.

<sup>8</sup> See <http://www.deq.state.va.us/ozone/ozone-t3.html> for the chart "Eight-hour ozone exceedences (1990-2001)" and <http://www.deq.state.va.us/ozone/ozone-t2.html> for the chart "One-hour ozone exceedences (1987-2001)."

<sup>9</sup> If such data were not needed, an explanation and a rationale of why appropriate data were not available or not needed should have been provided.

<sup>10</sup> The DEQ's ozone standards are based on the NAAQS developed by the EPA. Due to the two agencies' differing methodologies and interpretation, the numbers of the standards vary slightly by agency. The EPA current one-hour ozone standard is 0.12 ppm (or 120 ppb), where the DEQ's one-hour standard is 124 ppb. The EPA's eight-hour ozone standard is 0.08 ppm (or 80 ppb), where the DEQ's eight-hour standard is 84 ppb. For further information concerning the EPA's ozone standards, see <http://www.epa.gov/ttn/oarpg/naaqsfm/o3fact.html>.

<sup>11</sup> See *supra* note 8.

<sup>12</sup> See <http://www.deq.state.va.us/airmon/pm25home.html> to find links to charts presenting summary and annual summary data for PM<sub>2.5</sub>.

## CASE NO. PUE010658 JANUARY 4, 2002

### APPLICATION OF SELECT ENERGY, INC.

For permanent licenses to conduct business as a competitive electric and natural gas service provider

### ORDER GRANTING LICENSES

On November 19, 2001, Select Energy, Inc., ("Select" or "the Company") completed an application with the State Corporation Commission ("Commission") for licenses to provide competitive electric and natural gas services. Pursuant to the Rules Governing Retail Access to Competitive Energy Services ("Retail Access Rules") 20 VAC 5-312-10 *et seq.*, the Company requested authority to serve commercial and industrial customers in the retail access programs throughout the Commonwealth of Virginia as the Commonwealth opens up to retail access and customer choice. The Company attested that it would abide by all applicable regulations of the Commission as required by 20 VAC 5-312-40 B.

On December 13, 2001, the Commission issued its Order For Notice and Comment. That Order docketed the application, directed Select to provide notice of its application upon appropriate persons, including the utilities identified in Attachment A to the Order, and invited comments to be filed on the application.

The Company filed proof of this notice on December 21, 2001. No comments on Select's application were filed.

The Staff filed its Report on December 28, 2001, concerning Select's technical and financial fitness to provide competitive electric and natural gas services. In its Report, Staff summarized Select's proposal and evaluated its financial condition and technical fitness. Staff concluded that Select possesses the financial responsibility and technical experience to provide electric and natural gas services for commercial and industrial customers throughout Virginia. As such, Staff recommended that licenses be granted to Select for the provision of retail electric and natural gas services.

Select did not file comments to Staff's Report.



## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

NOW UPON consideration of Select's application for permanent licenses to conduct competitive electric and natural gas services to commercial and industrial retail customers throughout the Commonwealth and Staff's Report, the Commission is of the opinion and finds that Select's request should be granted.

Accordingly, IT IS ORDERED THAT:

- (1) Select shall be granted License No. E-12 for the provision of competitive electric services to commercial and industrial retail customers throughout the Commonwealth of Virginia as the Commonwealth opens up to retail access and customer choice.
- (2) Select shall be granted License No. G-15 for the provision of competitive natural gas services to commercial and industrial retail customers throughout the Commonwealth of Virginia as the Commonwealth opens up to retail access and customer choice.
- (3) These licenses are not valid authority for the provision of any product or service not identified within the license itself.
- (4) Failure of Select to comply with the Retail Access Rules, the provisions of this Order, other State Corporation Commission orders and rules, or other applicable state or federal laws may result in an enforcement action by the Commission including, without limitation, the revocation, suspension, or modification of the license granted herein, the refusal to renew such license, the imposition of appropriate fines and penalties, or such other additional actions as may be necessary to protect the public interest.
- (5) This matter shall remain open pending the receipt of any reports required by the Retail Access Rules, as well as any subsequent amendments or modifications to the license granted herein.

**CASE NO. PUE010661  
FEBRUARY 22, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
DERRICK AND KAREN DOUGLAS,  
COMPLAINANTS  
v.  
SOUTHWESTERN VIRGINIA GAS COMPANY,  
RESPONDENT

**FINAL ORDER**

On November 26, 2001, Derrick and Karen Douglas ("Complainants") filed a formal complaint ("Complaint") with the State Corporation Commission ("Commission") against Southwestern Virginia Gas Company ("Company"). The Complainants requested that the Commission initiate an investigation against the Company into certain allegations of an excessive deposit requirement and improper termination of natural gas service.

By Preliminary Order entered on December 14, 2001, the Commission docketed this case, assigned the matter to a Hearing Examiner, and ordered the Company to file an Answer to the allegations made in the Complaint. Pursuant to the Preliminary Order, on December 20, 2001, the Company filed an Answer wherein it denied the allegations in the Complaint. By Hearing Examiner's Ruling entered on December 27, 2001, a hearing was scheduled for January 24, 2002, in the Council Chambers, City of Martinsville, Virginia. Additionally, a procedural schedule for the pre-filing of testimony and exhibits by the parties was established.

On January 16, 2002, the Company, by counsel, filed a Motion to Extend Hearing Date and for Change of Hearing Location. The Company requested in its Motion that the hearing date be extended from January 24, 2002, to February 7, 2002, so the parties might have sufficient time to complete settlement discussions and conclude the matter. In the event that the parties could not settle the matter, the Company requested that the Hearing Examiner reconsider his decision to conduct the hearing in Martinsville, Virginia.

By Hearing Examiner's Ruling entered on January 17, 2002, the January 24, 2002, the hearing date was rescheduled for February 7, 2002. The Hearing Examiner noted in the January 17, 2002, Ruling that the Complainants were required to file with the Clerk of the Commission on or before January 15, 2002, any testimony and exhibits they intended to present at the hearing, and that the Complainants had failed to make the required filing. In light of the Complainants' failure to diligently pursue their case, and for judicial economy, the Hearing Examiner scheduled the hearing in the Commission's Second Floor Courtroom in Richmond, Virginia.

On January 22, the Company filed a Motion to Order Settlement Terms and to Dismiss.

By correspondence filed with the Commission on January 24, 2002, the Complainants advised the Commission's Staff that they had accepted the Company's offer to settle the matter and were agreeing to withdraw their Complaint against the Company.

The Hearing Examiner issued a Report on January 30, 2002, finding the settlement entered between the Complainants and the Company reasonably resolved the Complaint.

NOW THE COMMISSION, upon consideration of the foregoing, is of the opinion and finds that this case should be dismissed.

Accordingly, IT IS ORDERED THAT:

- (1) The recommendations in the January 30, 2002, Report of Michael D. Thomas, Hearing Examiner, are adopted in full.

(2) This matter is dismissed and, there being nothing further to come before the Commission, the papers herein are passed to the file for ended causes.

**CASE NO. PUE-2001-00664  
NOVEMBER 1, 2002**

APPLICATION OF  
VIRGINIA ELECTRIC AND POWER COMPANY

To revise its cogeneration tariff pursuant to PURPA Section 210

**FINAL ORDER**

The matter before the Commission concerns the March 18, 2002, application of Virginia Electric and Power Company ("Virginia Power" or "Company") to change its cogeneration and small power production payments under Schedule 19. As set forth in that application, the proposed Schedule 19 utilizes market-based pricing rather than administratively-determined avoided costs to determine the Company's payments to qualifying facilities for energy purchased under the Public Utility Regulatory Policies Act of 1978 ("PURPA"). Virginia Power further proposes that Schedule 19, if and as revised, remain in effect for 2002 and 2003.

By order entered on June 13, 2002, the Commission scheduled a September 5, 2002, hearing concerning the application, established a procedural schedule for filing testimony and evidence, and appointed a Hearing Examiner to hear the case. Appalachian Power Company, d/b/a American Electric Power; Michigan Cogeneration Systems, Inc. d/b/a/ Landfill Energy Systems; Scott Wood, Inc.; and Tractebel North America filed timely Notices of Participation in this case, all of which were subsequently withdrawn by these parties.

On September 5, 2002, the evidentiary hearing was convened before Michael D. Thomas, the Hearing Examiner assigned to this matter. Donald G. Owens, Esquire, and Jill C. Hayek, Esquire, appeared on behalf of Virginia Power. Arlen K. Bolstad, Esquire, appeared on behalf of the Staff. No public witnesses appeared at the hearing.

Virginia Power emphasized in its application and at the hearing, that the energy markets are making their transition to competition. The enactment of the Virginia Electric Utility Restructuring Act<sup>1</sup> evidences the intent of Virginia's legislature that Virginia's retail markets join in that movement. Of course, in this proceeding the matter before the Commission is the matter of wholesale payments Virginia Power will make to cogeneration facilities and small power producers.

Under PURPA, this Commission (as well as other states commissions) is authorized to establish utility payments to PURPA-qualified cogeneration facilities and small power producers ("qualifying facilities" or "QFs") on the basis of costs avoided by Virginia Power by obtaining power from these QFs rather than acquiring such power from other sources. Significantly, in this proceeding Virginia Power proposes to change the methodology it presently uses to calculate payments to its QFs under Schedule 19. The proposed Schedule 19 utilizes market-based pricing to determine the Company's avoided costs, rather than the traditional differential revenue requirement ("DRR") methodology.

As outlined by Hearing Examiner Thomas in his report, Virginia Power raises three primary arguments in support of its application for market-based pricing. First, the Company contends, market-based pricing is appropriate since the energy market in Virginia is changing from a monopoly-based market to a competitive market where customers can purchase energy from a variety of providers.<sup>2</sup> Second, the Company's forecast for the period 2002 through 2007 shows that it will meet much of its future energy needs through purchases in the marketplace. Finally, wholesale markets have matured to the point where they can be used to determine the wholesale cost of electricity in Virginia.

Accordingly, Virginia Power proposes to offer QFs the following two options: (i) new QFs and existing QFs whose contracts stipulate payments under Schedule 19, will be paid the market-based rates contained in the proposed Schedule 19, or (ii) QFs whose contracts stipulate payments based on components of the DRR model may elect to either: (a) receive the market-based rates contained in the proposed Schedule 19; or (b) continue to receive payments estimated using components of the existing DRR methodology during the 2002 – 2003 period.

The QFs that fall within Option (i) above are: Alexandria/Arlington MSW Facility; Kirk Lumber; Merck Facility; Rivanna Water & Sewer; Southeastern Public Service Authority; and Brasfield Dam (only non-firm energy rate portion of the contract). The QFs that fall under Option (ii) above are: Stone Container Corporation; I-95 Landfill; I-95 II; Richmond Electric Corporation; and Suffolk Landfill.

As noted by the Hearing Examiner, Virginia Power proposes adopting the market price methodology used by this Commission in its 2001 proceeding to determine wires charges for retail customers selecting competitive suppliers for generation services.<sup>3</sup> In that case, the PJM West and Cinergy markets were used to determine the market prices that are central to calculating these wires charges. Virginia Power believes the same methodology would be appropriate for Schedule 19. The Company also proposes that the market price data for 2003 calculated in the Commission's 2002 wires charge proceeding, be used to determine Virginia Power's Schedule 19 market-based prices for 2003.

<sup>1</sup> Chapter 23 (§ 56-576 et seq.) of Title 56 of the Code of Virginia.

<sup>2</sup> This view reflects Virginia's 1999 enactment of the Restructuring Act. Additionally, the efforts by the Federal Energy Regulatory Commission to create broader, more efficient wholesale energy markets, have contributed to this perception as well.

<sup>3</sup> *Ex Parte: In the matter of considering requirements relating to wires charges pursuant to the Virginia Electric Utility Restructuring Act*, Case No. PUE-2001-00306 (Order, November 19, 2001).

The methodology used in the 2001 wires charge case produced on-peak and off-peak market rates for 2002 along with a charge for transmission and ancillary service. Virginia Power added the transmission and ancillary service charge to the average of the PJM West and Cinergy annual prices to calculate its on-peak energy price of 3.454¢/kWh and off-peak energy price of 2.044¢/kWh. These prices are subject to a line loss percentage adder. In contrast, the DRR methodology results in an on-peak rate of 3.067¢/kWh and an off-peak rate of 2.303¢/kWh.

The Staff's only concern with the Company's proposed Schedule 19 related to the term of contract language found in Section VII. It appeared to the Staff that the Company would not enter into a contract of less than one year. To address the Staff's concern, the Company amended the language in that Section to make it clear that the term of the contract would be as mutually agreed upon by the parties, but in no event would it extend beyond December 31, 2003. With that change, the Staff recommends that the Commission approve Virginia Power's proposed Schedule 19, as revised.

Hearing Examiner Thomas concluded that the methodology employed by Virginia Power to calculate its market rates for purchases of electricity from QFs appears reasonable. Moreover, he noted that the market-based rates that were derived are generally more favorable to the QFs than the DRR-derived rates.

NOW THE COMMISSION, in consideration of the record developed in this matter, and upon review of the September 10, 2002, report prepared by Hearing Examiner Michael Thomas, finds that the methodology proposed by Virginia Power to derive its Schedule 19 energy purchase prices for 2002 is reasonable. We further agree with the Hearing Examiner that such methodology may be reasonably employed by the Company to update 2003 energy purchase prices, utilizing market price data developed in the Commission's 2002 wires charge proceeding.

Accordingly, IT IS ORDERED THAT:

- (1) The recommendations set forth in the Hearing Examiner's September 10, 2002, report are hereby adopted and approved;
- (2) The Company may utilize the methodology proposed in its application to determine its Schedule 19 energy purchase prices for 2002 and 2003 as set forth in this Order;
- (3) The Company's proposed revisions to Section VII of Schedule 19 clarifying the length of contracts are also approved; and
- (4) This matter is dismissed from the Commission's docket of active cases, and the papers herein are passed to the file for ended causes.

**CASE NO. PUE-2001-00665  
AUGUST 21, 2002**

COMMONWEALTH OF VIRGINIA, ex rel.  
STATE CORPORATION COMMISSION

Ex Parte: In re further amendments to filing requirements for applications for authority to construct and operate an electric generating facility and development of expedited permitting procedures for small generating facilities of 50 MW or less

**ORDER AMENDING FILING REQUIREMENTS**

On December 14, 2001, the State Corporation Commission ("Commission") entered an order in Case No. PUE-2001-00313 amending the filing requirements for applications to construct and operate electric generating facilities. In that same order, the Commission established Case No. PUE-2001-00665 to consider further amendments to those filing requirements and to consider development of expedited permitting processes for small generating facilities of 50 MW or less. The further amendments, as proposed by the Commission, were related to cumulative environmental impacts, market power, and fuel and fuel infrastructure.

The order of December 14, 2001, also directed the Commission Staff ("Staff") to invite interested parties to participate in work group discussions on the proposed further amendments and on the development of expedited permitting processes for generating facilities of 50 MW or less. The order required Staff to file a report with recommendations for further action and permitted interested parties to submit written comments and requests for hearing.

Staff filed its report on April 19, 2002 ("Report"). The Report explained that two work group meetings, which generated significant discussion by a large number of participants, were held on this matter. The Report also summarized the informal written comments of those that participated in the work group meetings. Based on the work group meetings, Staff developed a proposed set of revised filing requirements (20 VAC 5-302-10 et seq.) that were attached to the Report. Staff's proposed filing requirements modified the amendments originally set forth by the Commission in this case. On or before May 24, 2002, the parties in this case filed written comments on the Report and the proposed filing requirements. No requests for hearing were received.

NOW THE COMMISSION, upon consideration of the record established herein and the applicable law, is of the opinion and finds that the filing requirements in support of applications for authority to construct and operate an electric generating facility, as amended and attached hereto as Attachment A, should be adopted effective as of the date of this Order for applications filed on or after September 1, 2002. A clean version of the rules is included as Attachment B.

We commend the parties for their efforts in addressing further amendments to the filing requirements. We note that there was significant preference expressed in the written comments for portions of the amendments proposed by Staff, as opposed to the requirements originally proposed by the Commission. In this regard, the requirements that we adopt today are based on the Staff's proposals, rather than Commission's initial amendments. In addition, parties submitting written comments also requested modifications to the amendments proposed by Staff. The remainder of this Order will discuss the amended filing requirements that we adopt and certain issues raised by the parties in relation thereto.

First, the filing requirements do not address cumulative environmental impacts. Subsequent to our order initiating this docket, the General Assembly passed Senate Bill No. 554 ("SB 554"), which became effective on July 1, 2002. Given this legislation, Commission filing requirements

addressing cumulative environmental impacts are no longer necessary. Commission filing requirements do not limit either the filing requirements of, or what may be considered by, the Department of Environmental Quality ("DEQ") and other agencies. In addition, in accordance with SB 554, the Commission and the DEQ have entered into a memorandum of agreement regarding the coordination of reviews of environmental impact of electric generating plants and associated facilities.<sup>1</sup> Accordingly, the amended filing requirements do not address cumulative environmental impacts.

The amended filing requirements include streamlined provisions for small generating facilities of 50 MW or less.<sup>2</sup> Most participants generally supported these streamlined requirements. Competitive Power Ventures, however, asserted that it is inappropriate to have separate filing requirements based solely on the size of the facility, and that this may encourage the construction of smaller units even if the economics otherwise would lead to the development of larger facilities. As noted by Columbia Gas of Virginia ("Columbia"), however, these streamlined requirements are consistent with § 56-578 D of the Code of Virginia ("Code"), which states that the "Commission shall consider developing expedited permitting processes for small generation facilities of fifty megawatts or less."<sup>3</sup>

The DEQ and other environmental agencies request that additional information be included in the streamlined filing requirements. We will not adopt these requests. The purpose of this rule, consistent with § 56-578 D of the Code, is to streamline the Commission's filing requirements for these small facilities. As noted above, we emphasize that the Commission's filing requirements in no manner limit the environmental reviews undertaken by other agencies, nor do our regulations limit the information that such agencies may request from the applicant in order to perform environmental reviews.

The amended filing requirements also include information related to market power.<sup>4</sup> These requirements apply to incumbent electric utilities and their affiliates, when such entities propose to construct facilities within the incumbent's control area. Appalachian Power Company and Dominion Virginia Power assert that this rule should not be limited to incumbents and their affiliates. Non-incumbents, however, generally supported such limitation. An incumbent utility currently possesses a unique presence in its control area and is most likely to have a concentration of generation ownership.<sup>5</sup> Thus, it is reasonable at this time to limit this filing requirement to incumbents and their affiliates.

Several parties also argued that the Federal Energy Regulatory Commission, and not the Commonwealth, will review market power. The issue of market power, however, may be relevant to our statutorily-required review of whether proposed generating facilities are contrary to the public interest. Moreover, § 56-596 A requires this Commission to take into consideration the goal of advancement of competition in the Commonwealth. Further, as explained by Dynegy, federal market power review will not necessarily address proposed assets, whereas the Commission's review under § 56-580 D must address, for example, proposed assets and the impact of such on the public interest.

Dominion Virginia Power, while commenting that the market power filing requirements are not overly burdensome, expressed concern regarding use of the term "control area" and requested the Commission to acknowledge the fundamentally regional nature of generation markets. In this regard, we emphasize that the market power filing requirements encompass not only the control area, but also capacity "reasonably accessible to the control area through transmission interconnections." Accordingly, the market power filing requirements currently recognize the regional nature of generation markets.

The amended filing requirements include information on fuel and fuel infrastructure.<sup>6</sup> The required information does not reflect the Commission's originally proposed rule, which parties such as Allegheny Power, Columbia, and Dominion Virginia Power opposed as overly broad. Rather, the amended requirement includes the particular information proposed by Staff, for which these parties expressed a preference. In addition, Allegheny Power, Dynegy, and Competitive Power Ventures expressed opposition to any requirements in this regard. The assertions by these parties included, among other things, that fuel and fuel infrastructure should not be evaluated on a case-by-case basis. The Commission recognizes that fuel and fuel infrastructure involve wide-ranging issues. The Commission, however, remains obligated to evaluate individual applications on a case-by-case basis. Information on fuel and fuel infrastructure is relevant to the Commission's review of proposed generating facilities. Generating facilities may impact fuel and fuel infrastructure, which in turn may impact the public interest.

There were a number of requests that will not be resolved as part of this proceeding. For example, Allegheny Power asked the Commission to recognize that certain portions of an application may be identified by an applicant as commercially sensitive. The Commission's Rules of Practice and Procedure, however, provide sufficient opportunity for parties to seek confidential treatment of information.<sup>7</sup>

MeadWestvaco Corporation ("MeadWestvaco") asserted that qualifying cogeneration facilities should be exempt from the filing requirements.<sup>8</sup> This proceeding, however, is limited to specific amendments to the filing requirements; we will not issue a declaratory ruling as part of this case. In addition, there is not a fully developed record on MeadWestvaco's request, nor has there been an opportunity for legal analyses from interested parties.

<sup>1</sup> See In the matter of receiving comments on a draft memorandum of agreement between the Department of Environmental Quality and the State Corporation Commission, Case No. PUE-2002-00315, Order Distributing Memorandum of Agreement (Aug. 14, 2002).

<sup>2</sup> See 20 VAC 5-302-25.

<sup>3</sup> In addition, as suggested by Columbia and others, this rule has been clarified to state that units of exactly 50 MW are governed by the streamlined filing requirements.

<sup>4</sup> See 20 VAC 5-302-35.

<sup>5</sup> Moreover, the filing requirements of this or any other part of these rules do not place limits on matters that may be considered by the Commission with respect to a specific application to construct and operate generating facilities. The filing requirements also do not restrict matters that may be proper for discovery purposes under rule 5 VAC 5-20-240 of the Commission's Rules of Practice and Procedure.

<sup>6</sup> See 20 VAC 5-302-20 9.

<sup>7</sup> See 5 VAC 5-20-170.

<sup>8</sup> On May 24, 2002, MeadWestvaco filed a motion for leave to file its notice of participation out-of-time. MeadWestvaco asserted that no party would be prejudiced by granting the motion, and no party opposed the motion. We will grant the motion.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

Columbia requested that the Commission consider initiating a new proceeding to develop a standardized interconnection agreement, uniform interconnection standards, and minimum contract terms. We recognize the importance of interconnection standards, but we will not rule on Columbia's request as part of this limited proceeding.

Finally, the filing requirements do not include specific modifications recommended by the DEQ to ensure that it has a sufficient opportunity to adequately complete environmental reviews. These modifications are no longer necessary; as noted above, the DEQ and the Commission have recently executed a memorandum of agreement to ensure proper coordination between the two agencies.

Accordingly, IT IS HEREBY ORDERED THAT:

(1) Regulations amending 20 VAC 5-302-10 et al., Filing Requirements in Support of Applications for Authority to Construct and Operate an Electric Generating Facility, are adopted as set forth in Attachment A to this Order, effective as of the date of this Order for applications filed on or after September 1, 2002.

(2) A copy of this Order and the rules attached hereto as Attachment A shall be forwarded promptly for publication in the Virginia Register of Regulations.

(3) MeadWestvaco Corporation's motion for leave to file notice of participation out-of-time is granted.

(4) There being nothing further to come before the Commission in this case, it shall be removed from the docket and the papers filed herein placed in the file for ended causes.

NOTE: A copy of Attachments A and B entitled "Chapter 302. Filing Requirements in Support of Applications for Authority to Construct and Operate an Electric Generating Facility" are on file and may be examined at the State Corporation Commission, Clerk's Office, Document Control Center, Tyler Building, First Floor, 1300 East Main Street, Richmond, Virginia.

**CASE NO. PUE-2001-00711  
APRIL 16, 2002**

COMMONWEALTH OF VIRGINIA, ex rel.  
STATE CORPORATION COMMISSION

v.

CENTRAL LOCATING SERVICE, LTD.,  
Defendant

**ORDER OF SETTLEMENT**

Pursuant to § 56-265.30 of the Code of Virginia, the Virginia State Corporation Commission ("Commission") is charged with enforcing the provisions of the Underground Utility Damage Prevention Act, §§ 56-265.14 et seq. of the Code of Virginia ("Act"). The Commission's Division of Energy Regulation ("Division"), charged with the investigation of probable violations of the Act, has completed investigations of certain incidents between June 22, 2001, and October 23, 2001, listed in Attachment A, involving Central Locating Service, Ltd. ("Company"), and alleges that:

- (1) The Company is a contract locator as that term is defined in § 56-265.15 of the Code of Virginia;
- (2) During the aforementioned period the Company violated the Act, by committing the following violations:
  - (a) Failing on certain occasions to mark the approximate horizontal location of the underground utility lines on the ground to within two feet of either side of the underground utility lines, in violation of §§ 56-265.19 A and D of the Code of Virginia.
  - (b) Failing on certain occasions to mark within the time prescribed in the Act, in violation of §§ 56-265.19 A and D of the Code of Virginia.
  - (c) Failing on certain occasions to report to the notification center that lines had been marked or they were not in conflict with the proposed excavation, in violation of §§ 56-265.19 A and D of the Code of Virginia.

As evidenced in the attached Admission and Consent document, the Company neither admits nor denies these allegations but admits the Commission's jurisdiction and authority to enter this Order. As an offer to settle all matters before the Commission arising from the Division's allegations made herein, which includes all probable violations presented to the Underground Utility Damage Prevention Advisory Committee on December 4, 2001, and set out in Attachment A hereto, the Company represents and undertakes that it will pay a civil penalty to the Commonwealth of Virginia in the amount of \$14,500 to be paid contemporaneously with the entry of this Order. This payment will be made by cashier's check or money order, payable to the Treasurer of Virginia and directed to the attention of the Director of the Division of Energy Regulation.

The Commission, being advised by the Staff and finding sufficient basis herein for the entry of this Order, hereby accepts this settlement.

Accordingly, IT IS ORDERED THAT:

(1) Pursuant to the authority granted the Commission by § 12.1-15 of the Code of Virginia, the offer of settlement made by the Company be, and it hereby is, accepted.

- (2) The sum of \$14,500 tendered contemporaneously with the entry of this Order is accepted.
- (3) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. PUE010712  
FEBRUARY 7, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION  
v.  
WASHINGTON GAS LIGHT COMPANY,  
Defendant

**ORDER OF SETTLEMENT**

Pursuant to § 56-265.30 of the Code of Virginia, the Virginia State Corporation Commission ("Commission") is charged with enforcing the provisions of the Underground Utility Damage Prevention Act, §§ 56-265.14 *et seq.* of the Code of Virginia. The Commission's Division of Energy Regulation ("Division"), after having conducted an investigation of this matter, alleges that:

- (1) On or about October 3, 2001, Triple H Contracting Co. damaged a three-eighths inch plastic gas service line operated by Washington Gas Light Company ("Company") located at or near 2204 Yardley Court, Alexandria, Virginia, while excavating;
- (2) On or about October 4, 2001, Arlington County damaged a one-half inch copper gas service line operated by the Company located at or near 3000 North Washington Boulevard, Arlington, Virginia, while excavating;
- (3) On or about October 9, 2001, D T S Electric damaged a three-quarter inch plastic gas service line operated by the Company located at or near 9909 Main Street, Fairfax, Virginia, while excavating;
- (4) On or about October 16, 2001, Arlington County damaged a one-half inch plastic gas service line operated by the Company located at or near 2601 19th Street South, Arlington, Virginia, while excavating;
- (5) On or about October 17, 2001, R. C. Hawkins Construction Co., Inc., damaged a two-inch plastic gas main line operated by the Company located at or near Dallas Street and Whitlow Place, Chantilly, Virginia, while excavating;
- (6) On or about October 24, 2001, Chesapeake GeoSystems, Inc., damaged a two-inch plastic gas main line operated by the Company located at or near 4128 Third Road North, Arlington, Virginia, while excavating;
- (7) On or about October 29, 2001, Nichols & Phipps Plumbing & Heating, Inc., damaged a one-quarter inch plastic gas light line operated by the Company located at or near 3801 Claremont Lane, Dale City, Virginia, while excavating;
- (8) On or about October 30, 2001, Pangea Communications damaged a one-half inch plastic gas service line operated by the Company located at or near 7922 Stork Road, Alexandria, Virginia, while excavating;
- (9) On or about October 30, 2001, Pangea Communications damaged a one-half inch plastic gas service line operated by the Company located at or near 7920 Stork Road, Alexandria, Virginia, while excavating;
- (10) On or about November 5, 2001, Moore Contracting damaged a one-half inch plastic gas service line operated by the Company located at or near 7942 Audubon Avenue, Alexandria, Virginia, while excavating; and
- (11) The Company failed to mark the approximate horizontal location of the lines on the ground to within two feet of either side of the underground utility lines, in violation of § 56-265.19 A of the Code of Virginia.

As evidenced in the attached Admission and Consent document, the Company neither admits nor denies these allegations but admits the Commission's jurisdiction and authority to enter this Order. As an offer to settle all matters before the Commission arising from the Division's allegations made herein, the Company represents and undertakes that:

- (1) The Company will pay a civil penalty to the Commonwealth of Virginia in the amount of \$6,250 to be paid contemporaneously with the entry of this Order. This payment will be made by cashier's check or money order, payable to the Treasurer of Virginia and directed to the attention of the Director of the Division of Energy Regulation.
- (2) Any fines paid in accordance with this Order shall not be recovered in the Company's rates as part of the cost of service. Any such fines shall be booked in Uniform System of Account No. 426.3. The Company shall verify its booking by filing a copy of the trial balance showing this entry with the Division of Public Utility Accounting.

The Commission, being advised by the Staff and finding sufficient basis herein for the entry of this Order, hereby accepts this settlement.

Accordingly, IT IS ORDERED THAT:

- (1) Pursuant to the authority granted the Commission by § 12.1-15 of the Code of Virginia, the offer of settlement made by the Company be, and it hereby is, accepted.

- (2) The sum of \$6,250 tendered contemporaneously with the entry of this Order is accepted.
- (3) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. PUE010713  
MARCH 12, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION

v.

UTILIQUEST, LLC,  
Defendant

**ORDER OF SETTLEMENT**

Pursuant to § 56-265.30 of the Code of Virginia, the Virginia State Corporation Commission ("Commission") is charged with enforcing the provisions of the Underground Utility Damage Prevention Act, §§ 56-265.14 *et seq.* of the Code of Virginia ("Act"). The Commission's Division of Energy Regulation ("Division"), charged with the investigation of probable violations of the Act, has completed investigations of certain incidents between July 13, 2001, and October 31, 2001, listed in Attachment A, involving Utiliquest, LLC ("Company"), and alleges that:

- (1) The Company is a contract locator as that term is defined in § 56-265.15 of the Code of Virginia;
- (2) During the aforementioned period the Company violated the Act by committing the following violations:
  - (a) Failing on certain occasions to mark the appropriate horizontal location of the underground utility lines on the ground to within two feet of either side of the underground utility lines, in violation of §§ 56-265.19 A and D of the Code of Virginia.
  - (b) Failing on certain occasions to mark within the time prescribed in the Act, in violation of §§ 56-265.19 A and D of the Code of Virginia.
  - (c) Failing on certain occasions to report to the notification center that lines had been marked or they were not in conflict with the proposed excavation, in violation of §§ 56-265.19 A and D of the Code of Virginia.

As evidenced in the attached Admission and Consent document, the Company neither admits nor denies these allegations but admits the Commission's jurisdiction and authority to enter this Order. As an offer to settle all matters before the Commission arising from the Division's allegations made herein, which includes all probable violations presented to the Underground Utility Damage Prevention Advisory Committee on December 4, 2001, and set out in Attachment A hereto, the Company represents and undertakes that it will pay a civil penalty to the Commonwealth of Virginia in the amount of \$24,750 to be paid contemporaneously with the entry of this Order. This payment will be made by cashier's check or money order, payable to the Treasurer of Virginia and directed to the attention of the Director of the Division of Energy Regulation.

The Commission, being advised by the Staff and finding sufficient basis herein for the entry of this Order, hereby accepts this settlement.

Accordingly, IT IS ORDERED THAT:

- (1) Pursuant to the authority granted the Commission by § 12.1-15 of the Code of Virginia, the offer of settlement made by the Company be, and it hereby is, accepted.
- (2) The sum of \$24,750 tendered contemporaneously with the entry of this Order is accepted.
- (3) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. PUE010716  
JANUARY 30, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
TERRY L. STROCK, *et al.*

v.

B & J ENTERPRISES, L.C.

**ORDER**

Pursuant to the Small Water or Sewer Public Utility Act, § 56-265.13:1, *et seq.* of the Code of Virginia ("Act"), B & J Enterprises, L.C. ("B & J" or "Company"), notified its customers and the State Corporation Commission ("Commission") of its intent to increase its monthly sewer rates from \$40.00 to \$95.00, effective for service rendered on and after December 13, 2001. In response to a petition from B & J customers objecting to the proposed rate increase, the Commission suspended the Company's proposed rate increase for a period of 60 days, through February 10, 2002, by Preliminary Order issued December 12, 2001.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

The Preliminary Order further directed the Company and the Staff to file a response to a claim raised in a letter dated November 21, 2001, filed by Joan G. Moore, a B & J customer, asserting that B & J is barred by § 56-265.13:6 of the Act from implementing a rate increase until April 2002.<sup>1</sup>

B & J and the Staff, by counsel, filed their respective Responses on January 9, 2002. In its response, B & J states that in its last rate case, Case No. PUE990616, the Company proposed a monthly service charge of \$34.00 and that this rate was effective September 9, 1999. B & J notes that it also proposed other charges and fees, such as availability fees and connection fees. The Company states that the Commission approved by Final Order a monthly service charge of \$40.00 instead of the originally proposed rate of \$34.00. According to B & J, the effective date of the \$40.00 rate approved by the Commission was September 9, 1999, the effective date of the rates proposed in Case No. PUE990616. B & J states that this date is reflected in the Company's currently effective tariff, which was accepted by the Commission for filing on May 1, 2001. Because the proposed increase from \$40.00 to \$95.00 is not within twelve months of September 9, 1999, B & J asserts it is therefore permissible under § 56-265.13:6.<sup>2</sup>

The Staff stated in its response that the Commission's Order of March 20, 2001, authorized B & J to assess a monthly charge of \$40.00 for sewer service, and that this amount constituted an increase from the monthly charge of \$34.00 that was proposed by the Company in its 1999 certificate filing, and which the Commission allowed B & J to implement, subject to refund, by Commission Order of September 9, 1999. The Staff concluded that since B & J apparently implemented the Commission-authorized rate increase from \$34.00 to \$40.00 effective April 2001, § 56-265.13 B requires that any subsequent rate increase by B & J must be delayed until April 2002.

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that the Company may implement, on an interim basis and subject to refund with interest, its proposed rate increase for sewer service, effective upon the expiration of the 60-day period of suspension.

In our September 9, 1999, Order Docketing Case and Suspending Rates, we authorized B & J to implement, subject to refund, its proposed monthly rates for sewerage service. While we permitted the Company to implement its proposed charges for monthly service at that time, we suspended all but \$3,000 of B & J's proposed \$17,500 service connection fee for 150 days, and we suspended altogether the Company's proposed \$5,000 reconnection fee for a like time.

After receipt of the Hearing Examiner's Report, we entered an Order on March 20, 2000, wherein we authorized a connection fee of only \$5,000 (effective on and after the date of that Order) instead of the Company-proposed \$17,500 charge, and we denied completely B & J's proposed \$5,000 reconnection fee.<sup>3</sup> However, in order to permit the Company the opportunity to recover its expenses, we established a monthly rate of \$40 in place of the \$34 proposed by B & J.

The Commission may approve in its final orders individual rates that are higher (or lower) than the rates proposed by a utility, provided the total level of revenues do not exceed that which has been proposed and noticed by the utility. In B & J's last case, the Company proposed rates for several services that we denied in full or reduced considerably. Even with our authorization of an additional \$6 per month charge for sewer service, the total level of revenues for B & J approved by the Commission were less than that proposed by the Company in its 1999 application.

Section 56-265.13:6's prohibition on multiple rate increases within a twelve-month period is a limitation on the water or sewer public utility company, not on the Commission. Our approval of final rates in March 2001 that differed from those proposed by the Company and implemented on an interim basis and subject to refund in September 1999 does not constitute a separate rate increase implemented by the Company within the meaning of § 56-265.13:6 B. We disagree with the Staff's position on this matter. B & J shall be permitted to implement its proposed increase, and the matter will be assigned to a hearing examiner for further proceedings, including an investigation by the Staff of the proposed rate increase, consideration of the additional requests made by the Company in its January 9, 2002, Response,<sup>4</sup> and a public hearing.

Accordingly, IT IS ORDERED THAT:

(1) Pursuant to § 56-265.13:1 of the Small Water or Sewer Public Utility Act and our Preliminary Order of December 12, 2001, B & J is authorized to implement, on an interim basis and subject to refund with interest, its proposed rates for monthly sewer service, effective February 11, 2002.

(2) As provided by § 12.1-31 of the Code of Virginia and the Commission's Rules of Practice and Procedure, 5 VAC 5-20-120, a hearing examiner is appointed to conduct all further proceedings in this matter on behalf of the Commission and to file a final report.

<sup>1</sup> Section 56-265.13:6 B states: "A small water or sewer utility shall not implement an increase in the utility's rates or charges more than once within any twelve-month period."

<sup>2</sup> Alternatively, B & J argues that it meets the "emergency" exception of § 56-245.

<sup>3</sup> We also denied a proposed \$20 per month availability fee, except for those lots owned by the Company and for which it can develop appropriate legal instruments to notify potential purchasers of the existence of an availability fee.

<sup>4</sup> B & J requested, among other things, that it be permitted to proceed without counsel so as to avoid additional rate case expenses. The Company may limit its legal expenses while conforming with the Commission's Rules of Practice and Procedure. Company representatives may present facts, figures, or factual conclusions without the aid of legal counsel. The nature and scope of the public hearing required by § 56-265.13:6 will dictate the extent to which B & J must retain counsel.



**CASE NO. PUE-2001-00719  
JUNE 25, 2002**

PETITION OF  
BIRCHWOOD POWER PARTNERS, L.P.

To operate its qualifying cogeneration facility under PURPA as a non-qualifying generating facility without obtaining a certificate of public convenience and necessity or, in the alternative, application for certificate of public convenience and necessity

**FINAL ORDER**

On December 20, 2001, Birchwood Power Partners, L.P. ("Birchwood" or "Company"), filed with the State Corporation Commission ("Commission") a petition seeking the Commission to declare that its cogeneration facility ("Facility") located in King George County may cease operation as a qualifying facility ("QF") under the Public Utilities Regulatory Policies Act ("PURPA") and commence operation as a non-qualifying electric generating facility without obtaining a certificate of public convenience and necessity ("CPCN") from the Commission. In the alternative, Birchwood proposed that if the Commission finds that a certificate is required, the Company's Petition be treated as an application for a CPCN.

The Commission issued an Order for Notice and Comment on February 19, 2002 ("Order"), setting forth a procedural schedule in this proceeding, directing the Company to publish notice of its Petition and providing an opportunity for interested parties to file comments on the Company's Petition and the Company to file a Reply. Pursuant to the Order, on March 27, 2002, the Virginia Independent Power Producers, Inc. ("VIIPP"), Dominion Virginia Power ("DVP"), and the Commission Staff ("Staff") each filed comments on the Company's Petition. The Company filed Reply Comments on April 9, 2002. Also on April 9, 2002, VIIPP filed a Motion for Leave to File Reply Comments. On April 29, 2002, the Staff filed a Response to VIIPP's Motion for Leave to File Reply Comments.

On May 2, 2002, Birchwood filed a Motion to Dismiss Petition ("Motion") stating that its business plans have changed such that the Company no longer requires or seeks the relief that it has requested in the Petition, and that it now wishes to continue to operate the Facility as a QF. Birchwood further requests in its Motion that the Commission dismiss its Petition without prejudice. The Staff filed a response to Birchwood's Motion on May 22, 2002, stating that it did not object to Birchwood's motion to dismiss *per se*, but that the Motion presented an opportunity for the Commission to postpone the resolution of this issue to a future date, or because of the broader policy implications involving the numerous QFs sited and operating in Virginia, to address it now.

NOW THE COMMISSION, in consideration of the matter, is of the opinion and finds that the Company's Motion to Dismiss should be dismissed without prejudice. If Birchwood seeks to convert its operational status from a qualifying facility to a non-qualifying facility in the future, the Company may file any appropriate application with the Commission at that time.

Accordingly, IT IS ORDERED THAT:

- (1) The Company's May 2, 2002, Motion to Dismiss Petition is hereby granted without prejudice.
- (2) This matter is dismissed.

**CASE NO. PUE-2002-00001  
AUGUST 22, 2002**

APPLICATION OF  
DELMARVA POWER & LIGHT COMPANY

For a change in its rates for electricity purchased from qualifying Cogenerators and Small Power Producers under Service Classification "X"

**ORDER ESTABLISHING COGENERATION TARIFF**

On December 28, 2001, Delmarva Power & Light Company, d/b/a Conectiv Power Delivery ("Delmarva" or the "Company"), filed with the Commission an application, written testimony, and exhibits to support its proposal to change its Cogeneration and Small Power Production Rates under Service Classification "X". Delmarva further proposes that the rates, terms and conditions approved by the Commission in this case be effective with the billing month of May 2002. On February 26, 2002, the Commission issued an Order establishing this proceeding, appointing a Hearing Examiner, setting a procedural schedule, and permitting Delmarva's proposed changes to its tariff to become effective on an interim basis with the billing month of May 2002.

There were no requests for hearing in this matter. On April 12, 2002, the Staff filed its testimony, and the Company filed no rebuttal testimony.

On June 6, 2002, the Hearing Examiner issued his Report. His findings were as follows:

- (1) The Company's proposed avoided energy and capacity costs are reasonable and should be adopted;
- (2) In its next case, the Company should use more transparent data for developing forward prices;
- (3) In its next case, the Company should obtain market price data from sources listed in the Commission's Final Order in Case No. PUE-2001-00306;
- (4) In its next case, the Company should adjust its market price information to reflect theoretical energy production taking place in the Company's Virginia service territory;

- (5) A monthly customer charge of \$3.84 is reasonable for this case and should be approved;
- (6) In its next case, the Company should evaluate whether better methodologies exist for determining a QF customer charge; and
- (7) The Company's proposed monthly meter O&M rates and monthly meter equipment rates are reasonable and should be approved.

He recommended that the Commission enter an order adopting the above findings, approving Delmarva Power & Light Company's proposed Service Classification "X" rates; and dismissing this case from the Commission's docket of active cases.

NOW THE COMMISSION, having considered the Company's application, the Staff's testimony, and the Hearing Examiner's Report, finds that we should adopt the findings and recommendations of the Hearing Examiner.

Accordingly, IT IS ORDERED THAT:

- (1) The Findings and Recommendations of the June 6, 2002, Hearing Examiner's Report are hereby adopted.
- (2) Since there is nothing further to come before the Commission, this case is hereby dismissed and the papers herein placed in the Commission's file for ended causes.

**CASE NO. PUE-2002-00003  
NOVEMBER 6, 2002**

APPLICATION OF  
OLD DOMINION ELECTRIC COOPERATIVE

For approval of a certificate of public convenience and necessity for electric generating facilities

**FINAL ORDER**

On December 28, 2001, Old Dominion Electric Cooperative ("Old Dominion" or the "Cooperative"), acting as the sole and managing member of Marsh Run Generation, LLC ("Marsh Run"), filed an application with supporting testimony and exhibits with the State Corporation Commission ("Commission").<sup>1</sup> The application requests that the Commission grant the Cooperative a certificate of public convenience and necessity ("Certificate") pursuant to § 56-265.2 of the Code of Virginia ("Code") to construct an approximately 696 megawatt natural gas-fired, single cycle electric generation facility in Fauquier County, Virginia (the "Facility").

The Commission entered an order in this matter on February 7, 2002, requiring Old Dominion to provide public notice of its application, assigning a Hearing Examiner to conduct further proceedings, and establishing a procedural schedule in this matter.

On March 21, 2002, the Piedmont Environmental Council ("PEC") filed a request to be granted status as a respondent. The Cooperative filed a motion for denial of this request on April 16, 2002. On April 18, 2002, PEC withdrew its request.

On March 22, 2002, Columbia Gas of Virginia, Inc. ("Columbia Gas"), filed a notice of participation as a respondent.

The Fauquier County Board of Supervisors filed comments in support of the Facility on March 27, 2002.

The Department of Environmental Quality ("DEQ") coordinated an environmental review of the application by DEQ and other interested state agencies, the regional planning commission, and Fauquier County, Virginia. The DEQ prepared a report on the potential impacts to natural resources from construction and operation of the Facility, as well as recommendations for minimizing those impacts ("DEQ Report"), which was filed on April 3, 2002.

On April 18, 2002, the Commission Staff ("Staff") filed direct testimony regarding its analysis of the Cooperative's application. The DEQ Report was attached to the testimony filed by Staff.

Old Dominion filed rebuttal testimony on May 6, 2002.

An evidentiary hearing was held on May 21, 2002, before Hearing Examiner Michael D. Thomas, with John A. Pirko, Esquire, James Patrick Guy II, Esquire, and T. Borden Ellis, Esquire, appearing on behalf of Old Dominion, M. Renae Carter, Esquire, appearing on behalf of Columbia Gas of Virginia, Inc. ("Columbia Gas"),<sup>2</sup> and Katharine A. Hart, Esquire, appearing on behalf of the Staff.

Thirteen public witnesses testified in favor of the Facility, and one public witness spoke in opposition.<sup>3</sup>

<sup>1</sup> On February 25, 2002, the Cooperative filed supplemental testimony and exhibits pertaining to its application. On March 21, 2002, Old Dominion filed a motion to admit an omitted attachment and additional information. The Hearing Examiner granted this motion on April 10, 2002.

<sup>2</sup> A Stipulation regarding the supply of natural gas to the proposed facility entered into by Columbia Gas and Old Dominion was filed May 20, 2002. The Staff did not object to the Stipulation.

<sup>3</sup> The Hearing Examiner's Report issued August 22, 2002, summarizes each witness' testimony.

Old Dominion presented the testimony of four witnesses: (1) Mr. Kenneth F. Alexander, Vice President of Asset Development and Production for Old Dominion, who testified regarding the construction, ownership structure, and operation of the Facility; (2) Mr. Peter F. Gallini, Director of Power Supply for Old Dominion, who described how the Cooperative determined that the Facility was the best option to meet the Cooperative's demand; (3) Mr. David N. Smith, Manager of Environmental Licensing and Compliance for Old Dominion, who testified as to the environmental permitting and licensing process, as well as to the environmental impacts of the Facility; and (4) Mr. Paul F. Greywall of Trinity Consultants, Inc., who addressed the current levels of air quality and any cumulative impacts of the Facility and other existing or proposed facilities.

The Staff presented the testimony of three witnesses: (1) Mr. Marc A. Tufaro, Assistant Utilities Analyst with the Commission's Division of Energy Regulation, who addressed the Facility's impact on rates, reliability of regulated service, and technical viability; (2) Ms. Mary E. Owens, Principal Financial Analyst with the Commission's Division of Economics and Finance, who testified regarding Old Dominion's financial ability to construct the Facility; and (3) Mr. Jarilaos Stavrou, Principal Research Analyst with the Commission's Division of Economics and Finance, who described Old Dominion's load forecast and resource plan, addressed the economic impacts from construction, and evaluated whether the Facility is in the public interest.

On August 22, 2002, the Hearing Examiner entered a Report summarizing the record, and analyzing the evidence and issues in the May 22, 2002, proceeding. The Hearing Examiner determined that Marsh Run, rather than Old Dominion, is the legal entity that should hold the Certificate. The Hearing Examiner found that Marsh Run is the entity that is borrowing the money, paying the cost of construction, and will own the Facility, while Old Dominion is supervising the construction and will operate it.

In his Report, the Hearing Examiner recommends that the Commission enter an order adopting his findings and grant approval, pursuant to § 56-580 D of the Code, to Marsh Run to construct and operate the Facility after certain requirements were met. The Report included the following findings:

- (1) The [Facility] will have no material adverse effect on reliability;
- (2) The [Facility] will have no material adverse effect on competition;
- (3) The [Facility] will have no material adverse effect on retail electric, natural gas, water, or sewer rates;
- (4) The [Facility] will have no material adverse effect on any threatened or endangered plant or animal species, any wetlands, air quality, water resources, or the environment generally;
- (5) The [Facility] will have no material adverse effect on economic development;
- (6) The [Facility] will have no material adverse visual impact on the surrounding area;
- (7) There is insufficient evidence in the record to determine whether the [Facility], and its associated facilities, may have a material adverse effect on cultural resources, and thereby, the public interest. The Commission should require Old Dominion to file with the Commission a copy of the plan of avoidance that it filed with the Virginia Department of Historic Resources ("VDHR"), and, pursuant to § 56-580 D of the Code, as amended, the Commission should obtain VDHR's concurrence in the plan of avoidance;
- (8) The [Facility's] use of fuel oil is not contrary to the public interest;
- (9) The Commission should incorporate the Stipulation entered into between Old Dominion and Columbia Gas in any Certificate issued in this case; and
- (10) The Commission should include a sunset provision in any Certificate issued in this case that the Certificate will expire if construction has not commenced within two years from the date of issuance.

On September 12, 2002, Old Dominion filed comments on the Hearing Examiner's Report generally supporting his recommendations, but providing comment on two issues. First, Old Dominion does not believe that it is necessary or appropriate to require Old Dominion to file the plan of avoidance of cultural or historic resources that it filed with VDHR with the Commission as well. Old Dominion also does not believe that the Commission obtaining VDHR concurrence with the plan is necessary or appropriate. In support of its comments, Old Dominion indicates that it readily accepts the recommendation contained in the DEQ Report that Old Dominion "[c]onsult with [VDHR] to complete the review and mitigation of any impacts to historic structures or archeological resources." Old Dominion states that it has been working with VDHR and will continue to cooperate fully in locating, identifying, and either avoiding or mitigating any impact on such resources. The Cooperative notes that it must do so in order to secure VDHR's approval of the Facility. Old Dominion requests that the Commission condition the certificate on obtaining the VDHR's approval, rather than adopt the Hearing Examiner's recommendation.

Second, Old Dominion maintains that the certificate should be issued in the name of Old Dominion, not Marsh Run as suggested by the Hearing Examiner.<sup>4</sup> Old Dominion argues that Old Dominion is the applicant in this proceeding and is the entity relied on to provide the expertise and financial support for the construction and operation of the Facility. The Cooperative states that a certificate of public convenience and necessity obtained pursuant to § 56-580 D of the Code is for the construction and operation of an electric generation facility. The Cooperative argues that § 56-580 D of the Code does not address the ownership of the facility.

In response to a request by the Staff, on October 18, 2002, the DEQ filed a letter pursuant to § 10.1-1186.2:1 C of the Code ("DEQ Letter"). Among other things, this Code section requires that, prior to the close of the Commission's record on an application for certification of an electric generating facility pursuant to § 56-580 of the Code, the DEQ shall provide the Commission with certain information about environmental issues identified during the

<sup>4</sup> In support of its argument, Old Dominion cites Application of Old Dominion Electric Cooperative, For a certificate for electric generation facilities in Louisa County, Case No. PUE-2001-00303, Final Order (July 17, 2002), where a certificate of public convenience and necessity was issued to Old Dominion to construct and operate a facility in Louisa which would be owned by Louisa Generation, LLC.

review process. The DEQ Letter stated, among other things, that all issues identified during the DEQ's review process are addressed in the above mentioned DEQ Report.

NOW THE COMMISSION, having considered the record, the pleadings, the Hearing Examiner's Report, and the applicable law, is of the opinion and finds that the Hearing Examiner's findings and recommendations, except as modified herein, should be adopted.

Old Dominion requested the Certificate, will supervise and be responsible for the construction, and will operate the Facility. We find, therefore, that Old Dominion should be granted authority and the Certificate to construct and operate the Facility.

As we have indicated in previous orders,<sup>5</sup> the Code establishes six general areas of analysis applicable to electric generating plant applications: (1) reliability;<sup>6</sup> (2) competition;<sup>7</sup> (3) rates;<sup>8</sup> (4) environment;<sup>9</sup> (5) economic development;<sup>10</sup> and (6) public interest.<sup>11</sup> We have evaluated the Facility according to these six areas.

Pursuant to § 56-580 D of the Code, we find that the Facility will have no material adverse effect upon reliability of electric service provided by any regulated public utility. We further find that the Facility is not otherwise contrary to the public interest in that, among other things, rates for the regulated public utility will not be impacted.

We have given consideration, pursuant to §§ 56-46.1 A and 56-580 D of the Code, to the effect of the Facility on the environment. Effective July 1, 2002, §§ 56-46.1 A and 56-580 D of the Code provide that, among other things, any valid permit or approval regulating environmental impact and mitigation of adverse environmental impact, "whether such permit or approval is granted prior to or after the Commission's decision," shall be deemed to satisfy the requirements of §§ 56-46.1 A and 56-580 D of the Code "with respect to all matters that (i) are governed by the permit or approval or (ii) are within the authority of, and were considered by, the governmental entity in issuing such permit or approval, and the Commission shall impose no additional conditions with respect to such matters."

In this regard, Old Dominion is in the process of obtaining the environmental permits and approvals necessary for the construction and operation of the Facility. The DEQ Letter explains that two of the recommendations contained in the DEQ Report "could" be governed by Virginia Water Protection Permits ("VWPPs").<sup>12</sup> The DEQ Letter asserts that "[w]hether and to what extent these recommendations become permit conditions depends on the interaction between the issuing authority and the Department of Game and Inland Fisheries, which developed the recommendations and which interacts directly with the permitting authority in the permit process."

Based on the DEQ Letter, all of the environmental issues identified in the DEQ's review are contained in the DEQ Report. There have been no other issues raised in this case. We will require Old Dominion to comply with the recommendations in the DEQ Report, excluding the two recommendations discussed above. It is clear that these two enumerated recommendations are within the authority of, and are being considered by, the permitting agency; pursuant to §§ 56-46.1 A and 56-580 D of the Code, the Commission shall impose no additional conditions with respect to such matters. We also will not adopt the Hearing Examiner's recommendation with regard to the plan of avoidance of cultural and historic resources. Rather, we will require Old Dominion to obtain approval from the VDHR of its plan as a condition of the Certificate.

Accordingly, IT IS ORDERED THAT:

(1) Pursuant to § 56-580 D of the Code, Old Dominion is hereby granted authority and a Certificate to construct and operate the Facility described in this proceeding.

(2) The Certificate granted herein shall be conditioned upon the receipt of all environmental and other permits necessary to construct and operate the Facility.

(3) As a condition of the Certificate granted in this case, Old Dominion shall comply with the recommendations made by DEQ in the DEQ Report filed in this proceeding, except for the recommendations regarding (a) precautions for in-stream work, and (b) conducting a habitat assessment.

(4) As a condition of the Certificate granted in this case, Old Dominion shall obtain approval from the VDHR of its plan for avoidance of cultural and historic resources.

<sup>5</sup> See, e.g., Tenaska, Case No. PUE-2001-00039, Final Order (April 19, 2002); Application of Old Dominion Electric Cooperative, For a certificate of public convenience and necessity for electric generation facilities in Louisa County, Case No. PUE-2001-00303, Final Order (July 17, 2002).

<sup>6</sup> Va. Code Ann. §§ 56-46.1 A and 56-580 D (i).

<sup>7</sup> Va. Code Ann. § 56-596 A.

<sup>8</sup> Va. Code Ann. §§ 56-580 D (ii). See also 20 VAC 5-302-20 14; Ex Parte: In the matter of amending filing requirements for applications to construct and operate electric generating facilities, Case Nos. PUE-2001-00313 and PUE-2001-00665, Order Adopting Rules and Prescribing Additional Notice at 6 (Dec. 14, 2001).

<sup>9</sup> Va. Code Ann. §§ 56-46.1 A and 56-580 D.

<sup>10</sup> Va. Code Ann. §§ 56-46.1 and 56-596 A.

<sup>11</sup> Va. Code Ann. §§ 56-580 D (ii).

<sup>12</sup> These recommendations involve (1) precautions for in-stream work, and (2) conducting a habitat assessment.

(5) The Certificate granted herein shall expire in two years from the date of this order, if construction of the Facility has not commenced.

(6) The Stipulation entered into between Old Dominion and Columbia Gas is hereby approved and adopted.

(7) There being nothing further to come before the Commission in this proceeding, this case shall be removed from the docket and the papers transferred to the file for ended causes.

**MOORE, Commissioner, Concurs:**

Given the statutory change effective July 1, 2002, I concur with my colleagues in the decision to approve construction and operation of the proposed facility. While the necessary permits from other agencies have not been issued, as reflected in the order, there appears to be nothing further for this Commission to consider. I continue to be extremely concerned that the environmental studies, analyses, and reviews prior to the issuance of permits and approvals may not be adequate or as thorough as they should be.<sup>1</sup> If the studies, analyses, and reviews of the state are inadequate, Virginia may suffer unnecessarily, causing harm not only to the environment, but to the health of the citizens and the economy of the Commonwealth.

<sup>1</sup> Examples of areas where, based on the record before the Commission, additional analysis and study should be required are discussed in my prior concurrences and dissents. See Commissioner Moore concurrence, *Application of CPV Cunningham Creek LLC, For approval of a certificate of public convenience and necessity pursuant to Va. Code §56-265.2, for an exemption from Chapter 10 of Title 56, and for the interim authority to make financial expenditures*, Case No. PUE-2001-00477, Final Order (October 7, 2002); Commissioner Moore concurrence, *Application of Old Dominion Electric Cooperative, For a certificate of public convenience and necessity for electric generation facilities in Louisa County*, Case No. PUE-2001-00303, Final Order (July 17, 2002); Commissioner Moore dissent, *Application of Buchanan Generation, LCC, For permission to construct and operate an electrical generating facility*, Case No. PUE-2001-00657, Final Order (June 25, 2002) ("*Buchanan*, Moore dissent"); Commissioner Moore dissent, *Application of Tenaska Virginia Partners, L.P., For approval of a certificate of public convenience and necessity pursuant to Virginia Code §56-265.2, an exemption from Chapter 10 of Title 56, and interim approval to make financial commitments and undertake preliminary construction work*, Case No. PUE-2001-00039, Final Order (April 19, 2002) ("*Tenaska*, Moore dissent").

This case presents another example based on the data and explanations provided to the Commission. The most critical area in this proceeding appears to be ozone where the current background ozone concentration level in the area of the proposed plant is already at 120 ppb, which is equal to the present NAAQS for ozone. Ozone concentration levels under the more stringent revised standard were not provided although it was stated that the area would be in attainment under both standards, assuming future NO<sub>x</sub> Sip Call reductions that may occur. There is no safe level of ozone, and exceedences under the revised standard (eight-hour, 80 ppb) have been more than fifteen times greater statewide than under the one-hour standard (one-hour, 120 ppb). See *Tenaska*, Moore dissent at 6-8 and *Buchanan*, Moore dissent at 3-4. Given these facts and the current ozone level in the area, more data should be provided and analyzed, and the impacts of ozone on the health of people and the environment should be studied and considered carefully before the Commonwealth decides whether to approve the construction and operation of the proposed facility.

**CASE NO. PUE-2002-00064  
MAY 17, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION

v.

CENTRAL LOCATING SERVICE, LTD.,  
Defendant

**ORDER OF SETTLEMENT**

Pursuant to § 56-265.30 of the Code of Virginia, the Virginia State Corporation Commission ("Commission") is charged with enforcing the provisions of the Underground Utility Damage Prevention Act, §§ 56-265.14 *et seq.* of the Code of Virginia ("Act"). The Commission's Division of Energy Regulation ("Division"), charged with the investigation of probable violations of the Act, has completed investigations of certain incidents between September 8, 2001, and October 23, 2001, listed in Attachment A, involving Central Locating Service, Ltd. ("Company"), and alleges that:

- (1) The Company is a contract locator as that term is defined in § 56-265.15 of the Code of Virginia;
- (2) During the aforementioned period the Company violated the Act by committing the following violations:
  - (a) Failing on certain occasions to mark the approximate horizontal location of the underground utility lines on the ground to within two feet of either side of the underground utility lines, in violation of §§ 56-265.19 A and D of the Code of Virginia.
  - (b) Failing on certain occasions to mark within the time prescribed in the Act, in violation of §§ 56-265.19 A and D of the Code of Virginia.
  - (c) Failing on certain occasions to report to the notification center that lines had been marked or they were not in conflict with the proposed excavation, in violation of §§ 56-265.19 A and D of the Code of Virginia.

As evidenced in the attached Admission and Consent document, the Company neither admits nor denies these allegations but admits the Commission's jurisdiction and authority to enter this Order. As an offer to settle all matters before the Commission arising from the Division's allegations made herein, which includes all probable violations presented to the Underground Utility Damage Prevention Advisory Committee on March 5, 2002, and set out in Attachment A hereto, the Company represents and undertakes that it will pay a civil penalty to the Commonwealth of Virginia in the amount of \$19,100 to be paid contemporaneously with the entry of this Order. This payment will be made by cashier's check or money order, payable to the Treasurer of Virginia and directed to the attention of the Director of the Division of Energy Regulation.

The Commission, being advised by the Staff and finding sufficient basis herein for the entry of this Order, hereby accepts this settlement.

Accordingly, IT IS ORDERED THAT:

- (1) Pursuant to the authority granted the Commission by § 12.1-15 of the Code of Virginia, the offer of settlement made by the Company be, and it hereby is, accepted.
- (2) The sum of \$19,100 tendered contemporaneously with the entry of this Order is accepted.
- (3) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. PUE-2002-00065  
MAY 2, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION  
v.  
UTILIQUEST, LLC,  
Defendant

**ORDER OF SETTLEMENT**

Pursuant to § 56-265.30 of the Code of Virginia, the Virginia State Corporation Commission ("Commission") is charged with enforcing the provisions of the Underground Utility Damage Prevention Act, §§ 56-265.14 *et seq.* of the Code of Virginia. ("Act"). The Commission's Division of Energy Regulation ("Division"), charged with the investigation of probable violations of the Act, has completed investigations of certain incidents between August 1, 2001, and December 5, 2001, listed in Attachment A, involving Utiliquest, LLC ("Company"), and alleges that:

- (1) The Company is a contract locator as that term is defined in § 56-265.15 of the Code of Virginia;
- (2) During the aforementioned period the Company violated the Act by committing the following violations:
  - (a) Failing on certain occasions to mark the approximate horizontal location of the underground utility lines on the ground to within two feet of either side of the underground utility lines, in violation of §§ 56-265.19 A and D of the Code of Virginia.
  - (b) Failing on certain occasions to mark within the time prescribed in the Act, in violation of §§ 56-265.19 A and D of the Code of Virginia.
  - (c) Failing on certain occasions to report to the notification center that lines had been marked or they were not in conflict with the proposed excavation, in violation of §§ 56-265.19 A and D of the Code of Virginia.

As evidenced in the attached Admission and Consent document, the Company neither admits nor denies these allegations but admits the Commission's jurisdiction and authority to enter this Order. As an offer to settle all matters before the Commission arising from the Division's allegations made herein, which includes all probable violations presented to the Underground Utility Damage Prevention Advisory Committee on January 8, 2002, and set out in Attachment A hereto, the Company represents and undertakes that it will pay a civil penalty to the Commonwealth of Virginia in the amount of \$24,050 to be paid contemporaneously with the entry of this Order. This payment will be made by cashier's check or money order, payable to the Treasurer of Virginia and directed to the attention of the Director of the Division of Energy Regulation.

The Commission, being advised by the Staff and finding sufficient basis herein for the entry of this Order, hereby accepts this settlement.

Accordingly, IT IS ORDERED THAT:

- (1) Pursuant to the authority granted the Commission by § 12.1-15 of the Code of Virginia, the offer of settlement made by the Company be, and it hereby is, accepted.
- (2) The sum of \$24,050 tendered contemporaneously with the entry of this Order is accepted.
- (3) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. PUE020069 Formerly CASE NO. PUE000351  
JANUARY 17, 2002**

APPLICATION OF  
DTE ENERGY MARKETING, INC.

For a license to conduct business as competitive service provider in electric retail access pilot programs

**DISMISSAL ORDER**

On July 5, 2000, DTE Energy Marketing, Inc. ("DTE" or "the Company"), completed an application, docketed as Case No. PUE000351, with the State Corporation Commission ("Commission") for licensure to conduct business as an electric competitive service provider. The Company proposed to provide competitive electric services in the retail access pilot programs of Virginia Electric and Power Company ("Virginia Power") and Appalachian Power Company d/b/a American Electric Power-Virginia ("AEP-VA").

By Order dated August 24, 2000, DTE was granted License No. PE-3 to provide competitive electric service to commercial and industrial customers within the Virginia Power and AEP-VA retail access pilots. In granting this license, the Commission stated in its Order that the license would expire upon termination of the pilot programs unless otherwise ordered by the Commission.

On June 19, 2001, the Commission entered its Final Order in Case No. PUE010013, adopting its Rules Governing Retail Access to Competitive Energy Services ("Retail Access Rules"), 20 VAC 5-312-10, *et seq.* This Order provided that each competitive service provider that wished to convert its pilot license to a permanent license to participate in retail access must submit a request to do so in writing to the Commission on or before August 31, 2001. We directed that: (i) each such request must include an attestation that the information provided and updated in its application for a pilot license is true and correct; (ii) the Company must attest that it will abide by all applicable regulations of the Commission, as required by 20 VAC 5-312-40 B; and (iii) the Company must include any changes to information previously provided to the Commission, as required by 20 VAC 5-312-20 R.

To date, DTE has not filed a request to convert its pilot license to a permanent license.

NOW UPON CONSIDERATION of DTE's failure to request to convert its pilot license to a permanent license, the Commission is of the opinion and finds that DTE's pilot license has expired, and this matter should be closed. Accordingly,

IT IS ORDERED THAT:

- (1) This matter shall be docketed and assigned Case No. PUE020069.
- (2) DTE's License No. PE-3 to provide competitive electric service to commercial and industrial customers in conjunction with the Virginia Power and AEP-VA retail access pilots has expired. As a result, DTE is no longer authorized to act as a competitive service provider in Virginia but may reapply for licensure at any time.
- (3) This case is hereby dismissed.

**CASE NO. PUE-2002-00070  
AUGUST 26, 2002**

PETITION OF  
COLUMBIA GAS OF VIRGINIA, INC.

For a Declaratory Judgment

**FINAL ORDER**

On January 17, 2002, Columbia Gas of Virginia, Inc. ("Columbia" or "Company"), filed a petition for declaratory judgment ("Petition") with the State Corporation Commission ("Commission"). In its Petition, Columbia requested the Commission to declare that the Company had authority under Rate Schedule TS-1 or Rate Schedule TS-2 to: (i) issue balancing service restrictions; (ii) restrict Columbia's customers' access to banked natural gas qualities; (iii) charge customers a Gas Daily commodity price for gas consumed in excess of their authorized daily volume during a balancing service restriction; (iv) assess a penalty of \$10 per Mcf for all gas used in excess of 102 percent of the customers' authorized daily volumes during a balancing service restriction; and (v) not waive penalties assessed against "habitual" offenders of its balancing service restrictions. The Company asserted that a declaratory judgment would afford relief to it and its customers who received service from Columbia during the winter of 2000-01, and resolve any uncertainty regarding the Company's as well as customers' rights under Rate Schedules TS-1 and TS-2. Columbia alleged that there was no other adequate remedy available to it.

On February 7, 2002, the Commission entered its Preliminary Order in this matter. In that Order, the Commission docketed the Petition; appointed a Hearing Examiner to conduct further proceedings on the matter on behalf of the Commission; and invited interested parties to file with the Clerk of the Commission on or before March 18, 2002, a pleading responsive to Columbia's Petition, a request for hearing, or both a responsive pleading and a request for hearing. The Order also directed the Company to publish notice of its Petition and to serve the notice prescribed therein: (i) on Columbia customers who were served under Rate Schedules TS-1 and TS-2 as of January 31, 2001; (ii) on any Columbia customers currently served under Rate Schedules TS-1 and TS-2; and (iii) on interested persons that Columbia had reason to expect would seek service under Rate Schedules TS-1 and TS-2. The February 7, 2002, Preliminary Order also directed Columbia to file its proof of publication and service of the prescribed notice on or before April 19, 2002, with the Clerk of the Commission.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

In response to the Preliminary Order, a number of interested parties filed comments. On March 11, 2002, the Virginia Industrial Gas Users' Association ("VIGUA") filed an Answer to the Company's Petition, a Cross-Petition for Declaratory Judgment and a Request for Hearing ("Cross-Petition").

In its Cross-Petition, VIGUA asked the Commission, among other things, to declare that Columbia's actions be found in violation of §§ 56-234, -236, and -237 as a result of the Company's failure to abide by its tariffs, require the Company to refund sums paid as a result of Columbia's imposition of penalties and improper charges, render Columbia liable for any other damages incurred by VIGUA members as a result of the Company's violations of its tariffs, grant interest on the amount of the refund and damages incurred by VIGUA members at the rate of interest allowed by law, and grant any such further relief as the Commission deemed just and proper.

By Hearing Examiner's Rulings dated April 3, 2002, and April 25, 2002, the Hearing Examiner established a procedural schedule for the Petition and directed that a hearing be convened in this matter on July 11, 2002.

On May 13, 2002, VIGUA filed a Motion for Summary Judgment, arguing that the issues in the case involved a legal determination based on admitted facts. On May 15, 2002, VIGUA filed a Motion to Continue All Procedural and Discovery Dates ("Motion to Continue") on the grounds that the filing of testimony and exhibits would be expensive and unnecessary if its Motion for Summary Judgment was granted. On May 16, 2002, Stand Energy Corporation ("Stand"), by counsel, filed a Motion in support of VIGUA's Motion to Continue.

In his Ruling of May 17, 2002, the Hearing Examiner granted VIGUA's Motion to Continue, and suspended the procedural schedule established in his Rulings of April 3, 2002, and April 25, 2002, pending further ruling.

On May 21, 2002, Columbia filed a Motion to Vacate the Hearing Examiner's Ruling of May 17, 2002; Response to the Motion of VIGUA to Continue All Procedural and Discovery Dates; Motion to Dismiss Cross-Petition with Prejudice and to Compel Response to Discovery ("Motion to Vacate"). By Hearing Examiner's Ruling of May 22, 2002, oral argument was scheduled for May 24, 2002, on the parties' motions. On May 23, 2002, VIGUA filed a statement in opposition to Columbia's motions of May 21, 2002.

Following oral argument, the Hearing Examiner denied VIGUA's Motion for Summary Judgment, and by his May 24, 2002, Ruling, granted Columbia's Motion to vacate the Hearing Examiner's Ruling of May 17, 2002; denied Columbia's Motion to Dismiss VIGUA's Cross-Petition; reinstated the July 11, 2002, hearing date; and revised the procedural schedule for the filing of testimony and exhibits by the Company, the Staff, and Respondents.

At Columbia's request, a prehearing conference was convened on July 8, 2002, at which time the Company outlined its intentions for settlement of the issues raised in the proceeding. (Tr. at 79-96.) Following a recess, Columbia, the parties, and Staff advised the Hearing Examiner that they had made progress toward reaching a settlement and hoped to offer a settlement with the details to be agreed upon by July 11, 2002, the scheduled hearing date. (Tr. at 90-96.)

On July 11, 2002, the matter came for hearing before Howard P. Anderson, Jr., Hearing Examiner. Counsel appearing were Edward L. Flippen, Esquire, counsel for Columbia; Louis R. Monacell, Esquire, and Brian R. Greene, Esquire, counsel for VIGUA; Guy T. Tripp, III, Esquire, and Renata M. Manzo, Esquire, counsel for Stand; and Sherry H. Bridewell, Esquire, and Wayne N. Smith, Esquire, counsel for the Commission Staff. Proof of the service and publication required by the February 7, 2002, Preliminary Order was received as Exhibit 1. No public witnesses appeared. At the hearing, the case participants advised that a settlement had been reached and that a Motion Requesting Approval of an Offer of Settlement would be filed. Later that day, Columbia filed a Motion Requesting Approval of Offer of Settlement.

On August 1, 2002, the Hearing Examiner issued his Report in this matter. In his Report, the Examiner summarized the parties' allegations and the positions taken by the parties as well as the key elements of the terms of the settlement. He found that the terms of the Offer of Settlement constituted a reasonable compromise in the case that restored the transportation customers to their previous positions and under which the Company suffered no harm. The Examiner noted that although approximately \$6.8 million in penalties was levied, less than that amount had been paid by the customers. He explained that because interest would be calculated only on the actual amount paid, the Offer of Settlement provided that the refund should be made without interest. The Examiner recommended that the Commission accept the Offer of Settlement and dismiss the captioned matter from the docket of active cases. The Hearing Examiner invited parties to file comments in response to his Report within fourteen days of the date of its entry.

No comments were filed in response to the August 1, 2002, Hearing Examiner's Report.

NOW, UPON CONSIDERATION of the foregoing, the Commission is of the opinion and finds that the findings and recommendations of the August 1, 2002, Hearing Examiner's Report should be adopted; that the Offer of Settlement appended to Columbia's July 11, 2002, Motion Requesting Approval of Offer of Settlement is reasonable and should be accepted; and that the terms of said Offer of Settlement should be incorporated herein by their attachment as Attachment A hereto.

We commend the case participants for their hard work and diligence in crafting an agreement that carefully balances the interests of the Company and its transportation customers. We recognize that the issues presented in this case were complex and find that the terms of the Offer of Settlement fairly resolve the matters in dispute.

Accordingly, IT IS ORDERED THAT:

- (1) The findings and recommendations of August 1, 2002, Hearing Examiner's Report are hereby adopted.
- (2) The terms of the Offer of Settlement (Attachment A hereto) are hereby accepted.
- (3) Columbia and VIGUA are hereby permitted to withdraw their respective petitions, consistent with the provisions of paragraph 1, page 1 of the Offer of Settlement.
- (4) Columbia shall comply with the representations it has made in the attached Offer of Settlement.



(5) There being nothing further to be done herein, this matter shall be dismissed from the Commission's docket of active proceedings and the papers filed herein made a part of the Commission's file for ended causes.

NOTE: A copy of Attachment A entitled "Offer of Settlement" is on file and may be examined at the State Corporation Commission, Clerk's Office, Document Control Center, Tyler Building, First Floor, 1300 East Main Street, Richmond, Virginia.

**CASE NO. PUE020072  
MARCH 1, 2002**

APPLICATIONS OF  
ONE CALL CONCEPTS, INC.

For Certification Status and to Revoke Certification Status

**ORDER DISMISSING APPLICATIONS**

On December 10, 2001, One Call Concepts, Inc. ("OCC") filed an Application for Certification Status and an Application to Revoke Certification Status (collectively, "Applications"). OCC requests that the Commission: (1) grant certification status to OCC as the one-call notification center provider for the geographical area covering the entire Commonwealth; and (2) revoke the certification status of the existing one-call notification center providers within the Commonwealth.

On December 21, 2001, Virginia Underground Utility Protection Service, Inc. ("VUUPS") and Northern Virginia Utility Protection Service, Inc. ("NVUPS") jointly filed a Motion to Dismiss Applications ("Motion"). On January 22, 2002, OCC filed an Opposition to Motion to Dismiss Applications ("Opposition"). On February 1, 2002, VUUPS and NVUPS jointly filed a Response to Opposition to Motion to Dismiss Applications ("Response").

The Applications proffer several facts, including the following. OCC currently provides services as a notification center for the area north of the Rappahannock River (the "Northern Territory") pursuant to a Master Service Agreement with NVUPS. NVUPS currently holds Certificate NC-3 to operate a one-call notification center in the Northern Territory. VUUPS currently holds Certificate NC-1 to operate a one-call notification center in the area south of the Rappahannock River, and performs such functions through an independent vendor. The Applications request the Commission to revoke these two certificates and to grant OCC a single certificate for the entire Commonwealth.

The Applications further state that NVUPS and VUUPS do not qualify for certification as a notification center under Va. Code Ann. § 56-265.16:1. The Applications assert that NVUPS and VUUPS are not experienced, responsible vendors and are not sufficiently independent. Conversely, the Applications state that OCC is a qualified, responsible vendor with a proven record of service. In addition to Virginia, OCC provides one-call services in 13 states, the District of Columbia, and the Canadian provinces of Alberta and Ontario. The combined annual volume for these territories exceeds four million inbound locate requests and 17 million outbound notifications.

The Motion by VUUPS and NVUPS states that the Commission has promulgated rules (20 VAC 5-300-90) necessary to implement the Commission's authority to enforce the Underground Utility Damage Prevention Act (Title 56, Chapter 10.3 of the Code of Virginia) ("Act"). The Motion asserts that 20 VAC 5-300-90 I ("Rule I") requires an application for a certificate to be supported by the operators of the underground facilities responsible for more than half of the ticket volume applicable to Virginia of the existing notification center during the most recent 12 months preceding the application for which data is available. The Motion claims that the Applications are void of any assertion that OCC is prepared to prove that it satisfies this requirement. The Motion also contends that revocation of the existing certificates would be pointless unless a successor certificate or certificates are issued.

OCC's Opposition includes the following positions, seriatim. The issue that OCC has placed before the Commission is whether the Commission should permit NVUPS and VUUPS to hold certificates to operate notification centers when NVUPS and VUUPS, themselves, do not possess the necessary qualifications, ability, resources, know-how or experience to provide the services of a notification center successfully and efficiently as required by the Act. NVUPS and VUUPS possess conflicts of interest when they act as both the overseers of the operation of a notification center as well as the provider of notification center services under their certification. NVUPS' and VUUPS' procedural objection, that the Application for Certification is not supported by the operators of the underground facilities responsible for more than half of the ticket volume, only has merit if the Commission places form over substance. In pending Case No. PUE010422, Staff recommends that the Commission delete the rule relied upon in the Motion (*i.e.*, Rule I). The Commission also should deny the Motion due to the fact that the position of the operators regarding a favored vendor for notification centers currently is in a state of flux.

Continuing, OCC states that it will solicit support of operators pursuant to Rule I if the Commission deems it necessary. OCC proposes to exclude NVUPS and VUUPS from the operators' choice of vendors in soliciting such support, but notes that NVUPS and VUUPS likely will oppose such procedure. OCC concludes that such solicitation at this time, and without guidance of the Commission, is futile and meaningless. OCC states that the Commission has great discretion in administering the Act, that blind adherence to written rules is not desirable, that strict adherence to Rule I at the time of filing will defeat the intention of the Act, and that where compliance with a rule is impossible or futile, the Commission may proceed without such compliance. In the alternative, OCC maintains that, if the Commission chooses not to exercise its discretion to consider OCC's certification request, then the Commission should still revoke the current certificates for good cause shown, and this may result in an extended "lame duck" period. OCC believes that the Commission's guidance is needed in order to address these issues.

In their Response, NVUPS and VUUPS assert that OCC admits it has not complied with Rule I and that, as a result, the Applications must be dismissed. The Response also states that OCC's argument that the Commission should ignore its rules is untenable and contrary to *Va. Comm. for Fair Utility Rates v. VEPCO*, 243 Va. 320, 327 (1992), where the Supreme Court of Virginia explained that the Commission must follow its rules until changed in a manner permitted by Virginia Constitution and statutes. The Response contends that much of the argument in OCC's Opposition may be appropriate in the pending rulemaking case, Case No. PUE010422, but is irrelevant to whether the Applications comply with the Commission's rules.

NOW THE COMMISSION, upon consideration of the Applications, the Motion, the Opposition, the Response, and the applicable statutes and rules finds that the Applications should be dismissed without prejudice.

The Commission's currently effective *Rules governing certification of notification centers* include the following requirement (20 VAC 5-300-90 I (emphasis added)):

I. An application for a certificate may be submitted for any geographic area (i) for which a certificate has been previously granted by the Commission, or (ii) in which a notification center exempt from the requirements of §56-265.16:1 of the Code of Virginia is currently operating, *if such application is supported by the operators of the underground facilities responsible for more than half of the ticket volume applicable to Virginia of the existing notification center during the most recent 12-month period preceding the filing of the application for which data is available.* If the Commission determines that a certificate should be granted to the applicant hereunder, the certificate previously issued for the same geographic area shall terminate as of the effective date of the new certificate.

OCC acknowledges that it has not complied with this rule. OCC currently is not able to establish that its application for certification is supported by the operators of underground facilities responsible for more than half of the ticket volume applicable to Virginia of the existing notification center during the most recent 12-month period preceding the filing of the application for which data is available.

We cannot accept OCC's assertion that compliance with Rule I places "form over substance." Rather, this Commission must follow its duly adopted rules unless or until changed in a manner permitted by the statutes and Constitution of Virginia.<sup>1</sup> Based on the Applications, we also are not persuaded that compliance with Rule I is impossible or futile such as to warrant noncompliance. In addition, OCC has not established that strict adherence to Rule I at the time of filing defeats the intention of the Act.

We also reject OCC's invitation to revoke the existing certificates and to implement a "lame duck" period. Based on the Applications, we do not find that revoking the existing certificates, without issuing a successor certificate or certificates, is in the public interest or will further the purpose of preventing or mitigating loss of, or damage to, life, health, property or essential public services resulting from damage to underground utility lines.<sup>2</sup>

Finally, we respond to OCC's plea for guidance. In Case No. PUE010422, the Commission has initiated an investigation into the appropriate policies and rules governing the certification of notification centers and maintenance of acceptable levels of performance. As noted by OCC in its Opposition, the continued appropriateness of Rule I is one of the issues raised in that pending proceeding. Accordingly, whether Rule I should be eliminated is properly before the Commission in Case No. PUE010422. The Commission's existing rules, however, remain in effect until superseded by any new rules that may result from Case No. PUE010422. OCC is not precluded from resubmitting its applications, and OCC is not required to wait until any new rules are promulgated. Any application, however, must be in conformance with the Commission's rules in effect at the time of such filing.

Accordingly, IT IS ORDERED THAT:

- (1) OCC's Application for Certification Status and Application to Revoke Certification Status are hereby dismissed without prejudice.
- (2) There being nothing further to come before the Commission in this case, this matter is dismissed.

<sup>1</sup> *Va. Comm. for Fair Utility Rates v. VEPCO*, 243 Va. 320, 327 (1992).

<sup>2</sup> *See, e.g., Va. Code Ann. § 56-265.16:1 D.*

**CASE NO. PUE-2002-00074  
AUGUST 21, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
EARL N. GOODMAN, et al.,  
Complainants  
v.  
LAND'OR UTILITY COMPANY, INC.,  
Defendant

**ORDER**

On January 28, 2002, a petition signed by twenty-one customers of Land'Or Utility Company, Inc. ("Land'Or" or "Company"), asserting that Land'Or was engaging in discriminatory billing practices, was filed with the State Corporation Commission ("Commission"). The essence of the petitioners' complaint is that Land'Or has charged them availability fees for multiple consolidated lots and has not charged others who are similarly situated.

By Order dated May 10, 2002, the Commission docketed the matter and directed Land'Or to file a response to the petition, and permitted the petitioners to file a reply to the Company's response. Land'Or filed its response to the petition on May 24, 2002. In its response, Land'Or denies that it has discriminated against petitioners and avers that it has charged such availability fees in an effort to comply with, and enforce, its filed tariff. The Company states that, if the Commission concludes that the current tariff does not permit it to enter into agreements with customers that would allow the availability fees to be waived for contiguous lots in the future, it requests an amendment to its tariff to permit such agreements. However, the Company asserts that a customer seeking such an agreement should be required to pay past due availability charges prior to execution of an agreement. On behalf of the petitioners, Earl N. Goodman, one of the complainants, filed a reply to the Company's response on May 31, 2002. Mr. Goodman stated that the Company's proposal is discriminatory because it requires payment of availability fees by those customers without prior agreements with the Company but doesn't require such payment from customers with these agreements.

NOW THE COMMISSION, having considered the pleadings, finds that § 56-234 of the Code of Virginia requires Land'Or to charge uniform rates to its customers receiving service under like conditions. Therefore, all customers purchasing service from Land'Or under its existing tariff must be charged uniformly, whether such customers have separate contracts with the Company or not.

The previous owner of the Company interpreted Land'Or's tariff to permit owners of certain contiguous lots to pay only one availability charge or metered water service charge, albeit through a separate contract with the customer. According to Land'Or's response to the petition, its current construction of the tariff does not permit such waiver of availability fees, unless modified as proposed by the Company. However, Land'Or does not propose to bill the charges to those that signed agreements with the previous owner of the Company.

The issue before us is whether the Company's current application of its tariff contravenes its duty to charge uniformly under § 56-234 of the Code of Virginia. By charging multiple availability or metered water service fees to the petitioners and not to those similarly situated customers having separate agreements with the Company, Land'Or has indeed treated one set of customers discriminatorily. Land'Or must apply its tariff consistently to all customers. So long as the Company waives the charges for certain customers, it may not charge others similarly situated. We will not in this case consider Land'Or's proposed change to its tariff. If Land'Or wishes to clarify its tariff, it may do so as part of its next rate case or through a separate filing.

Accordingly, IT IS ORDERED THAT:

(1) Pursuant to § 56-234 of the Code of Virginia, Land'Or shall charge uniform rates to its customers receiving service under like conditions. Therefore, all customers purchasing service from Land'Or under its existing tariff must be charged uniformly, whether such customers have separate contracts with the Company or not.

(2) The decision of the Commission described herein shall have no ratemaking implications.

(3) There appearing nothing further to be done in this matter, it is hereby dismissed.

**CASE NO. PUE020086  
APRIL 2, 2002**

APPLICATION OF  
NORTHERN VIRGINIA ELECTRIC COOPERATIVE

For review of tariffs and terms and conditions of service

**ORDER GRANTING WAIVER**

Pursuant to Rule 20 VAC 5-312-90 K of the Commission's Rules Governing Retail Access to Competitive Energy Services ("Retail Access Rules"), each local distribution company is to provide a plan outlining its program to provide "price-to-compare" information and assistance to customers to the Commission's Division of Energy Regulation as least 90 days prior to the implementation of full or phased-in retail access.

On March 28, 2002, Northern Virginia Electric Cooperative ("NOVEC"), by counsel, filed a Request for Waiver of Rule 20 VAC 5-312-90 K. With July 1, 2002, as its target date to commence retail access, NOVEC states that it intended to submit a plan for its price-to-compare program to the Commission Staff no later than April 2, 2002. However, according to NOVEC, development of its price-to-compare program (and the supporting plan) is dependent on a number of factors, including what methodology it will be permitted to use to adjust its rates to allow for changes in fuel costs. Issues related to the methodology Virginia cooperatives may use for fuel factor adjustments and how market prices will be set will now be addressed in Case No. PUE010306. NOVEC states that these fuel issues must be resolved before NOVEC can develop its program to provide price-to-compare information.

Counsel for NOVEC represents that no party will be prejudiced by the granting of a waiver, and the Commission Staff does not oppose the requested waiver.

NOW THE COMMISSION, having considered NOVEC's request for waiver of Rule 20 VAC 5-312-90 K, finds that it is reasonable and should be granted. However, we will direct NOVEC to submit its price-to-compare information pursuant to Rule 20 VAC 5-312-90 K to the Staff no later than 30 days subsequent to the Commission's order in Case No. PUE010306 resolving the issues related to the frequency of fuel cost adjustments for the cooperatives.

Accordingly, IT IS ORDERED THAT:

(1) NOVEC's request for waiver of Rule 20 VAC 5-312-90 K of the Retail Access Rules is hereby granted.

(2) NOVEC shall submit to the Commission's Division of Energy Regulation a plan for its price-to-compare program no later than 30 days subsequent to the Commission's order in Case No. PUE010306 resolving the issues related to the frequency of fuel cost adjustments for the cooperatives.

(3) This case is continued for further orders of the Commission.

**CASE NO. PUE-2002-00086  
JUNE 18, 2002**

APPLICATION OF  
NORTHERN VIRGINIA ELECTRIC COOPERATIVE

For review of tariffs and terms and conditions of service

**FINAL ORDER**

On December 29, 2000, Northern Virginia Electric Cooperative ("NOVEC" or the "Cooperative"), filed an application for State Corporation Commission ("Commission") approval of the Cooperative's plan for functional separation ("Plan") as required by the Virginia Electric Utility Restructuring Act (the "Act"), Chapter 23 of Title 56 of the Code of Virginia (§56-576 *et seq.*) On December 18, 2001, the Commission issued its Final Order approving NOVEC's application. Ordering paragraph three (3) of that Final Order directed NOVEC to "provide tariffs and terms and conditions of service to the Division of Energy Regulation that conform to this Order and all applicable Commission Rules and Regulations one hundred and fifty (150) days prior to its implementation of retail choice."

On February 1, 2002, NOVEC filed the ordered tariffs and terms and conditions of service with the Division of Energy Regulation in anticipation of commencing retail access in its retail service territory effective July 1, 2002.<sup>1</sup> NOVEC's filings included: (1) Northern Virginia Electric Cooperative – Terms & Conditions for Providing Electric Service, including Retail Access Terms & Conditions; and (2) Northern Virginia Electric Cooperative – Competitive Service Provider Coordination Tariff, including: Competitive Service Provider Agreement, Electronic Data Interchange (EDI) Trading Partner Agreement, Transmission Customer Designation Form, CSP Dispute Resolution Procedure and Aggregator Agreement.

In an Order dated February 21, 2002, in this proceeding, the Commission directed the Cooperative to provide notice to the public and established a procedural schedule for the filing of comments and requests for hearing on NOVEC's application. In that Order, the Commission directed its Staff to investigate the application and file a report detailing its findings and recommendations.

On March 28, 2002, NOVEC filed proof of notice and proof of publication pursuant to the Commission's February 21, 2002, Order.

On March 28, 2002, NOVEC filed its Request for Waiver of Rule 20 VAC 5-312-90 K of the Commission's Rules Governing Retail Access to Competitive Energy Services ("Retail Access Rules"). The Cooperative noted that its intention was to submit a plan for its price-to-compare program no later than April 2, 2002, but development of its plan was dependent upon several factors to be resolved by the Commission in Case No. PUE-2001-00306.

On April 2, 2002, the Commission, *inter alia*, granted NOVEC's request for a waiver of 20 VAC 5-312-90 K of the Commission's Rules Governing Retail Access to Competitive Energy Services ("Retail Access Rules"). The Commission required NOVEC to submit to the Commission's Division of Energy Regulation a plan for its price-to-compare program no later than 30 days subsequent to the Commission's order in Case No. PUE-2001-00306 resolving the issues related to the frequency of fuel cost adjustments for the cooperatives.

On April 17, 2002, NOVEC filed its Motion for Protective Order. In its motion, NOVEC requested that the Commission, pursuant to 5 VAC 5-20-170 of the Commission's Rules of Practice and Procedure, enter a protective order due to the confidential, proprietary, and sensitive information requested by AES and because AES had not established that it was a party to this proceeding.

On April 22, 2002, Staff filed its Report wherein it recommended that the Commission approve NOVEC's tariffs and terms and conditions with the adoption of certain modifications recommended by Staff.

On April 24, 2002, AES NewEnergy, Inc. ("AES") filed its Notice of Participation in this matter and its opposition to NOVEC's Motion for Protective Order.<sup>2</sup>

On May 1, 2002, AES filed its comments on the Staff Report. In its comments, AES stated that it did not agree with Staff's recommendations regarding calculation of the Competitive Transition Charge ("CTC") calculation. AES stated that NOVEC had not presented any evidence that stranded costs exist. AES argued that the wires charges proposed by NOVEC are substantial and, in all likelihood, would prevent meaningful competition in NOVEC's service territory.<sup>3</sup> AES agreed with Staff's use of ODEC's fuel adjustment factor in place of NOVEC's current WPCA<sup>4</sup> factor for the adjustment of base generation rates in the determination of wires charges. AES further recommended that any market prices established should be increased by an appropriate percentage to represent any reserve requirements applicable in NOVEC's service territory.

With respect to Staff's recommendation regarding unbundled tariff and rate schedules for all customer classes, AES concurred with NOVEC's agreement to allow termination of interruptible sales agreements upon the customer's receipt of service from an alternative energy supplier. However, AES

<sup>1</sup> On January 25, 2002, NOVEC, in association with the other electric cooperatives in Virginia, filed a Comprehensive Wires Charge Proposal ("Proposal"), Case No. PUE-2001-00306, *Ex Parte: In the matter of considering requirements relating to wires charges pursuant to the Virginia Electric Utility Restructuring Act* ("Wires Charge Case"). The Commission rendered a decision in this case on May 24, 2002.

<sup>2</sup> Interrogatories issued by AES have been answered by NOVEC rendering this issue moot. Furthermore, AES has established itself as a participant in this proceeding. Therefore, it is not necessary to decide the issue of NOVEC's Motion for Protective Order.

<sup>3</sup> The Commission notes that under § 56-583 of the Virginia Electric Utility Restructuring Act ("Restructuring Act"), wires charges serve as a "proxy", on a utility by utility basis, of stranded costs. Therefore, no actual determination of stranded costs is necessary as a precondition of receipt of wires charges.

<sup>4</sup> Wholesale Power Cost Adjustment, a pass-through mechanism for recovery of NOVEC's purchased power.

asserted that wires charges are inappropriate for a customer that does not impose any firm supply requirement on the Cooperative because the Cooperative does not incur any long term stranded costs for an interruptible customer.<sup>5</sup>

AES commented on NOVEC's request to offer and make unregulated sales of electric power (Subparagraph F) to NOVEC customers within its certified service territory. AES recommended that these unregulated supply services be conducted by a Competitive Service Provider ("CSP") affiliate of NOVEC to create a level playing field. AES expressed concern that NOVEC would not have to comply with all of the requirements placed on CSPs with respect to unregulated supply services and that NOVEC would have access to marketing information not available to other CSPs. Finally, AES expressed reservations about NOVEC's request (i) to be exempt from the application of wires charges in conjunction with unregulated power sales; and (ii) for authority to terminate service for non-payment of special supply service. AES argued that under current regulations, CSPs would not receive similar treatment.

On May 2, 2002, NOVEC filed its Response to the Staff's Report. In its Response, the Cooperative stated that it did not agree with a further adjustment to market price relating to transmission and ancillary expenses and opposed Staff's adjustment to remove transmission and ancillary expenses from that calculation. NOVEC stated that its adjustments to the Base Market Price were not associated with § 56-583.A of the Restructuring Act and do not reflect transmission and ancillary service expenses necessary to sell generation or wholesale power off-system. NOVEC stated that the purpose of the transmission and ancillary expense adjustment as proposed is to provide a market price that is consistent with the capped generation and transmission rates previously approved by the Commission. NOVEC argued that its approved capped generation rates included generation, transmission and ancillary service costs, and that NOVEC's Base Market Price also must include a comparable level of transmission and ancillary service costs – otherwise, according to NOVEC, the transmission and ancillary service costs would show up in the CTC and shopping customers would pay twice for transmission service.

The Cooperative also responded to Staff's recommendation that no wires charge be permitted until documents confirming the agreements between ODEC and the Cooperative relating to the disposition of wires charge revenues are received. NOVEC stated its intention to satisfy that obligation, but disagreed with Staff's suggestion that § 56-584 requires Commission approval of the allocation of wires charge revenue.

In its remaining responses to the Staff Report, the Cooperative generally agreed with the Staff's recommendations regarding tariff changes, wire charges, and terms and conditions of service.

NOVEC objected, however, to Staff's recommendation that the Cooperative identify more specifically the types of documents that would satisfy its requirement that an applicant be required to prove that he or she is the owner or bona fide lessee of the subject premises. NOVEC contends that there is no need to change the language in its proposed Terms and Conditions that requires a customer to provide a copy of a signed lease or a deed to verify this authority to require electric service at the specific location.

With regard to the Staff's recommendations concerning customer deposits, NOVEC took issue with the Staff's modification of the Cooperative's proposal to change the basis on which customer deposits are determined. The Staff had recommended NOVEC's modification be denied because the capped rate provisions of the Restructuring Act bar such revisions. In its Response, NOVEC maintained that the rate cap provisions should not be construed as a bar to modifying customer deposit provisions and the Cooperative states that the change reflects an appropriate policy decision for its business.

With regard to the Staff's recommendations concerning billing and payment, NOVEC took issue with the Staff's modification of NOVEC's requirement for shopping customers to bring their budget balance to zero. The Staff had recommended that NOVEC allow retail access customers to retain budget billing for the distribution portion of their bills and to allow shopping customers to switch either after bringing their budget balance to zero or upon making acceptable payment arrangements with the Cooperative. In its Response, NOVEC maintained its position that requiring a customer switching to a CSP to bring its budget billing account to zero prior to switching is a good business practice.

With regard to Staff's recommendation in Section RVII-F, retail access terms and conditions, unregulated competitive energy service, Staff stated that NOVEC had not provided tariffs for this service, noting that NOVEC does not intend to include wire charges as a component of the distribution charges for this unregulated energy service, and that the retail access tariffs for distribution service provided by NOVEC included these charges. In its Response, NOVEC agreed to submit the appropriate tariffs to the Commission prior to implementation of this service.

With regard to the Staff's recommendations concerning the CSP Coordination Tariff, NOVEC generally agreed with the Staff, but took issue with Staff's recommendation concerning the definition of "credit amount," the security deposit required of a CSP. NOVEC disagreed with the Staff's recommendation that the credit amount should be based on two (2) months of projected CSP payments, as in the case of the Cooperative's retail customers, rather than the three (3) months as proposed by NOVEC. NOVEC maintained its position that its relationship with a CSP is different than the Cooperative relationship with its member-customers, in that the CSP is not NOVEC's customer. As a result of its duty to ensure reliable power supply service to CSP customers, NOVEC's position is that requiring a credit amount equivalent to three (3) months of CSP billings is essentially a minimum reasonable credit amount for the level of risk assumed.

NOVEC also disagreed with Staff's recommendations relative to coordination of customer activities, specifically Staff's addition of "or as soon as possible" to 30-day prior notice requirement for the initiation of planned, large-volume customer activity by a CSP. NOVEC's position is that a 30-day notice requirement is not unreasonable and Staff's addition of "as soon as possible" renders the value of the provision meaningless.

Finally, NOVEC disagreed with Staff's recommendation concerning billing disputes, *i.e.*, that the first sentence of Article 11.6 in the CSP Coordination Tariff conflicts with item 8 of the proposed Dispute Resolution Procedure.<sup>6</sup> NOVEC maintains that requiring payment of disputed amounts by CSPs will tend to spur settlement negotiations and avoid prolonged complaint proceedings.

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<sup>5</sup> See footnote 3.

<sup>6</sup> Article 11.6 provides as follows: If disputes arise regarding an invoice, CSP must pay the full disputed invoice on or before the delinquent date. ... Dispute Resolution: 8: If a dispute involves the accuracy of invoiced charges, the Cooperative will note the account with the disputed charge and exclude the charge from any late payment fees or other collection action. ...

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

With respect to the issue of fee schedules and collection of wire transfer fees, NOVEC, in its Response, agreed to drop the proposed additional \$25 fixed late payment charge, forego the proposed credit card processing fee, and modify its CSP Coordination Tariff to allow for other methods of payment while retaining the option of wire transfers with the associated fee.

With regard to the Staff's suggestion that the CSP, Trading Partner, and Aggregator Agreements were submitted by NOVEC only for informational purposes and to provide a guide for minimum requirements, NOVEC maintained in its Response that these agreements should instead be recognized as part of the Cooperative's filed and approved CSP tariff. NOVEC stated that the Commission's acceptance of these agreements supports efficient operation and prevents charges of discrimination in the treatment of CSPs.

NOW THE COMMISSION, having given due regard to the Cooperative's application, Staff's Report, the subsequent pleadings, AES' comments, and applicable law, approves NOVEC's application, subject to the modifications detailed herein.<sup>7</sup> In reaching this decision we have given due regard to the detailed comments of the parties participating in this proceeding, most of whom, while supportive of NOVEC's application, suggested certain conditions for this Commission's approval.

We incorporate, by reference, our findings in the Wires Charge Case (Case No. PUE-2001-00306) reflecting the appropriate fuel adjustments and wires charge calculation for this Cooperative. In addition, we find that the wires charges calculated by NOVEC are effective until December 31, 2003, in conformance with Ordering Paragraph (5) of Case No. PUE-2001-00306.

With respect to AES' comments regarding the Commission's establishing market prices for CTC ("wires charge") calculation, in its November 19, 2002, Final Order, Ex Parte: In the matter of amending requirements relating to wires charges pursuant to the Virginia Electric Utility Restructuring Act, PUE-2001-00306, the Commission stated in Ordering Paragraph (5):

Incumbent electric utilities seeking to impose a wires charge in calendar year 2003 and beyond shall make annual filings by July 1 of each year for any proposed revisions in their fuel factor and corresponding changes in capped rates, and for market price proposals.

Therefore, the Commission has provided for an appropriate venue for AES to submit its recommendations concerning market prices as they relate to wires charges.

With respect to AES' comments regarding unbundled tariff and rate schedules for all customer classes, specifically the interruptible service schedule (IS-3-V), we find that NOVEC's interruptible service schedule is intended to provide a capacity credit for customers who agree to interrupt their demand during peak generation periods. In Case No. PUE-2001-00005, we approved unbundled rates for this schedule. We, therefore, direct NOVEC to provide the appropriate retail access distribution tariff including wires charges for this customer class.

We also find that NOVEC's agreement to allow termination of interruptible sales agreements upon the customer's receipt of service from a CSP appropriate as long as NOVEC provides the necessary information in its schedule as requested by the Staff.

With respect to AES' comments on NOVEC's request to offer and make unregulated sales of electric power (Subparagraph F) to NOVEC's customers within its certified service territory, under § 56-231.34:1 of the Code of Virginia, Virginia's electric cooperatives are permitted to make direct, unregulated sales of electric power within their service territories without having to form affiliates to do so. This section of Chapter 10 of the Code of Virginia makes no provision for the application of wires charges. Additionally, § 56-583B of the Restructuring Act limits the application of wires charges to customers of suppliers other than the incumbent electric utility or to customers subject to and receiving default service. Neither of these conditions is applicable to this special supply service. However, Staff noted that NOVEC had not filed appropriate distribution tariffs. Therefore, we direct NOVEC to file retail access distribution tariffs with the Division of Energy Regulation at least sixty (60) days prior to its implementation of unregulated energy supply service.

With respect to AES comments on NOVEC's request for authority to terminate service for nonpayment of unregulated energy supply service, we note that the proposed practice is prohibited by the Retail Access Rules (20 VAC 5-312-90 G). With regard to disconnections for nonpayment of service charges, NOVEC may disconnect the distribution service of these customers for non-payment of regulated service charges only. We, therefore, direct NOVEC to modify this tariff provision consistent with the Retail Access Rules.

With respect to the issue of customer deposits, we agree with the Staff's recommendation that the Cooperative's change in methodology for calculation of customer deposits should be denied. We, therefore, direct NOVEC to retain the current language on deposits.

With respect to the issue of "credit amount" as defined in the CSP coordination tariff, we agree with Staff's recommendation that the credit amount be equivalent to two months' CSP payments to the Cooperative, comparable to the deposit requirements for retail customers.

With respect to the issue of the provision of 30 days as adequate notice for implementation of planned, large-volume customer activity by a CSP, the provision of notice for anticipated terminations of service by a CSP is adequately covered under the Retail Access Rules (20 VAC 5-312-80 M and O) and the VAEDT plan. For other large volume marketing activity, we agree with NOVEC that advance notice from a CSP could assist in coordination of large volume activity, but to place a hard and fast rule on a CSP could deter development of competition. Therefore, we direct NOVEC to modify the notice provision to incorporate Staff's "as soon as possible" language for large volume enrollment activities.

With respect to the Cooperative's Dispute Resolution Procedure, we find that item 8 should be conformed with Article 11.6 of the CSP Coordination Tariff as recommended by Staff.

With respect to the issue of fee schedules and collection of wires transfer fees, we adopt these changes as proposed by NOVEC.

<sup>7</sup> Prior to implementation of retail choice in its service area, NOVEC must file both a price-to-compare plan as described in the April 2, 2002, Order in this proceeding, and copies of the agreement between ODEC and NOVEC for the disposition of wires charges revenue.

With regard to the CSP, Trading Partner, and Aggregator Agreements, the Commission in Case No. PUE-2000-00584 included these same types of agreements as attachments to Virginia Power's CSP Coordination Tariff. NOVEC proposes to treat them in the same manner, and we accept their inclusion as attachments to the CSP Coordination Tariff.

With respect to the issue of including transmission and ancillary expenses in the market price calculation, we concur with NOVEC's explanation of its calculation in its Response and its view that a further adjustment is not appropriate. Therefore, the CTC calculation as proposed by NOVEC is approved.

With respect to the issue of the submission by a bona fide lessee of a lease agreement for authority to institute service, we find that strict adherence to the Cooperative's limitation of proof solely to a deed or lease may raise barriers to obtaining service in some areas served by Cooperatives in the Commonwealth. We will, therefore, direct NOVEC to accept, in lieu of a formal lease agreement, for purposes of ensuring flexibility in the types of documents allowed for submission of proof of ownership, a letter from the actual owner verifying the applicant as a bona fide lessee.

With respect to the requirement that shopping customers bring their budget balance to zero prior to switching a CSP, we find that such a requirement would be a hindrance to open access in the marketplace. We will, therefore, adopt the Staff's recommendation that NOVEC provide payment arrangements for the non-distribution portion of the customer's outstanding balance as an alternative to taking budget balances to zero for shopping customers. With respect to the provision of budget billing for CSP customers, we direct NOVEC to continue to offer budget billing for the regulated distribution service.

Accordingly, IT IS ORDERED THAT:

- (1) NOVEC's tariffs and terms and conditions of service amended as recommended by Staff and subject to the modifications discussed herein are hereby approved.
- (2) NOVEC shall file its amended tariffs no later than 15 days after the date of this order.
- (3) NOVEC's initiation of retail choice is conditioned upon the timely receipt of its wires charge allocation agreements with ODEC and documents as required in Ordering Paragraph (2).
- (4) This case is hereby dismissed, and the papers shall be placed in the file for ended causes.

**CASE NO. PUE-2002-00092  
AUGUST 21, 2002**

APPLICATION OF  
DALE SERVICE CORPORATION

For review of changes to terms and conditions

**FINAL ORDER**

On January 9, 2002, Dale Service Corporation ("Dale Service" or "Company") filed an application with the State Corporation Commission ("Commission") to implement Schedule of Inspection Fees and Operating Procedures for Construction Inspection Services ("Schedules"). Pursuant to § 56-240 of the Code of Virginia ("Rules Governing Utility Rate Increase Applications and Annual Informational Filings"), Dale Service requested that its proposed terms and conditions be permitted to take effect for inspections performed after February 18, 2002.

On May 17, 2002, the Commission issued an Order Prescribing Notice and Inviting Comments and Requests for Hearing. The Commission's Order directed the Company to give notice of its application and provided that any interested person desiring to comment on the Company's application or desiring a hearing in this matter could do so in writing on or before July 1, 2002. The Company filed its proof of notice with the Commission on June 25, 2002. No comments or requests for hearing were received. The Commission also directed its Staff to review and analyze the Company's application and to file a report detailing its findings and recommendations. In addition, the Order approved the Company's application of the interim terms and conditions for inspections rendered on or after February 18, 2002. By subsequent Order of the Commission the date for filing of the Staff report was extended to August 5, 2002.

On August 5, 2002, Staff filed its Report. Staff noted that there were no comments or requests for hearing. Staff recommended approval of modified tariff pages as presented in Appendix B of the Staff Report. On August 12, 2002, the Company filed its Response to Staff Report. The Company concurs with the conclusions of the Staff Report.

NOW THE COMMISSION, having considered the application, Staff's Report, and applicable law, is of the opinion that the above-captioned application should be approved.

Accordingly, IT IS ORDERED THAT:

- (1) Pursuant to Section 56-240 of the Code of Virginia, Dale Service Corporation, is hereby granted authority to implement the modified tariff pages as presented in Appendix B of the Staff Report.
- (2) This case shall be hereby dismissed.

**CASE NO. PUE-2002-00096  
OCTOBER 16, 2002**

APPLICATION OF  
THE CITY OF CHESAPEAKE

For approval of the condemnation of a utility easement containing 4,214 square feet or 0.0967 acre, more or less, for the installation of a water transmission line on land owned by the City of Suffolk and located in the Sleepy Hole Borough of the City of Suffolk

**FINAL ORDER**

On March 1, 2002, the City of Chesapeake ("Chesapeake") filed an application with the State Corporation Commission ("Commission") requesting approval, pursuant to § 25-233 of the Code of Virginia ("Code"), to initiate a condemnation action to acquire property of the City of Suffolk ("Suffolk"). The application indicated that Chesapeake sought to acquire a parcel of land owned by Suffolk to install a raw water transmission line to carry water from Lake Gaston to supply water to the citizens of Chesapeake.<sup>1</sup> Chesapeake requested that the Commission certify that a public necessity and/or essential public convenience requires Chesapeake to acquire an easement via condemnation.

The Commission entered an Order on March 7, 2002, permitting Suffolk to file a response to Chesapeake's application. On March 26, 2002, Suffolk filed its response which, among other things, denied many of the allegations contained in Chesapeake's application and requested that the Commission find that no public necessity or convenience exists requiring the condemnation action. Thereafter, the parties filed additional pleadings, including statements of fact and legal memoranda in support of their positions.<sup>2</sup>

On June 26, 2002, Suffolk filed a Motion to Dismiss arguing that, on June 19, 2002, Suffolk granted an easement to Chesapeake for the purposes of constructing a raw water transmission line to carry water from Lake Gaston under and across the parcel of land owned by Suffolk. Suffolk stated that this utility easement was that requested by Chesapeake in the application before the Commission.

Also on June 26, 2002, Chesapeake filed a Motion to Amend Application of Chesapeake and an amended application which, among other things, stated that Chesapeake wished to clarify that it was seeking to acquire the utility easement to install a raw water transmission line to carry water from Lake Gaston, as well as other sources, to supply water to Chesapeake.

On August 6, 2002, the Commission issued an order granting Chesapeake's Motion to Amend Application of Chesapeake and denying Suffolk's Motion to Dismiss. The Commission found that this case involves whether Chesapeake should be permitted access to the courts of the Commonwealth to attempt to condemn property needed for its proposed water line. The Commission stated that before Chesapeake could obtain such permission, pursuant to § 25-233 of the Code, the Commission must: (1) certify that a public necessity or an essential public convenience so requires; and (2) conclude that the property sought to be condemned is not essential to the purposes of Suffolk. The Commission permitted the parties to file supplemental statements of fact and supplemental legal memoranda to address the amended application.

On August 23, 2002, Chesapeake and Suffolk filed supplemental statements of fact. Chesapeake filed a Supplemental Memorandum of Law on August 29, 2002. On August 30, 2002, Suffolk filed a Supplemental Brief ("Supplemental Brief") and a Motion to Dismiss ("Motion to Dismiss").

NOW THE COMMISSION, upon consideration of the matter, is of the opinion and finds that Chesapeake may be granted permission to petition the courts of this Commonwealth to initiate condemnation proceedings to acquire the desired utility easement across the parcel of land owned by Suffolk to install its proposed water transmission line.

Chesapeake has requested the Commission's permission to commence condemnation proceedings against Suffolk pursuant to § 25-233 of the Code. In Application of the City of Virginia Beach, For a certificate pursuant to Va. Code § 25-233, Case No. PUE-1994-00048, Opinion, 1995 S.C.C. Ann. Rept. 313, 314 (March 6, 1995) ("Application of the City of Virginia Beach"), the Commission found that § 25-233 of the Code assigns it a task of limited scope. In that case, the Commission was to determine whether Virginia Beach should be permitted access to the courts of the Commonwealth to attempt to condemn property necessary to build a water pipeline. The Commission noted that this determination involves whether a public necessity or an essential public convenience requires the taking, and whether the property is essential to the purposes of the entity from which it will be taken. Finding that it had no jurisdiction to approve the pipeline project itself, the Commission stated:

To interpret § 25-233 to give us such jurisdiction would convert that limited statute into a gateway through which Commission jurisdiction might be extended to an infinite number of subjects, as long as a locality or utility sought condemnation of the property of another locality or utility to accomplish some minor part of the objective. We do not interpret § 25-233 to intend such a broad grant of jurisdiction.

Here, as in Application of the City of Virginia Beach, the Commission must decide whether Chesapeake may be permitted access to the courts of the Commonwealth by finding whether a public necessity or essential public convenience so requires, and whether the property is essential to the purposes of Suffolk.

Based on the record before us, Chesapeake has established that it requires 0.0967 of an acre, more or less, of Suffolk's property for the proposed installation of a water pipeline to meet its water demands. We find, therefore, that the public necessity or essential public convenience has been established.

<sup>1</sup> The application for condemnation identified the desired utility easement as crossing land described on a plat entitled "Plat Showing Permanent Utility Easement to be Acquired from City of Suffolk by the City of Chesapeake, Virginia, for City of Chesapeake, Virginia, Raw Water Transmission System, Sleepy Hole Borough – Suffolk, Virginia, Scale=1"=30'," dated April 28, 1998, revised May 24, 2001, made by Rouse-Sirine Associates, Ltd.

<sup>2</sup> The additional pleadings are detailed in our August 6, 2002, Order in this proceeding.



We also find that the property sought to be condemned is not essential to the purposes of Suffolk. Suffolk states that the Code "does not authorize Chesapeake to condemn property, in this case a water source, that it can't even identify."<sup>3</sup> The "property" in this proceeding, however, is not a water source. Rather, under § 25-233 of the Code, the "property" is 0.0967 of an acre of land. In our analysis pursuant to § 25-233 of the Code, we consider whether it is the property, not the use, that is essential to Suffolk. We note that, on June 19, 2002, Suffolk adopted an Ordinance authorizing the Suffolk City Manager to execute an easement agreement with Chesapeake for the 0.0967 of an acre of land. Thus, we find it is clear that the property is not essential to Suffolk's purpose.

We deny Suffolk's Motion to Dismiss. In the Motion to Dismiss, Suffolk asserts that the certification sought by Chesapeake from this Commission is no longer required. Suffolk contends that the Ordinance it adopted on June 19, 2002, grants a utility easement to Chesapeake over the desired parcel of land. Suffolk states that, as a result, Chesapeake is able to construct the transmission main and convey all the water it is presently entitled to and needs.

The easement offered by Suffolk, however, does not reflect the easement sought by Chesapeake as described in its amended application in this proceeding. Thus, Chesapeake still seeks permission from this Commission under § 25-233 of the Code to petition the courts to take property by condemnation. As explained above, we have made the findings required by § 25-233 of the Code in favor of Chesapeake.

Moreover, as also explained above, the Commission has limited authority in this matter. Suffolk claims that Chesapeake "wants to seize an advantage over the rest of the jurisdictions regarding access to future water supply."<sup>4</sup> Suffolk then contends that the "law affords the Commission no role in assisting Chesapeake to carry out this agenda."<sup>5</sup> Our Order today, however, does not speak to these issues. The proceeding herein involves access to the courts of the Commonwealth. We need not make any findings, for example, as to allocations of water resources or access to water supply. Contrary to Suffolk's assertions, the Commission's action herein does not "grant Chesapeake an undefined water allocation," does not "rule that Chesapeake is entitled to free discretion and unlimited allocations of water from any source through its pipeline," and does not "adjudicate legal rights under [the 1997 Four-City] Settlement Agreement."<sup>6</sup>

We conclude that the findings required by § 25-233 of the Code are made in favor of Chesapeake. We will, therefore, grant Chesapeake permission to initiate the condemnation proceeding in the courts of the Commonwealth to acquire the desired utility easement across the parcel of land owned by Suffolk to install its proposed water transmission line.

Accordingly, IT IS ORDERED THAT:

- (1) Suffolk's Motion to Dismiss is hereby denied.
- (2) Chesapeake is hereby granted permission to initiate a condemnation proceeding in the courts of the Commonwealth to acquire the desired utility easement across the parcel of land owned by Suffolk to install its proposed water transmission line.
- (3) This matter is hereby dismissed from the Commission's docket of active proceedings, and the papers filed herein shall be placed in the Commission's file for ended causes.

<sup>3</sup> Supplemental Brief at 8.

<sup>4</sup> *Id.* at 11.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.* at 6, 8, 10.

**CASE NO. PUE-2002-00171  
AUGUST 9, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION  
v.  
CENTRAL LOCATING SERVICE, LTD.,  
Defendant

**ORDER OF SETTLEMENT**

Pursuant to § 56-265.30 of the Code of Virginia, the Virginia State Corporation Commission ("Commission") is charged with enforcing the provisions of the Underground Utility Damage Prevention Act, §§ 56-265.14 *et seq.* of the Code of Virginia ("Act"). The Commission's Division of Utility and Railroad Safety ("Division"), charged with the investigation of probable violations of the Act, has completed investigations of certain incidents between August 10, 2001, and December 31, 2001, listed in Attachment A, involving Central Locating Service, Ltd. ("Company"), and alleges that:

- (1) The Company is a contract locator as that term is defined in § 56-265.15 of the Code of Virginia;
- (2) During the aforementioned period the Company violated the Act by committing the following violations:
  - (a) Failing on certain occasions to mark the approximate horizontal location of the underground utility lines on the ground to within two feet of either side of the underground utility lines, in violation of §§ 56-265.19 A and D of the Code of Virginia.

- (b) Failing on certain occasions to mark within the time prescribed in the Act, in violation of § 56-265.17 B and §§ 56-265.19 A and D of the Code of Virginia.
- (c) Failing on certain occasions to report to the notification center that lines had been marked or they were not in conflict with the proposed excavation, in violation of §§ 56-265.19 A, B, and D of the Code of Virginia.

As evidenced in the attached Admission and Consent document, the Company neither admits nor denies these allegations but admits the Commission's jurisdiction and authority to enter this Order.

As an offer to settle all matters before the Commission arising from the Division's allegations made herein, which includes all probable violations presented to the Underground Utility Damage Prevention Advisory Committee on March 5, 2002, and set out in Attachment A hereto, the Company represents and undertakes that it will pay a civil penalty to the Commonwealth of Virginia in the amount of \$12,700 to be paid contemporaneously with the entry of this Order. This payment will be made by cashier's check or money order, payable to the Treasurer of Virginia and directed to the attention of the Director of the Division of Utility and Railroad Safety.

The Commission, being advised by the Staff and finding sufficient basis herein for the entry of this Order, hereby accepts this settlement.

Accordingly, IT IS ORDERED THAT:

- (1) Pursuant to the authority granted the Commission by § 12.1-15 of the Code of Virginia, the offer of settlement made by the Company be, and it hereby is, accepted.
- (2) The sum of \$12,700 tendered contemporaneously with the entry of this Order is accepted.
- (3) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. PUE-2002-00172  
APRIL 18, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION

v.

WASHINGTON GAS LIGHT COMPANY,  
Defendant

**ORDER OF SETTLEMENT**

Pursuant to § 56-265.30 of the Code of Virginia, the Virginia State Corporation Commission ("Commission") is charged with enforcing the provisions of the Underground Utility Damage Prevention Act, §§ 56-265.14 *et seq.* of the Code of Virginia. The Commission's Division of Energy Regulation ("Division"), after having conducted an investigation of this matter, alleges that:

- (1) On or about November 21, 2001, S. Stephens Cable Construction, Inc., damaged a one-quarter inch plastic gas service line operated by Washington Gas Light Company ("Company") located at or near 14806 Empire Street, Dale City, Virginia, while excavating;
- (2) On or about November 26, 2001, Grade Solutions, Inc., damaged a three-quarter inch plastic gas service line operated by the Company located at or near 8101 Guinevere Drive, Annandale, Virginia, while excavating;
- (3) On or about December 11, 2001, Johnson Building Corp. damaged a one and one-quarter inch plastic gas service line operated by the Company located at or near 9870 Lee Highway, Fairfax, Virginia, while excavating;
- (4) On or about December 12, 2001, D. D. P., Inc., damaged a one and one-quarter inch plastic gas service line operated by the Company located at or near 1210 Wind Rock Drive, Great Falls, Virginia, while excavating;
- (5) On or about January 4, 2002, Bell Bros., Inc., damaged a one-half inch plastic gas service line operated by the Company located at or near 3808 Wilson Boulevard, Arlington, Virginia, while excavating;
- (6) On or about January 16, 2002, Mid-Atlantic Cable damaged a three-quarter inch plastic gas service line operated by the Company located at or near 709 North York Road, Sterling, Virginia, while excavating;
- (7) On or about January 16, 2002, Silva Construction damaged a one-half inch plastic gas service line operated by the Company located at or near 5505 Burley Court, Burke, Virginia, while excavating;
- (8) On or about January 18, 2002, Cherry Hill Construction, Inc., damaged a one-inch steel gas service line operated by the Company located at or near 106 West Rosemont Avenue, Alexandria, Virginia, while excavating;
- (9) On or about January 21, 2002, Casper Colosimo & Son, Inc., damaged a one-half inch plastic gas service line operated by the Company located at or near 8414 Derby Court, Springfield, Virginia, while excavating; and
- (10) The Company failed to mark the approximate horizontal location of the lines on the ground to within two feet of either side of the underground utility lines, in violation of § 56-265.19 A of the Code of Virginia.

As evidenced in the attached Admission and Consent document, the Company neither admits nor denies these allegations but admits the Commission's jurisdiction and authority to enter this Order. As an offer to settle all matters before the Commission arising from the Division's allegations made herein, the Company represents and undertakes that:

(1) The Company will pay a civil penalty to the Commonwealth of Virginia in the amount of \$5,500 to be paid contemporaneously with the entry of this Order. This payment will be made by cashier's check or money order, payable to the Treasurer of Virginia and directed to the attention of the Director of the Division of Energy Regulation.

(2) Any fines paid in accordance with this Order shall not be recovered in the Company's rates as part of the cost of service. Any such fines shall be booked in Uniform System of Account No. 426.3. The Company shall verify its booking by filing a copy of the trial balance showing this entry with the Division of Public Utility Accounting.

THE COMMISSION, being advised by the Staff and finding sufficient basis herein for the entry of this Order, hereby accepts this settlement.

Accordingly, IT IS ORDERED THAT:

(1) Pursuant to the authority granted the Commission by § 12.1-15 of the Code of Virginia, the offer of settlement made by the Company be, and it hereby is, accepted.

(2) The sum of \$5,550 tendered contemporaneously with the entry of this Order is accepted.

(3) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. PUE-2002-00173  
MAY 2, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION  
v.  
UTILIQUEST, LLC,  
Defendant

**ORDER OF SETTLEMENT**

Pursuant to § 56-265.30 of the Code of Virginia, the Virginia State Corporation Commission ("Commission") is charged with enforcing the provisions of the Underground Utility Damage Prevention Act, §§ 56-265.14 *et seq.* of the Code of Virginia. ("Act"). The Commission's Division of Energy Regulation ("Division"), charged with the investigation of probable violations of the Act, has completed investigations of certain incidents between August 20, 2001, and January 22, 2002, listed in Attachment A, involving Utiliquest, LLC ("Company"), and alleges that:

(1) The Company is a contract locator as that term is defined in § 56-265.15 of the Code of Virginia;

(2) During the aforementioned period the Company violated the Act by committing the following violations:

(a) Failing on certain occasions to mark the approximate horizontal location of the underground utility lines on the ground to within two feet of either side of the underground utility lines, in violation of §§ 56-265.19 A and D of the Code of Virginia.

(b) Failing on certain occasions to mark within the time prescribed in the Act, in violation of §§ 56-265.19 A and D of the Code of Virginia.

(c) Failing on certain occasions to report to the notification center that lines had been marked or they were not in conflict with the proposed excavation, in violation of §§ 56-265.19 A and D of the Code of Virginia.

As evidenced in the attached Admission and Consent document, the Company neither admits nor denies these allegations but admits the Commission's jurisdiction and authority to enter this Order. As an offer to settle all matters before the Commission arising from the Division's allegations made herein, which includes all probable violations presented to the Underground Utility Damage Prevention Advisory Committee on March 5, 2002, and set out in Attachment A hereto, the Company represents and undertakes that it will pay a civil penalty to the Commonwealth of Virginia in the amount of \$31,650 to be paid contemporaneously with the entry of this Order. This payment will be made by cashier's check or money order, payable to the Treasurer of Virginia and directed to the attention of the Director of the Division of Energy Regulation.

The Commission, being advised by the Staff and finding sufficient basis herein for the entry of this Order, hereby accepts this settlement.

Accordingly, IT IS ORDERED THAT:

(1) Pursuant to the authority granted the Commission by § 12.1-15 of the Code of Virginia, the offer of settlement made by the Company be, and it hereby is, accepted.

(2) The sum of \$31,650 tendered contemporaneously with the entry of this Order is accepted.

(3) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. PUE020174  
MARCH 18, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

Ex Parte: In the matter concerning the aggregation of retail electric customers under the provisions of the Virginia Electric Utility Restructuring Act

**ORDER ESTABLISHING INVESTIGATION**

The Virginia Electric Utility Restructuring Act ("Restructuring Act" or "Act"), Chapter 23 (§ 56-576 *et seq.*) of Title 56 of the Code of Virginia authorizes the provision of aggregation services for the Commonwealth's retail electricity customers. An aggregator, as defined in the Act, is a person who acts as an agent or intermediary in connection with the purchase and sale of electricity to two or more retail electricity customers.<sup>1</sup> Section 56-588 of the Act requires the licensure of aggregators, and § 56-589 prescribes the circumstances in which the Commonwealth's localities may aggregate the loads of electric customers within their boundaries. Inter-locality aggregation and aggregation by the agencies of the Commonwealth are also described in § 56-589.

As directed by this Commission's Order concerning the phase-in of retail competition for electric generation promulgated in accordance with § 56-577 of the Act,<sup>2</sup> the Commonwealth's transition to retail generation choice began on January 1, 2002. With the exception of Virginia's electric cooperatives and Kentucky Utilities (d/b/a Old Dominion Power), all of Virginia's incumbent electric utilities will complete their phase-ins to retail choice by January 1, 2003. The remainder must be phased in not later than January 1, 2004. Consequently, determining the implementation of critical details, including the licensure and required oversight of persons engaged in aggregation activities, is extremely important.

**Licensing**

One key issue with respect to aggregation is determining which persons or entities must be licensed as aggregators. That question, in turn, is directly linked to the definition of "aggregator" set forth in § 56-576 of the Act. Notably, that definition was substantially amended by legislation passed by the 2000 Session of the Virginia General Assembly to carve out activities that "in and of themselves" would not constitute aggregation.<sup>3</sup> The amendatory language effectively establishes presumptions against an obligation to obtain licensure for persons engaged in certain activities, including educational, professional, and informational activities related to retail sales of generation services.<sup>4</sup>

These presumptions or "safe harbors" in clauses (i) through (iii) of the Act's definition of "aggregator" are easy enough to apply with respect to the simple acts of providing, without more, legal, educational, informational, or analytical services to retail customers, aggregators or suppliers.<sup>5</sup> Clauses (iv) and (v) effectively exempt from the definition's operation those persons serving as default suppliers under § 56-585 of the Act, or as suppliers of generation when licensed under § 56-587.

It is the remaining presumption in clause (vi) that introduces the most complexity in its application. This clause provides, in pertinent part, that "engaging in actions of a retail customer, in common with one or more other such retail customers, to issue a request for proposal or to negotiate a purchase of electric energy for consumption by such retail customers" does not in and of itself require licensing as an aggregator under the Act.

It seems likely that a group of residential customers could act in concert under the terms of clause (vi) to market their combined electric load to a competitive supplier without the necessity of obtaining an aggregation license. Such customers satisfy the principal criteria for this safe harbor's coverage by acting as retail customers in common with similar electric customers to obtain electric energy for their own consumption.

However, it would appear that the reach of clause (vi)'s presumption against licensing may be broader than a handful of residential customers, or even a property owners association. A group of industrial customers purchasing power for their own use might also fall within this exemption. Likewise, a

<sup>1</sup> As set forth in § 56-576 of the Restructuring Act, "'Aggregator' means a person that, as an agent or intermediary, (i) offers to purchase, or purchases, electric energy or (ii) offers to arrange for, or arranges for, the purchase of electric energy, for sale to, or on behalf of, two or more retail customers not controlled by or under common control with such person. The following activities shall not, in and of themselves, make a person an aggregator under this chapter: (i) furnishing legal services to two or more retail customers, suppliers or aggregators; (ii) furnishing educational, informational, or analytical services to two or more retail customers, unless direct or indirect compensation for such services is paid by an aggregator or supplier of electric energy; (iii) furnishing educational, informational, or analytical services to two or more suppliers or aggregators; (iv) providing default service under § 56-585; (v) engaging in activities of a retail electric energy supplier, licensed pursuant to § 56-587, which are authorized by such supplier's license; and (vi) engaging in actions of a retail customer, in common with one or more other such retail customers, to issue a request for proposal or to negotiate a purchase of electric energy for consumption by such retail customers."

<sup>2</sup> Commonwealth of Virginia, *ex rel.* State Corporation Commission *ex parte*: In the matter concerning a draft plan for phase in of retail competition, Case No. PUE000740 (Commission Order dated March 30, 2001).

<sup>3</sup> Chapter 991 of the 2000 Acts of the Virginia General Assembly.

<sup>4</sup> Although it is equally clear that the use of the phrase "in and of themselves" indicates that the presumption can be overcome if any person engages in activities that do constitute aggregation within the actual definition, *i.e.*, "(i) offers to purchase, or purchases, electric energy or (ii) offers to arrange for, or arranges for, the purchase of electric energy, for sale to, or on behalf of, two or more retail customers not controlled by or under common control with such person."

<sup>5</sup> Although the General Assembly added a twist to this presumption by stating in the definition's clause (ii), that if persons providing educational, informational, or analytical services to retail customers are also receiving compensation from aggregators or suppliers, this safe harbor is not applicable to such persons.

trade association comprised of these industrial customers and nominally representing such customers in their efforts to market their electrical load might similarly be exempt from licensure.

The outer boundaries of the clause (vi) presumption, however, are not detailed in the definition of "aggregator" or anywhere else in the Restructuring Act, leaving several key practical questions to be addressed. For example, does clause (vi) effectively exempt from licensing collective electricity purchasing programs offered to the members of religious or other not-for-profit organizations, for-profit buying clubs, or senior citizens organizations? It is these questions that may have to be answered as retail choice is phased in.

A closely related issue concerns the potential obligation to obtain aggregator licensing of any membership organization that enters into marketing arrangements with suppliers or aggregators. Specifically, if such an arrangement provides a supplier or aggregator access to an organization's members or membership data in exchange for compensation by the supplier or aggregator to that organization, should that organization be licensed as an aggregator because of its "intermediary" role in bringing together suppliers and customers in a retail generation transaction? The same question is generated when such an organization endorses a supplier or aggregator's offerings, and receives compensation in exchange for that endorsement. Whether any such marketing arrangement would or should require the organization to be licensed as an aggregator is not addressed directly by the Act's provisions.

**Other issues:**

Other important issues on this topic relate to the terms and conditions of aggregation relationships. Should, for example, some limitations be placed on the length of aggregation contracts, or restrictions imposed on provisions for liquidated damages? Also, should aggregation contract cancellation rights be further clarified?<sup>6</sup> Aggregation activities by affiliates of incumbent electric utilities raise additional questions about the potential impact of such activities on the development of effective competition within incumbent utilities' service territories.

Because retail customer aggregation may be very important to the development of effective competition for electric generation services in the Commonwealth, we have initiated this proceeding to further assist us in developing and refining appropriate policies, rules and regulations applicable thereto. As outlined above, we believe that inquiry is warranted in three categories: (i) licensing of aggregators, (ii) contractual relationships between aggregators and their customers (and also as between aggregators and suppliers or other aggregators), and (iii) the impact of incumbent electric utilities' relationships with their aggregator affiliates on the development of effective competition within the Commonwealth.

We will thus direct the Commission Staff to reconvene the work group from the proceeding that developed proposed rules governing retail access to competitive energy services.<sup>7</sup> Such working group may, however, be enlarged to accommodate other parties interested in the issues that are the subject of this investigation. In that vein, persons interested in participating in such working group should contact David Eichenlaub in the Commission's Division of Economics and Finance by e-mail at [deichenlaub@scc.state.va.us](mailto:deichenlaub@scc.state.va.us) or by telephone at (804) 371-9295. The Staff and the work group will focus on the aggregation issues outlined above, as well as any others identified in the course of that dialogue. We will further direct the Staff to file a report concerning the work group's activities together with any proposed rules or other recommendations relating thereto.

Accordingly, IT IS ORDERED THAT:

(1) The Commission Staff shall conduct an investigation with respect to further refinement of the Commission's rules concerning aggregation, with input from a working group as set forth in this Order.

(2) On or before August 1, 2002, the Commission Staff shall file with the Clerk of the Commission, an original and fifteen (15) copies of a Staff report detailing the results of the aforesaid investigation, together with the provisions of any proposed rules concerning retail customer aggregation as may be proposed by the Staff. The Staff shall concurrently serve one (1) copy of such report, including any proposed rules, on all work group participants.

<sup>6</sup> Under the rules governing retail access adopted by this Commission, consumers may cancel an aggregation contract within 10 days of its execution (20 VAC 5-312-70 C 8). There are currently no provisions in these rules limiting the terms of aggregation contracts, or placing any restrictions on liquidated damages due and payable to an aggregator in the event of cancellation or breach. The general terms and conditions of any such contract must be disclosed under these rules, however.

<sup>7</sup> Commonwealth ex rel. State Corporation Commission, Ex Parte: In the matter of establishing rules for retail access, Case No. PUE010013 (Commission Order adopting rules entered on June 19, 2001).

**CASE NO. PUE-2002-00178  
DECEMBER 23, 2002**

PETITION OF  
WASHINGTON GAS LIGHT COMPANY

For approval of a plan to remedy billing errors

**FINAL ORDER**

History of the Case

On March 25, 2002, Washington Gas Light Company ("Washington Gas" or "Company") filed a Petition with the State Corporation Commission ("Commission") for approval of "certain aspects" of its plan to remedy billing errors, pursuant to 5 VAC 5-20-100 B of the Commission's Rules of Practice and Procedure ("Rules"). Washington Gas requested that the Commission approve its plan to use an annual leak survey program to identify customers who have been billed incorrectly. According to the Company, the billing errors resulted from an inconsistency between the delivery pressure of gas reflected in

the Company's billing system and the actual delivery pressure to certain of its customers in Virginia and resulted in overcharges in some cases and undercharges in others. The Company discovered these errors in March 2001.

By Order dated April 10, 2002, the Commission docketed the matter; determined that the matter should be treated as an Application pursuant to 5 VAC 5-20-80 A of the Rules; assigned the matter to a Hearing Examiner; and directed any interested party and the Commission's Staff ("Staff") to file with the Commission by May 10, 2002, a responsive pleading to the Application or a request for hearing or both. The Company was also directed to provide public notice of its Application.

On May 3, 2002, Washington Gas filed proof of notice required by the April 10, 2002, Order.

By Hearing Examiner's Rulings dated May 9, 2002, and May 23, 2002, the deadline for interested parties to file responsive pleadings was extended to May 24, 2002, and then to June 21, 2002, respectively.

#### Joint Stipulation

On June 21, 2002, Washington Gas filed a Joint Stipulation ("Stipulation"), which it stated resolved all issues related to the remediation of billing errors. Washington Gas represented that the Staff, Division of Consumer counsel of the Office of the Attorney General ("Attorney General"), and Washington Gas Energy Services, Inc. ("WGES"), agreed to the Stipulation. In addition, Washington Gas represented that the Arlington County Citizen and Consumer Affairs Office ("Arlington County") and the Fairfax County Consumer Protection Division ("Fairfax County") would support the Stipulation before their respective County Boards of Supervisors.

The salient features of the Stipulation include the following:

- (1) Washington Gas will make refunds for overcharges on bills rendered beginning March 1996, or the date the customer commenced service, whichever is later, and ending on the date the billing for the customer is corrected.
- (2) Washington Gas may collect from customers who were under-billed during the one-year period preceding the date the billing is corrected, or for a period beginning when the customer commenced service, whichever period is lesser.
- (3) Washington Gas may use its annual leak survey program to identify customers who were incorrectly billed as a result of the improper application of, or the failure to apply, the 2-psi billing adjustment factor.
- (4) For customers who received gas through a supplier other than Washington Gas, the portion of the bill owed to Washington Gas will be recalculated based on the Company's delivery charge, and the "commodity" charge also will be recalculated to determine whether Washington Gas caused the supplier to incorrectly charge for gas. The Company will work with each supplier to reconcile any amount over- or under-billed. Washington Gas will then refund or re-bill these amounts on the Washington Gas portion of the bill.

Also on June 21, 2002, the Attorney General filed comments in favor of the Stipulation, but also requested a public hearing for affected current and former customers to present their individual views to the Commission. A Hearing Examiner's Ruling scheduled public hearings for September 9, 2002, at 2:00 p.m. and 7:00 p.m. at the Fairfax County Judicial Center and directed the Company to provide public notice of the hearings.

In a letter dated June 28, 2002, Pepco Energy Services, Inc. ("Pepco"), stated that it did not support the Stipulation because of concerns that under the provisions of 20 VAC 5-312-90 H, which governs the assignment of customer payments when a customer makes a partial payment, under-billed errors of Washington Gas will have a higher payment priority than the services provided by competitive suppliers.

In a Hearing Examiner's Ruling dated August 20, 2002, Washington Gas was granted leave to amend the Stipulation to add a signature line for Fairfax County, since the Fairfax County Board of Supervisors approved the Stipulation at its July 22, 2002, meeting.

#### September 9, 2002 Public Hearings

On September 9, 2002, public hearings were convened as scheduled at the Fairfax County Judicial Center. No public witnesses offered testimony at either the 2:00 p.m. hearing or the 7:00 p.m. hearing. During the 2:00 p.m. hearing, a letter was received from Mike Kilgore in which he questioned the safety of gas service provided by the Company. Mr. Kilgore also recommended that Washington Gas pay all over-billed customers from shareholder funds and not be allowed to collect any money from under-billed customers. The September 9, 2002, public hearings also served as the evidentiary hearings in this matter. Representing Washington Gas was Donald R. Hayes, Esquire, and Douglas Pope, Esquire. Dennis R. Bates, Esquire, appeared on behalf of the Fairfax County Board of Supervisors. Charles Wood appeared on behalf of Arlington County. Christy A. McCormick, Esquire, appeared on behalf of the Attorney General. Katharine A. Hart, Esquire, and Allison L. Held, Esquire, represented the Staff.

At the public hearing, counsel for Washington Gas presented the Stipulation and addressed two issues. The first was the issue of partial payment priorities addressed in Paragraph 7 of the Stipulation. Counsel for Washington Gas explained that under the Stipulation, charges billed to a customer who was under-billed due to the billing error will be treated as current charges of the local distribution company for purposes of 20 VAC 5-312-90 H. Thus, such charges would have priority over current charges of competitive service providers. The second issue was whether the billing error provides any indication that there is a related safety or delivery pressure problem. Counsel for Washington Gas affirmed that the billing errors were strictly a billing coding problem, not a safety or delivery pressure problem. The Company also indicated during the hearing that it will focus on collecting the undercharges from existing customers, but stated that if a customer should call the Company to determine whether he or she has been overcharged or undercharged, Washington Gas may use that information to collect undercharges from that customer. Counsel for the Company noted, however, that there will not be any organized means of identifying former customers.

#### Hearing Examiner's Report

On October 11, 2002, the Hearing Examiner issued his Report. In his Report, the Examiner found that the Commission is not required to resolve any issues that may arise concerning partial payment because Paragraph 7 of the Stipulation does not explicitly address partial payment priorities. He

recommended that the Commission encourage the Company and competitive service providers ("CSPs") to work through any issues that may arise concerning partial payments. He also stated that he could not find anything in the record that remotely suggests that the billing problem in this case is related in any way to a safety or delivery pressure problem. The Examiner therefore found that the Stipulation offers a reasonable and just resolution to all of the issues in this case, and that it should be adopted.

The Examiner recommended that the Commission enter an order that adopts the findings in his Report, approves the Stipulation, and dismisses the case from the Commission's docket of active matters.

On October 31, 2002, the Fairfax County Board of Supervisors filed comments on the Report. In its comments, the Fairfax County Board of Supervisors endorsed the Report and requested that the Commission approve the Stipulation and hold open the record of this proceeding until the Company presents evidence that the billing errors are corrected and that refunds of overcharges and collection of undercharges have been completed.

On November 1, 2002, Washington Gas filed its comments on the Report. In its comments, the Company noted that the Stipulation received broad support, including from the Company, the Staff, the Attorney General, the Fairfax County Board of Supervisors, and by WGES, and that no public witness offered testimony at either of the two public hearings that were held on September 9, 2002. Washington Gas also discussed the concern expressed by Pepco relating to the application of payments when a customer makes a partial payment of charges appearing on a consolidated bill. The Company stated that, in accordance with the recommendation in the Report if it is adopted by the Commission, Washington Gas will work with CSPs to attempt to resolve any issues that may arise concerning the treatment of partial payments. The Company urged the Commission to adopt the recommendations in the Report at its earliest convenience so that the Company can begin implementing the terms of the Stipulation.

#### Commission's November 13, 2002, Order on Stipulation

On November 13, 2002, the Commission entered an Order on Stipulation. In the Order, we commended the parties to this case for working diligently to achieve resolution to the billing problem, and accepted the Stipulation with one modification. We required that the Stipulation be modified to require Washington Gas to provide written notice to former customers, at the last known address from the Company's records, who the Company determines are entitled to a refund under the terms of the Stipulation. The notice requirement is only to apply where the refund amount is greater than \$1.00 and shall state the amount of the refund due. The notice also requires former customers to respond to the Company, in writing within 90 days from the date of the letter, and confirm that they were a customer of record in the premises identified as having been affected by the 2-psi billing adjustment matter. We recognized that the modification changed the terms of the Stipulation, and therefore required all signatories to the Stipulation to agree to incorporate this modification. We directed the parties to file notice with the Commission no later than December 11, 2002, stating whether the modification was acceptable.

On December 10, 2002, Washington Gas filed a letter advising the Commission that it accepts the modification to the terms of the Stipulation described in the November 13, 2002, Order. In the letter, Washington Gas stated that it contacted all of the other signatory parties to the Stipulation, including the Staff, the Attorney General, WGES, and the Fairfax County Board of Supervisors, and has authorization to state that none of these parties opposes the modification. The Company also stated that Paragraph 4 of the Stipulation provides, in part, that Washington Gas ". . . will calculate applicable refunds or undercharges as soon as practicable after determining that a customer has been billed incorrectly." While no change is required to that language, the Company stated that it has advised the parties that, as a result of programming changes required to implement the modification, it may require an additional period of time to calculate refunds or undercharges.

On December 11, 2002, counsel for the Fairfax County Board of Supervisors filed a Notice of Acceptance of the Modification.

NOW THE COMMISSION, having considered the record, the Company's application, the Stipulation, the Hearing Examiner's Report and the comments thereto, the Company's December 10, 2002, letter, and the applicable law, finds that the Stipulation proffered by Washington Gas, the Staff, the Fairfax County Board of Supervisors, WGES, and the Attorney General is hereby adopted, with Section 1 modified as follows:

1. The Company shall refund to current customers of record who were overcharged as a result of the improper application of the 2-psi billing adjustment factor all overcharges on bills rendered between the period beginning with the later of: (i) March 1996, or (ii) the date the customer commenced service at the current service address, and ending on the date the billing for such customer is corrected by eliminating the 2-psi billing adjustment factor. Refunds shall be made only to customers who are current customers of record in a premises affected by the 2-psi billing adjustment problem as of the date billing errors related to the 2-psi billing adjustment problem are confirmed to exist in the Company's billing system for each such customer, and to former customers as provided in this paragraph. Washington Gas shall provide written notice to former customers, at the last known address from the Company's records, who the Company determines are entitled to a refund under the terms of the Stipulation. This notice requirement shall only apply where the refund amount is greater than \$1.00 and shall state the amount of the refund due. Such notice also shall require the former customers to respond to the Company, in writing within 90 days from the date of the letter, and confirm that they were a customer of record in the premises identified as having been affected by the 2-psi billing adjustment matter. The Company shall respond to inquiries from current and former customers in a timely and accurate manner . . .

We find that the Stipulation, as modified above, offers a reasonable and just resolution to the billing error problems in this case.

Accordingly, IT IS ORDERED THAT:

(1) The Stipulation entered into between Washington Gas, the Staff, the Fairfax County Board of Supervisors, WGES, and the Attorney General, as modified by this Order, is ADOPTED.

(2) Pursuant to Section 5 of the Stipulation, within 60 days from the date of this Order, the Company shall file with the Commission a proposed tariff or other appropriate proposal for the resolution of general billing errors that might occur in the future.

(3) Pursuant to Section 6 of the Stipulation, the Company shall file a report with the Commission's Division of Energy Regulation on a semi-annual basis regarding the status of the resolution of the billing errors relating to the 2-psi billing adjustment problem. The Company's first report is due March 30, 2003.

(4) There being nothing further to come before the Commission, this matter shall be removed from the docket and the papers placed in the file for ended causes.

**CASE NO. PUE-2002-00179  
NOVEMBER 6, 2002**

APPLICATION OF  
KENTUCKY UTILITIES COMPANY

Annual Informational Filing for Calendar Year 2001

**ORDER**

On May 1, 2002, the State Corporation Commission (the "Commission") issued an order in this proceeding granting a request by Kentucky Utilities Company d/b/a Old Dominion Power Company ("KU/ODP" or the "Company") for a waiver from filing Schedules 15, 16, 17, 19, and 20 and an extension until June 28, 2002, for filing the Company's Annual Informational Filing ("AIF") for calendar year 2001. On June 28, 2002, KU/ODP filed its 2001 AIF.

On October 11, 2002, the Commission Staff filed its report on the Company's 2001 AIF ("Report"). The Report notes that KU/ODP's return on equity is 10.76%, which is below the 12.00-13.00% return on equity range established in Case No. PUA-1997-00041. The Report concludes, therefore, that no write-off of regulatory assets is necessary and there is no need for further action regarding the 2001 AIF. Counsel for the Staff was advised that the Company had no comments on or objections to the Report.

NOW THE COMMISSION, upon consideration of the Company's application, the Report, and the applicable statutes, is of the opinion and finds that this matter should be dismissed.

Accordingly, IT IS ORDERED THAT, this matter shall be dismissed from the Commission's docket of active proceedings and the papers filed herein placed in the Commission's file for ended causes.

**CASE NO. PUE-2002-00180  
JULY 16, 2002**

PETITION OF  
VIRGINIA ELECTRIC AND POWER COMPANY

For a Declaratory Judgment and, in the Alternative, Application for Authority to Construct and Operate Transmission Facilities Pursuant to the Utility Facilities Act

**FINAL ORDER**

On March 26, 2002, Virginia Electric and Power Company ("Virginia Power" or "Company") filed a pleading seeking alternative actions. The Company petitioned for a judgment declaring that its proposed construction of a 230 kV underground electrical transmission facility and associated substation does not require the issuance of a construction certificate pursuant to the Utility Facilities Act, Chapter 10.1 (§56-265 et seq.) of Title 56 of the Code of Virginia.

Alternatively, Virginia Power requested that the Commission issue the certificate for facilities to be constructed in the City of Norfolk to serve U.S. Navy installations. Attached to the Company's petition was a completed response to the Commission's "Guidelines of Minimum Requirements for Transmission Line Applications."

By Order of April 18, 2002, the Commission denied the Company's petition for a declaratory judgment that Virginia Power did not need a certificate of public convenience and necessity to construct and operate the proposed underground transmission line and associated facilities. We directed the Company to give notice of the application for a certificate, and we authorized interested persons to file comments and requests for hearing. We also directed the Commission Staff to investigate the application and file a report of its findings. By Order of June 4, 2002, the Commission modified the filing date for the Staff report and set other filing dates.

On May 6, 2002, and June 18, 2002, Virginia Power filed with the Clerk of the Commission certificates of mailing of copies of its application and the Commission's orders to various state and local officials. We find that adequate notice of the application for a certificate was given. In response to the notice, the Commission received no comments or requests for a hearing.

The Staff filed on June 24, 2002, its report on the application. The Staff recommended that the application for a certificate be granted, with certain conditions. Virginia Power filed on July 1, 2002, comments on the Staff's report. While Virginia Power accepted the various conditions, the Company noted that satisfaction of some conditions would be the Navy's responsibility.

The Commission finds that it may address this matter on the basis of the application, the Staff's report, and Virginia Power's comments without conducting a public hearing. As discussed in this Order, the Commission will grant the application and issue the certificate of public convenience and necessity with certain conditions.



Under contract to the U.S. Navy, Virginia Power will construct a double-circuit 230 kV underground transmission line approximately 0.52 mile in length between the Company's existing Sewell's Point Substation and a new Navy South Substation. The project will accommodate anticipated growth in the Navy's electrical load and will act to improve reliability. In addition to increasing load-carrying capability and reliability, the new underground line will enhance views of the area and will avoid the need for tall transmission towers above the proposed extension of Interstate Route 564. The towers could pose a hazard to aircraft operating from the base.

The Navy will pay for the project, which is expected to cost approximately \$9 million. Upon completion, Virginia Power will own the transmission line and the 230 kV side of the Navy South Substation (including the 230 kV to 34.5 kV stepdown transformer), and the Navy will own the 34.5 kV side of the substation.

The corridor for the line would be approximately 2751.5 feet in length in an area of Norfolk devoted to industrial, commercial, and military use. The proposed double-circuit line will require a 20-foot easement. Most of the corridor (approximately 1837.7 feet) is on the Navy Base. In addition, approximately 503.35 feet would be on land owned by the Virginia Port Authority, and approximately 410.44 feet would be on the property of the Norfolk Southern Railway Company. The Company has obtained permission from the three landowners for construction.

Two existing utility easements parallel the proposed line. The U. S. Government has a 500-foot easement for an underground electrical distribution line, and the Hampton Roads Sanitary District had a 250-foot easement. The easement holders had various operating objections to sharing an easement with the proposed transmission line. The Company could not identify viable alternatives to the chosen corridor, which is the shortest possible route.

At the request of the Staff, the Virginia Department of Environmental Quality ("DEQ") coordinated a review of this project by various state and local agencies responsible for reviewing the impacts upon natural resources of electric utility projects. The review, which was included as an attachment to the Staff's report, contains a summary of recommendations and copies of the documents submitted to DEQ by the various reviewing agencies. DEQ recommended that Virginia Power take the following steps:

- Obtain all applicable environmental permits or approvals or exceptions prior to commencement of construction activities.
- Encourage the Navy to address storm water loading reduction requirements in its facility-wide storm water master planning at the base.
- Coordinate project efforts with the Department of Transportation in regard to its projects pertaining to Hampton Boulevard and Interstate Route 564.
- Conduct an environmental hazards investigation before construction begins to ensure that there are no waste-related issues or sites.
- Contact the DEQ Waste Division's Federal Facilities section to determine the location of the proposed transmission line in relation to any Installation Restoration sites, and to consult regarding mitigation or avoidance measures.

In its comments on the Staff report filed July 1, 2002, the Company expressed no objections to any of the recommendations. Virginia Power noted that the Navy had exclusive control of its facilities, and the service would determine what actions to take on its installation.

The Commission will grant Virginia Power's application and issue the requested certificate of public convenience and necessity with certain conditions. As we discussed in our Order of April 18, 2002, underground construction of transmission facilities is an exceptional practice for Virginia Power. In this situation, the customer, the Navy, has unique requirements that underground construction will satisfy. We also note that the customer is paying for the facilities, and that the general body of Virginia Power ratepayers will not bear the direct costs or risk of construction.

The proposed underground construction is compatible with the development and land uses in the area of the line. The DEQ's coordinated review of the project identified no potential adverse environmental impacts associated with the project. The environmental agencies recommended conditions that are, in essence, precautionary steps, and the Company did not object. While we will make these measures conditions of the certificate, we recognize that the Navy has control over environmental compliance matters on its facilities.

Accordingly, IT IS ORDERED THAT:

(1) As provided by §§ 56-46.1, 56-265.2, and related provisions of Title 56 of the Code of Virginia, Virginia Power's application for a certificate of public convenience and necessity is granted.

(2) Virginia Power is authorized to construct and operate a double-circuit 230 kV underground transmission line approximately 0.52 mile in length between the existing Sewell's Point Substation and a new Navy South Substation, and associated facilities at the substations.

(3) Pursuant to the Utility Facilities Act, Chapter 10.1 (§ 56-265.1 *et seq.*) of Title 56 of the Code of Virginia, Virginia Power is issued the following certificate of public convenience and necessity:

Certificate No. ET-95s, which authorizes Virginia Electric and Power Company under the Utility Facilities Act to operate presently constructed transmission lines and facilities in the Cities of Chesapeake, Norfolk, Suffolk, Portsmouth, and Virginia Beach, all as shown on the detailed map attached to the certificate, and to construct and operate facilities as authorized in Case No. PUE-2002-00180; Certificate No. ET-95s will cancel Certificate No. ET-95r issued to Virginia Electric and Power Company on January 28, 1992.

(4) The certificate issued in ordering paragraph (3) above be conditioned on Virginia Power undertaking the following:

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

Obtaining all applicable environmental permits or approvals or exceptions prior to commencement of construction activities.

Encouraging the Navy to address storm water loading reduction requirements in its facility-wide storm water master planning at the base.

Coordinating project efforts with the Department of Transportation in regard to its projects pertaining to Hampton Boulevard and Interstate Route 564.

Conducting an environmental hazards investigation before construction begins to ensure that there are no waste-related issues or sites.

Contacting the DEQ Waste Division's Federal Facilities section to determine the location of the proposed transmission line in relation to any Installation Restoration sites, and to consult regarding mitigation or avoidance measures.

(5) As a condition of the certificate granted in this case, the transmission line must be constructed and in service by December 31, 2003; however, Virginia Power is granted leave to apply for an extension for good cause shown.

(6) This matter be dismissed from the Commission's docket.

**CASE NO. PUE-2002-00181  
JUNE 28, 2002**

PETITION OF  
VIRGINIA ELECTRIC AND POWER COMPANY  
and  
DOMINION RETAIL, INC.

For an exemption of agreement for wholesale sales of power from the filing and prior approval requirements of Chapter 4, Title 56 of the Code of Virginia or, in the alternative, for approval of wholesale power service agreement under Chapter 4, Title 56 of the Code of Virginia, and for expedited consideration

**ORDER**

On April 1, 2002, Virginia Electric and Power Company ("Dominion Virginia Power") and Dominion Retail, Inc. ("Dominion Retail") (collectively, "Companies"), filed a petition under Chapter 4 (§ 56-76 et seq.) of Title 56 of the Code of Virginia ("Code") for exemption from the prior approval and filing requirements thereof or, in the alternative, for approval of Dominion Virginia Power's wholesale sales of power at cost-based rates to Dominion Retail, and for expedited consideration. By Order dated May 30, 2002, and pursuant to § 56-77 of the Code, the Commission extended its sixty-day review period in this proceeding an additional thirty days.

On June 17, 2002, the Commission Staff ("Staff") filed a report concluding that the proposed arrangement is not in the public interest. Staff recommends that the petition be rejected, without prejudice, until: (1) Dominion Virginia Power and Dominion Retail can file an agreement with this Commission that affirms, with the Federal Energy Regulatory Commission's ("FERC") approval, that this Commission may exercise continuing authority over the affiliate contract such that if the Commission were to terminate the authority granted to the Companies, all contracts entered into under the agreement would immediately be null and void; and (2) Dominion Virginia Power can assure that the agreements would not have any negative effects on the fuel factor and controls are in place that allow the Staff to confirm that the fuel factor will not be negatively affected.

On June 25, 2002, the Companies filed a response to Staff's report. The Companies assert, among other things, that: (1) the Commission may exercise its continuing authority over the agreements pursuant to Chapter 4 of the Code; (2) Dominion Retail will be in no better position than any of its competitors to successfully bid for the Company's output; and (3) there is no danger to the fuel factor margin-sharing mechanism from this proposal.

On June 27, 2002, Washington Gas Energy Services ("WGES") filed comments on the petition. WGES expresses concerns regarding, among other things, the proposed bidding process, which provides competitive suppliers a four-hour window to evaluate a proposed transaction and submit a competing bid. WGES believes the Commission should deny the petition as filed, or allow for a bidding window of at least three business days.

On June 27, 2002, the Virginia Committee for Fair Utility Rates ("Virginia Committee") filed a Notice of Participation as Respondent. The Virginia Committee addresses, among other things: (1) the impact on Dominion Virginia Power's fuel factor; (2) the impact on the development of competition in Virginia; and (3) the prices permitted under the arrangement. The Virginia Committee requests that the Commission deny the Companies' petition.

NOW THE COMMISSION, having considered the pleadings and the applicable law, is of the opinion and finds as follows. An exemption from the filing and prior approval requirements of Chapter 4, Title 56 of the Code for the wholesale power agreements between Dominion Virginia Power and Dominion Retail is not in the public interest and should be denied. Review of such arrangements is necessary to ensure protection of the public interest. We find that, subject to the requirements discussed below, the currently proposed arrangement for wholesale sales of power by Dominion Virginia Power at cost-based rates to Dominion Retail is in the public interest and should be approved.

In its report, Staff raises questions regarding the Commission's continuing authority, under Chapter 4 of the Code, over this arrangement. The Companies, however, state that the Commission retains authority under Chapter 4. Further, the Companies propose to stipulate the following:

Dominion Virginia Power and Dominion Retail recognize and agree that the State Corporation Commission has continuing supervisory control over the power agreement between the Companies and has the authority to exercise the provisions of §§ 56-78 and 56-80 of the Code of Virginia in the future with respect to the agreement and transactions thereunder. The Companies further commit not to assert in any forum that FERC's jurisdiction over the rates, terms and conditions of the agreement preempts Virginia law, including the Affiliates Act.

In this regard, we note that the General Assembly has directed the Commission to retain authority over arrangements between public service companies and their affiliated interests. Section 56-80 of the Code provides that "the Commission shall have continuing supervisory control over the terms and conditions of such contracts and arrangements as are herein described so far as necessary to protect and promote the public interest." That same section also requires that "[e]very order of the Commission approving any such contract or arrangement shall be expressly conditioned upon the reserved power of the Commission to revise and amend the terms and conditions thereof, if, when and as necessary to protect and promote the public interest." In addition, § 56-590 G of the Virginia Electric Utility Restructuring Act ("Act") states that, except as provided in § 56-590 B 5 (regarding, among other things, utility transfers under Chapter 5 of the Code), nothing in the Act "shall be deemed to abrogate or modify the Commission's authority under Chapter 3 (§ 56-55 et seq.), 4 (§ 56-76 et seq.) or 5 (§ 56-88 et seq.)" of Title 56 (emphasis added).

We find that, for the agreements to be in the public interest, the Commission must retain authority under Chapter 4, including the authority to revoke our approval of such arrangement. We concur with the Companies that the Commission should not be preempted by FERC from exercising such authority. We also agree with the Companies that, if the Commission later determines continuation of such arrangement is no longer in the public interest, then the Commission should have the authority to take corrective action. Given the critical importance of our continuing jurisdiction under Chapter 4 of the Code, we will require the Master Power Purchase and Sale Agreement ("Agreement"), which must be approved by FERC, to include the following terms:

The Virginia State Corporation Commission has continuing supervisory control over the power agreements between Dominion Virginia Power and Dominion Retail and has the authority to exercise the provisions of §§ 56-78 and 56-80 of the Code of Virginia in the future with respect to such agreements and transactions thereunder, including the authority to terminate such agreements and transactions.

In addition, to ensure that the Commission is able to fulfill its obligations under Chapter 4, the Agreement also shall be modified to provide that if the Commission determines by order that the Agreement and/or all agreements and transactions entered into thereunder must be terminated to protect and promote the public interest, then the Agreement and/or all agreements and transactions entered into thereunder shall terminate 30 days after the date of the Commission's order.

In its report, Staff also states that the arrangement may have negative effects on the fuel factor. The Companies assert, however, that there is no danger to the fuel factor margin-sharing mechanism. We do not find that the possibility of a negative impact on the fuel factor warrants rejection of the proposed arrangement. Rather, we rely upon our continuing authority over this arrangement to ensure that it remains in the public interest.<sup>1</sup> For example, the Commission retains authority to modify or terminate the arrangement if we find that it negatively impacts the fuel factor. In addition, the Commission may address negative impacts during Dominion Virginia Power's fuel factor proceedings by, for example, imputing revenues to Dominion Virginia Power for margin sharing purposes if we find that the margin-sharing mechanism has been negatively impacted.

We note that, among the factors considered in finding the arrangement in the public interest, we must ensure that Dominion Virginia Power can continue to provide reliable service to its retail customers in the Commonwealth. Accordingly, we will direct Staff to monitor the effects of the arrangement approved herein on the fuel factor and on Dominion Virginia Power's provision of reliable service to retail customers in the Commonwealth. Finally, the Companies assert that Dominion Retail will be in no better position than any of its competitors to successfully bid for Dominion Virginia Power's output; we will direct Staff to monitor this, as well.<sup>2</sup>

Accordingly, IT IS ORDERED THAT:

(1) Dominion Virginia Power's request for an exemption from the requirements of § 56-77 A of the Code of Virginia for its proposed wholesale power agreements with Dominion Retail is hereby denied.

(2) The Master Power Purchase and Sale Agreement shall be revised to include the following terms:

The Virginia State Corporation Commission has continuing supervisory control over the power agreements between Dominion Virginia Power and Dominion Retail and has the authority to exercise the provisions of §§ 56-78 and 56-80 of the Code of Virginia in the future with respect to such agreements and transactions thereunder, including the authority to terminate such agreements and transactions.

If the Virginia State Corporation Commission determines by order that this agreement and/or all agreements and transactions entered into hereunder must be terminated to protect and promote the public interest, then this agreement and/or all agreements and transactions entered into hereunder shall terminate 30 days after the date of the Virginia State Corporation Commission's order.

(3) Pursuant to § 56-77 of the Code of Virginia, Dominion Virginia Power is hereby granted approval to make wholesale sales of power at cost-based rates to Dominion Retail, as described in this proceeding and conditioned upon the inclusion in the Master Power Purchase and Sale Agreement of the

<sup>1</sup> We have no expectation of improper activity in the market or otherwise by the Companies under the arrangement. Our continuing jurisdiction, however, is both obligated by law and necessary to enable us to address any such situation if it is alleged to occur.

<sup>2</sup> We also note that WGES expresses concerns with respect to the bidding process. The Virginia Committee expresses concerns regarding the fuel factor, competition, and prices under the arrangement. We recognize these concerns and expect that the monitoring we require of Staff in this Order will encompass issues such as those raised by WGES and the Virginia Committee.

additional terms in ordering paragraph (2), above. Such approval, however, is not granted until the additional terms in ordering paragraph (2), above, are included in the agreement and such agreement, as required to be amended herein, is affirmatively approved by order of the Federal Energy Regulatory Commission.<sup>3</sup>

(4) Should there be any changes in the terms and conditions of the arrangement for wholesale sales of power at cost-based rates to Dominion Retail, from those described in this proceeding and required herein by the Commission, prior approval from the Commission shall be required for the new arrangement.

(5) The approval granted herein shall not preclude the Commission from exercising the provisions of §§ 56-78 and 56-80 of the Code of Virginia hereafter.

(6) The approval granted herein shall not have any ratemaking implications.

(7) The Commission reserves the right to examine the books and records of Dominion Retail in connection with the approval granted herein whether or not the Commission regulates such affiliate.

(8) Dominion Virginia Power shall include the wholesale sales of power to Dominion Retail as approved herein in its Annual Report of Affiliate Transactions submitted to the Director of Public Utility Accounting of the Commission.

(9) The Commission Staff shall monitor the effects of the arrangement approved herein on the fuel factor and on Dominion Virginia Power's provision of reliable service to retail customers in the Commonwealth.

(10) The Commission Staff shall monitor whether the arrangement approved herein places Dominion Retail in a better position than its competitors to successfully bid for Dominion Virginia Power's output.

(11) The Commission Staff and the Companies shall confer to develop the categories of information necessary for Staff to perform the monitoring activities required in this Order.

(12) The approval granted herein shall expire on December 31, 2004, such that additional transactions cannot be entered into after December 31, 2004. Transactions entered into prior to December 31, 2004, pursuant to our approval granted herein, may continue until the expiration of the terms of such transactions, which shall not exceed one year pursuant to the terms of the Master Power Purchase and Sale Agreement. Should the Companies wish to continue operating under the Master Power Purchase and Sale Agreement beyond December 31, 2004, prior Commission approval shall be required for such continuation.

(13) There appearing nothing further to be done in this matter, it is hereby dismissed.

<sup>3</sup> Acceptance for filing by the FERC is not the equivalent of an affirmative approval by order of the FERC.

**CASE NO. PUE-2002-00181  
JULY 18, 2002**

PETITION OF  
VIRGINIA ELECTRIC AND POWER COMPANY  
and  
DOMINION RETAIL, INC.

For an exemption of agreement for wholesale sales of power from the filing and prior approval requirements of Chapter 4, Title 56 of the Code of Virginia or, in the alternative, for approval of wholesale power service agreement under Chapter 4, Title 56 of the Code of Virginia, and for expedited consideration

**ORDER GRANTING RECONSIDERATION  
AND SUSPENDING PRIOR ORDER**

On April 1, 2002, Virginia Electric and Power Company ("Dominion Virginia Power") and Dominion Retail, Inc. ("Dominion Retail") (collectively, "Companies"), filed a petition under Chapter 4 (§ 56-76 et seq.) of Title 56 of the Code of Virginia ("Code") for exemption from the prior approval and filing requirements thereof or, in the alternative, for approval of Dominion Virginia Power's wholesale sales of power at cost-based rates to Dominion Retail, and for expedited consideration. By Order dated May 30, 2002, and pursuant to § 56-77 of the Code, the Commission extended its sixty-day review period in this proceeding an additional thirty days.

On June 28, 2002, the Commission issued an Order denying the Companies' request for an exemption from the filing and prior approval requirements of Chapter 4 of the Code, and approving the proposed arrangement for wholesale sales subject to certain conditions. On July 17, 2002, the Companies filed a Petition for Reconsideration. The Companies seek reconsideration of a condition requiring revisions to the Master Power Purchase and Sale Agreement, and of a condition requiring the Federal Energy Regulatory Commission to affirmatively approve such revisions. In addition, the Companies propose alternative conditions in lieu of those required by the Commission.

NOW THE COMMISSION, having considered the Petition for Reconsideration, is of the opinion and finds as follows. We grant the Petition for Reconsideration for purposes of continuing our jurisdiction over this matter and considering such petition. Our prior Order in this case, dated June 28, 2002, is hereby suspended pending the Commission's reconsideration. In addition, we permit Commission Staff and any party to file comments addressing the matters raised in the Petition for Reconsideration and permit the Companies to file a reply to such comments.

Accordingly, IT IS ORDERED THAT:

- (1) The Companies' Petition for Reconsideration is hereby granted for purposes of continuing our jurisdiction over this proceeding.
- (2) The Commission's Order of June 28, 2002, is hereby suspended.
- (3) On or before August 8, 2002, Commission Staff and any party may file comments addressing the matters raised in the Petition for Reconsideration
- (4) On or before August 15, 2002, the Companies may file a reply to the comments of Staff and any party.
- (5) This matter is continued until further order of the Commission.

**CASE NO. PUE-2002-00181  
SEPTEMBER 27, 2002**

PETITION OF  
VIRGINIA ELECTRIC AND POWER COMPANY  
and  
DOMINION RETAIL, INC.

For an exemption of agreement for wholesale sales of power from the filing and prior approval requirements of Chapter 4, Title 56 of the Code of Virginia or, in the alternative, for approval of wholesale power service agreement under Chapter 4, Title 56 of the Code of Virginia, and for expedited consideration

**ORDER ON RECONSIDERATION**

On April 1, 2002, Virginia Electric and Power Company ("Dominion Virginia Power") and Dominion Retail, Inc. ("Dominion Retail") (collectively, "Companies"), filed a petition with the State Corporation Commission ("Commission") under Chapter 4 (§ 56-76 *et seq.*) of Title 56 ("Chapter 4") of the Code of Virginia ("Code") for exemption from the prior approval and filing requirements thereof or, in the alternative, for approval of Dominion Virginia Power's wholesale sales of power at cost-based rates to Dominion Retail.

On June 28, 2002, the Commission issued an Order denying the Companies' request for an exemption from the filing and prior approval requirements of Chapter 4, and approving the proposed arrangement for wholesale sales subject to certain conditions. The Order of June 28, 2002, among other things, required the Companies to revise the Master Power Purchase and Sale Agreement ("Agreement") to include the following terms:

The Virginia State Corporation Commission has continuing supervisory control over the power agreements between Dominion Virginia Power and Dominion Retail and has the authority to exercise the provisions of §§ 56-78 and 56-80 of the Code of Virginia in the future with respect to such agreements and transactions thereunder, including the authority to terminate such agreements and transactions.

If the Virginia State Corporation Commission determines by order that this agreement and/or all agreements and transactions entered into hereunder must be terminated to protect and promote the public interest, then this agreement and/or all agreements and transactions entered into hereunder shall terminate 30 days after the date of the Virginia State Corporation Commission's order.

In addition, the Commission's approval under Chapter 4 was conditioned upon affirmative approval of the revised Agreement by the Federal Energy Regulatory Commission ("FERC").

On July 17, 2002, the Companies filed a Petition for Reconsideration. The Companies seek, among other things, reconsideration of the condition requiring revisions to the Agreement. The Companies assert that, on advice of Dominion Virginia Power's FERC counsel, it is highly unlikely that FERC will issue the approval required by the Commission. The Companies state that this places them in an intolerable position, a jurisdictional "no man's land," where they cannot obtain state approval under Chapter 4 because a federal agency refuses to make certain findings regarding state jurisdiction. The Companies also state that they are unaware of any other Virginia utility that has been subject to the requirements imposed in this case.

In the Petition for Reconsideration, the Companies propose to remove the aforementioned condition requiring a revision to the Agreement, to stipulate that the Companies will exercise the termination provision in the existing Agreement if directed to do so by the Commission, and to agree not to assert that the Commission's issuance of a termination order is preempted. If the Commission rejects this proposal, the Companies request that the Commission require the following revisions to the Agreement, in lieu of those in the Order of June 28, 2002:

Subject to the exclusive jurisdiction of the Federal Energy Regulatory Commission over the rates, terms and conditions of the agreement, the Virginia State Corporation Commission has continuing supervisory control over the power agreements between Dominion Virginia Power and Dominion Retail and has the authority to exercise the provisions of §§ 56-78 and 56-80 of the Code of Virginia in the future with respect to such agreements and transactions thereunder, including the authority to require Dominion Virginia Power and Dominion Retail to terminate such agreements and transactions pursuant to the terms of such agreements and transactions.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

If the Virginia State Corporation Commission determines by order that this agreement and/or all agreements and transactions entered into hereunder must be terminated to protect and promote the public interest, then Dominion Virginia Power and Dominion Retail shall terminate this agreement and/or all agreements and transactions entered into hereunder pursuant to the terms and conditions of such agreements, 30 days after the date of the Virginia State Corporation Commission's order.

The Companies also request that the Commission reconsider the condition requiring FERC to affirmatively approve the revisions to the Agreement and, rather, condition our approval on FERC's acceptance of the Agreement for filing. Finally, if the Commission requires revisions to the Agreement, the Companies further request that this docket remain open until FERC's review is completed due to the uncertainty of FERC approval and the potential need for further action by the Commission.

On July 18, 2002, the Commission issued an Order Granting Reconsideration and Suspending Prior Order. The July 18, 2002, Order granted reconsideration for purposes of continuing our jurisdiction over this proceeding, suspended our Order of June 28, 2002, permitted Commission Staff ("Staff") and any party to file comments addressing the matters raised in the Petition for Reconsideration, and permitted the Companies to file a reply to the comments of Staff and any party. Staff filed comments opposing the Companies' requested changes to the order of June 28, 2002. On August 15, 2002, the Companies filed a Response to Staff Comments ("Response").

In their Response, the Companies assert that Staff's comments do not offer any basis to believe that FERC is likely to approve the required revisions to the Agreement. The Companies, among other things, note that the Commission recently approved wholesale transactions between Dominion Virginia Power and affiliated companies without mandating a similar condition requiring FERC recognition of the Commission's jurisdiction. The Companies again state that, to their knowledge, no other utility has been subject to the conditions required in this case. The Companies assert that the conditions imposed in this case will undermine the development of competition, as well as the Commission's jurisdictional role pursuant to Chapter 4 for all Virginia utilities engaged in wholesale transactions with affiliates.

The Companies also state that the proposed stipulations in the Petition for Reconsideration offer a practical method to provide further assurance as to the Commission's ability to require the termination of the Agreement, if necessary, and to avoid a possible jurisdictional impasse that could not only jeopardize the proposed business relationship between the Companies, but could also create uncertainty for all wholesale transactions between Virginia utilities and their affiliates. If the Commission rejects the proposed stipulations, the Companies again request that the Commission adopt the modifications to the Agreement set forth in the Petition for Reconsideration.

NOW THE COMMISSION, having considered the pleadings and the applicable law, is of the opinion and finds as follows. As requested by the Companies, this docket shall remain open pending completion of FERC's review of the revised Agreement. We otherwise deny the Petition for Reconsideration.

As explained in our Order of June 28, 2002, § 56-80 of the Code provides that "the Commission shall have continuing supervisory control over the terms and conditions of such contracts and arrangements as are herein described so far as necessary to protect and promote the public interest" (emphasis added). That same section also requires that "[e]very order of the Commission approving any such contract or arrangement shall be expressly conditioned upon the reserved power of the Commission to revise and amend the terms and conditions thereof, if, when and as necessary to protect and promote the public interest" (emphasis added). In addition, § 56-590 G of the Virginia Electric Utility Restructuring Act ("Act") states that, except as provided in § 56-590 B 5, nothing in the Act "shall be deemed to abrogate or modify the Commission's authority under Chapter 3 (§ 56-55 et seq.), 4 (§ 56-76 et seq.) or 5 (§ 56-88 et seq.)" of Title 56 (emphasis added).

The Companies previously stated in this case that the Commission "has continuing supervisory control over the power agreement between the Companies and has the authority to exercise the provisions of §§ 56-78 and 56-80 of the Code of Virginia in the future with respect to the agreement and transactions thereunder." In the Order of June 28, 2002, we concluded, as the Companies had, that if the Commission later determines continuation of such arrangement is no longer in the public interest, then the Commission should have the authority to take corrective action.

Accordingly, in the June 28, 2002, Order, we rejected requests by the Virginia Committee for Fair Utility Rates, Washington Gas Energy Services ("WGES"), and Staff to deny the Companies' proposed wholesale transactions. Rather, we approved the request subject to certain monitoring requirements and conditions to protect and promote the public interest. We found that, to protect and promote the public interest, the Commission must retain authority over the arrangement pursuant to Chapter 4, including the authority to revoke our approval of such arrangement. Given the critical importance of our continuing jurisdiction over this particular arrangement and the sales of power proposed in this case, we required that recognition of such authority be included in the Agreement.

The Companies now assert, however, that FERC is "highly unlikely" to recognize this Commission's, and the Commonwealth's, continuing supervisory control over (including the authority to terminate) the Agreement. We have found that the Commonwealth's continuing authority is a necessary prerequisite for the Agreement to be in the public interest. Consequently, the Companies' suggestion, at this stage of the proceeding, that FERC may oppose that jurisdiction heightens the need for the Agreement to expressly recognize this Commission's authority under state law.<sup>1</sup>

In an effort to address this situation, the Companies offer to stipulate to the Commission's continuing authority over the Agreement. Such a stipulation cannot confer jurisdiction to the Commonwealth or this Commission. In addition, the transactions under the Agreement will be part of the

<sup>1</sup> The Companies also request that approval herein be conditioned on FERC accepting the Agreement for filing, as opposed to FERC's affirmative approval of the Agreement. We deny this request as well. Acceptance for filing by FERC, in and of itself, does not constitute FERC's approval of the merits of such filing. For example, FERC may accept the Agreement for filing without granting approval of the terms contained therein. See, e.g., San Diego Gas & Elec. Co., Docket No. ER02-1647-000, Letter Order (June 25, 2002) ("This acceptance for filing shall not be construed as constituting approval of the referenced filing or of any rate, charge, classification or any rule, regulation or practice affecting such rate or service provided for in the filed documents. . .").

competitive wholesale market. Those transactions will not only impact the Companies, but may impact third parties – and such third parties would not be parties to the stipulation and could actively oppose this Commission's authority.<sup>2</sup>

The Companies also protest that, to their knowledge, no other utility has been subject to the conditions required in this case. The Companies are not being treated differently from similarly situated utilities. Rather, the facts and the proposed arrangement in this case present a different situation than those previously before the Commission. For example, Appalachian Power Company, Allegheny Power, and Delmarva Power & Light Company operate under arrangements that permit the utility to purchase wholesale power from an affiliate. These arrangements make power available to native load customers in Virginia and enhance reliability for those customers. In addition, the bulk of these utilities' physical generation assets serving Virginia consumers are located outside of Virginia.

In contrast, under the Agreement, Dominion Virginia Power will be selling power, as opposed to buying it. Dominion Virginia Power primarily relies upon its own generating units within the Commonwealth, as opposed to wholesale purchases, to serve Virginia retail customers. Dominion Virginia Power proposes to sell power to its affiliate for resale with no assurance that the power will be available in the Dominion Virginia Power service territory. Dominion Virginia Power's retail customers also benefit from an existing fuel factor margin-sharing mechanism, which may be negatively impacted by the proposed arrangement.

Under the circumstances in this case, we found it necessary for the Commonwealth's continuing authority to be recognized in the Agreement in order to protect and promote the public interest. As recognized in our Order of June 28, 2002, the Commission may be required to exercise this authority, for example, if needed to ensure the continued provision of reliable service to retail customers in the Commonwealth, to advance competition if the arrangement places Dominion Retail in a better position than its competitors to successfully bid for Dominion Virginia Power's output,<sup>3</sup> or to protect Virginia retail customers from negative impacts on the fuel factor margin-sharing mechanism.

In addition, as noted by the Companies in their Response, we recently authorized wholesale transactions between Dominion Virginia Power and certain affiliates.<sup>4</sup> Indeed, our approval of proposed affiliate transactions in that case further illustrates that the Commission has based its review under Chapter 4 on the particular circumstances of each proposed arrangement. Under the approved transactions in that case, Dominion Virginia Power will purchase power from, as opposed to sell power to, its affiliates. In addition, those affiliates will sell power into Virginia from generating sources outside Dominion Virginia Power's service territory. We found that Virginia retail customers of Dominion Virginia Power will benefit from the transactions, and that the transactions would provide Dominion Virginia Power with additional sources of generation to serve those customers. These transactions also should enhance reliability. Consistent with the discussion above, under these particular circumstances, we did not find it necessary to include explicit recognition of the Commonwealth's authority in the wholesale agreement in order to protect and promote the public interest.<sup>5</sup>

The Companies also present a request in the alternative. Specifically, if the Commission requires recognition in the Agreement of the Commonwealth's continuing authority, the Companies propose modifications to the required language. We reject the alternative language proposed by the Companies. The first phrase of the Companies' proposed revision is as follows: "Subject to the exclusive jurisdiction of the Federal Energy Regulatory Commission over the rates, terms and conditions of the agreement" (emphasis added). The above phrase could render the remainder of the text, which acknowledges this Commission's continuing jurisdiction, meaningless. For example, the insertion of such phrase proposed by the Companies leaves unclear whether this Commission has the authority to terminate the Agreement if such is needed to protect the public interest, or whether that authority may later be deemed a "term" of the Agreement within the exclusive jurisdiction of FERC.<sup>6</sup>

Finally, the Companies request that this docket remain open until FERC's review is completed due to the uncertainty of FERC approval and the potential need for further action by the Commission. We grant this request. In this regard, the Companies and the Commission share a common goal – to ensure that the Commonwealth retains authority over the Agreement to protect Virginia consumers. Thus, we encourage the Companies to file the Agreement at FERC and to facilitate a timely resolution of this matter.

Accordingly, IT IS ORDERED THAT:

- (1) Our prior suspension of the Order dated June 28, 2002, is hereby lifted.

<sup>2</sup> The Companies also agree not to assert, in any proceeding contesting the Commonwealth's authority, that the Commission's issuance of a termination order is preempted. The Companies' agreement in this regard, however, does not preclude other parties from contesting the Commission's jurisdiction to take continuing steps that may be necessary to protect and promote the public interest.

<sup>3</sup> For example, WGES expressed concern that the Companies' proposed bidding process does not ensure that the contemplated affiliate transactions will be conducted in a competitive and fair manner, and that the bidding process will place potential bidders at a significant disadvantage. In addition, a recent report prepared by the Staff of the FERC concludes that pricing discipline may be lost as a result of flaws in the bidding processes previously approved by FERC, and that the current FERC bidding requirements are not effective for short-time transactions. See Initial Report on Company-Specific Separate Proceedings and Generic Reevaluations; Published Natural Gas Price Data; and Enron Trading Strategies; Fact-Finding Investigation of Potential Manipulation of Electric and Natural Gas Prices, Docket No. PA02-2-000 (Aug. 2002). The Commission, however, has not denied the proposed wholesale agreement as a result of such concerns; rather, we seek to ensure the Commonwealth's ability to exercise authority over the arrangement if conditions warrant in the future.

<sup>4</sup> Petition of Virginia Electric and Power Company and Dominion Nuclear Marketing II, Inc., Pleasants Energy, LLC, Armstrong Energy Limited Partnership, L.L.L.P., and Troy Energy, LLC, Case No. PUA-2002-00002, Order on Reconsideration (July 18, 2002).

<sup>5</sup> The Companies also assert that the conditions imposed in the instant case will create uncertainty for all wholesale transactions between Virginia utilities and their affiliates. As explained above, however, the results of this case are based on the particular circumstances presented herein. The Commission will continue to look at each petition under Chapter 4 on its own merits.

<sup>6</sup> The Companies also propose alternative language suggesting that, as opposed to the Commission terminating the Agreement, the Commission could direct the Companies to terminate such. This proposal, however, does not establish that FERC would permit the Companies' proposed termination – at the direction of the Commission – of the Agreement and all agreements and transactions entered into under the same.

(2) The Petition for Reconsideration is granted, in part, in that this docket shall remain open pending completion of the Federal Energy Regulatory Commission's review of the revised Agreement.

(3) The Petition for Reconsideration is otherwise denied.

(4) This matter is continued pending further order of the Commission.

**CASE NO. PUE-2002-00228  
AUGUST 9, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION  
v.  
CENTRAL LOCATING SERVICE, LTD.,  
Defendant

**ORDER OF SETTLEMENT**

Pursuant to § 56-265.30 of the Code of Virginia, the Virginia State Corporation Commission ("Commission") is charged with enforcing the provisions of the Underground Utility Damage Prevention Act, §§ 56-265.14 *et seq.* of the Code of Virginia ("Act"). The Commission's Division of Utility and Railroad Safety ("Division"), charged with the investigation of probable violations of the Act, has completed investigations of certain incidents between November 15, 2001, and January 15, 2002, listed in Attachment A, involving Central Locating Service, Ltd. ("Company"), and alleges that:

- (1) The Company is a contract locator as that term is defined in § 56-265.15 of the Code of Virginia;
- (2) During the aforementioned period the Company violated the Act by committing the following violations:
  - (a) Failing on certain occasions to mark the approximate horizontal location of the underground utility lines on the ground to within two feet of either side of the underground utility lines, in violation of §§ 56-265.19 A and D of the Code of Virginia.
  - (b) Failing on certain occasions to mark within the time prescribed in the Act, in violation of § 56-265.17 B and §§ 56-265.19 A and D of the Code of Virginia.
  - (c) Failing on certain occasions to report to the notification center that lines had been marked or they were not in conflict with the proposed excavation, in violation of §§ 56-265.19 A, B, and D of the Code of Virginia.

As evidenced in the attached Admission and Consent document, the Company neither admits nor denies these allegations but admits the Commission's jurisdiction and authority to enter this Order.

As an offer to settle all matters before the Commission arising from the Division's allegations made herein, which includes all probable violations presented to the Underground Utility Damage Prevention Advisory Committee on April 2, 2002, and set out in Attachment A hereto, the Company represents and undertakes that it will pay a civil penalty to the Commonwealth of Virginia in the amount of \$13,450 to be paid contemporaneously with the entry of this Order. This payment will be made by cashier's check or money order, payable to the Treasurer of Virginia and directed to the attention of the Director of the Division of Utility and Railroad Safety.

The Commission, being advised by the Staff and finding sufficient basis herein for the entry of this Order, hereby accepts this settlement.

Accordingly, IT IS ORDERED THAT:

- (1) Pursuant to the authority granted the Commission by § 12.1-15 of the Code of Virginia, the offer of settlement made by the Company be, and it hereby is, accepted.
- (2) The sum of \$13,450 tendered contemporaneously with the entry of this Order is accepted.
- (3) This case is dismissed, and the papers herein shall be placed in the file for ended causes.



**CASE NO. PUE-2002-00231  
JULY 17, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION

v.

UTILIQUEST, LLC,  
Defendant

**ORDER OF SETTLEMENT**

Pursuant to § 56-265.30 of the Code of Virginia, the Virginia State Corporation Commission ("Commission") is charged with enforcing the provisions of the Underground Utility Damage Prevention Act, §§ 56-265.14 *et seq.* of the Code of Virginia ("Act"). The Commission's Division of Utility and Railroad Safety ("Division"), charged with the investigation of probable violations of the Act, has completed investigations of certain incidents between October 30, 2001, and February 14, 2002, listed in Attachment A, involving Utiliquest, LLC ("Company"), and alleges that:

- (1) The Company is a contract locator as that term is defined in § 56-265.15 of the Code of Virginia;
- (2) During the aforementioned period the Company has violated the Act by committing the following violations:

(a) Failing on certain occasions to mark the approximate horizontal location of the underground utility lines on the ground to within two feet of either side of the underground utility lines, in violation of §§ 56-265.19 A and D of the Code of Virginia.

(b) Failing on certain occasions to mark within the time prescribed in the Act, in violation of §§ 56-265.19 A and D of the Code of Virginia.

(c) Failing on certain occasions to report to the notification center that lines had been marked or they were not in conflict with the proposed excavation, in violation of §§ 56-265.19 A and D of the Code of Virginia.

As evidenced in the attached Admission and Consent document, the Company neither admits nor denies these allegations but admits the Commission's jurisdiction and authority to enter this Order.

As an offer to settle all matters before the Commission arising from the Division's allegations made herein, which includes all probable violations presented to the Underground Utility Damage Prevention Advisory Committee on April 2, 2002, and set out in Attachment A hereto, the Company represents and undertakes that it will pay a civil penalty to the Commonwealth of Virginia in the amount of \$10,500 to be paid contemporaneously with the entry of this Order. This payment will be made by cashier's check or money order, payable to the Treasurer of Virginia and directed to the attention of the Director of the Division of Utility and Railroad Safety.

The Commission, being advised by the Staff and finding sufficient basis herein for the entry of this Order, hereby accepts this settlement.

Accordingly, IT IS ORDERED THAT:

- (1) Pursuant to the authority granted the Commission by § 12.1-15 of the Code of Virginia, the offer of settlement made by the Company be, and it hereby is, accepted.
- (2) The sum of \$10,500 tendered contemporaneously with the entry of this Order is accepted.
- (3) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. PUE-2002-00236  
MAY 8, 2002**

APPLICATION OF  
ATMOS ENERGY CORPORATION

For authority to issue common stock

**ORDER GRANTING AUTHORITY**

On April 15, 2002, Atmos Energy Corporation ("Atmos" or "Applicant") filed an application under Chapter 3 of Title 56 of the Code of Virginia requesting authority to issue common stock. Applicant paid the requisite fee of \$250.

In its application, Atmos requests authority to issue 2,500,000 additional shares of common stock through its 1998 Long-Term Incentive Plan ("Plan"). According to the Applicant, the purpose of the Plan is to attract and retain the services of able persons as employees and non-employee directors, to provide such persons with proprietary interest in Atmos, and to motivate employees using performance related incentives linked to longer-range performance goals.

The types of awards that may be granted under the Plan include incentive stock options, non-qualified stock options, stock appreciation rights, restricted stock, restricted stock units, performance units, performance shares, bonus stock, and other stock unit awards.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

The Commission previously approved the issuance of common stock through the Plan in Case No. PUF980023.

THE COMMISSION, upon consideration of the application and having been advised by its Staff, is of the opinion and finds that approval of the application will not be detrimental to the public interest.

Accordingly, IT IS ORDERED THAT:

- 1) Applicant is hereby authorized to issue 2,500,000 additional shares of common stock through its 1998 Long-Term Incentive Plan, under the terms and conditions and for the purposes set forth in the application.
- 2) There being nothing further to be done, this matter is hereby dismissed.

**CASE NO. PUE-2002-00237  
SEPTEMBER 27, 2002**

APPLICATION OF  
VIRGINIA NATURAL GAS, INC.

For approval of a Weather Normalization Adjustment Rider

**ORDER APPROVING EXPERIMENT**

On April 16, 2002, pursuant to § 56-40 of the Code of Virginia ("Code") and 5 VAC 5-20-80 of the Rules of Practice and Procedure of the State Corporation Commission ("Commission"), Virginia Natural Gas, Inc. ("VNG" or "Company") filed with the Commission an application for approval of a Weather Normalization Adjustment ("WNA") Rider applicable to Schedule 1 – Residential Firm Gas Sales Service and Schedule 2 – General Firm Gas Sales Service of the Company's rate schedules.

By orders dated April 29 and 30, 2002, the Commission prescribed notice and invited comments and/or requests for hearing in this case. Comments from interested persons were filed on or before June 12, 2002. Commission Staff ("Staff") filed its report on July 31, 2002 ("Staff Report"). No party requested a hearing.

On August 13, 2002, VNG filed a response to the Staff Report ("Response"). The Response includes an Offer of Settlement from the Company and the Office of the Attorney General, Division of Consumer Counsel ("Consumer Counsel"). VNG explains that settlement discussions have been ongoing among the Staff, the Company, and Consumer Counsel, and that the Company and Consumer Counsel have reached an agreement that is memorialized in the Offer of Settlement.

In its Response, VNG states that under the Offer of Settlement, among other things: (1) the WNA would be implemented as an experimental rate design pursuant to § 56-234 of the Code; (2) the experimental rate design would terminate in two years from the date of approval thereof, subject to Commission action either extending or making such rate design permanent provided, however, that any request by the Company for such extension or permanent rate must be accompanied by a fully adjusted cost of service study and the schedules required for a general rate case; (3) the WNA would be calculated on a real-time basis so that each monthly bill will be affected only by the weather experienced during the preceding month; (4) the WNA would be modified to track actual weather and to potentially modify six monthly bills, rather than twelve, each year; (5) the Company commits to develop a bill format and consumer education program in a form acceptable to Staff that will inform customers of the need for, and the mechanics of operation of, the WNA program; (6) VNG's allowed return on common equity would be modified from the current range of 10.4 - 11.4 percent, to 10.0 - 11.8 percent for purposes of future Annual Informational Filings ("AIFs"), with 10.0 percent being used to determine the write-off of deferred expenses; (7) any change in the authorized return on equity, or an attempt to measure the impact of the WNA on risk and return, would be considered in the context of a general rate case; and (8) VNG commits not to file a base rate case, or any non-gas revenue neutral rate design proposals applicable to residential and general service rate classes, before July 1, 2004, except under emergency conditions as set forth in § 56-245 of the Code.

On August 15, 2002, the Commission issued an order permitting comments on the Offer of Settlement and on certain questions included in the order, on or before August 29, 2002. That order also permitted VNG and Consumer Counsel to file responses to such comments and to the questions listed in the order on or before September 5, 2002.

On August 29, 2002, Staff filed comments on the Offer of Settlement and on the questions in the order ("Staff Comments"). Staff concludes, among other things, that the WNA may not be implemented as an experimental rate design pursuant to § 56-234 of the Code because the WNA does not meet the statutory criteria delineated by the Commission. If the Commission finds that the WNA does meet the definition of an experiment under § 56-234, Staff states that notice of the Offer of Settlement and an opportunity for a hearing must be given. Staff also concludes that the Commission may approve an experiment under § 56-234 of the Code without an ore tenus hearing. Staff indicates, however, that it believes the complexity of the issues in this matter may be best developed for the Commission's consideration by an ore tenus hearing, and that the ramifications of increasing the authorized return on equity range and the potential impact of the WNA on customer bills need to be investigated further.

Staff states that it believes any WNA the Commission decides to adopt should contain the following aspects: (1) it should only partially mitigate weather risks; (2) it should exclude a base level of non-heating usage from its application; (3) it should be voluntary and contain an opt-out provision; and (4) VNG should be directed to disclose fully the nature of the WNA to its customers as a line-item charge on the customers' bills, and the bill format and the customer education program should be determined.

Comments on the Offer of Settlement also were filed on August 29, 2002, by John J. Reynolds. Mr. Reynolds previously filed comments in this proceeding on June 12, 2002, and continues to oppose the WNA. Mr. Reynolds states, among other things, that the management of price and volume risks due to weather or any other factors clearly belongs with VNG under regulatory supervision of the Commission, that the WNA only provides relief to VNG for the potential mismanagement of weather risks at the expense of the ratepayer, that the WNA should not and need not be implemented as an experiment,

that any such experiment should give customers the choice to opt-in, and that authorized return on equity should be lowered substantially as a result of the WNA.

On September 5, 2002, Consumer Counsel filed a response as provided by the August 15, 2002, Order. Consumer Counsel states, among other things, that the concessions by VNG and the resulting Offer of Settlement are consistent with the terms of the settlement in a Kansas proceeding noted by Consumer Counsel in its prior comments. Consumer Counsel explains that it supports the Offer of Settlement to which it is a party, and that it will leave to VNG the task of advocating further on behalf of the Company's application in response to the Commission's August 15, 2002, Order and the Staff Comments.

On September 5, 2002, VNG filed comments on the Commission's August 15, 2002, Order and the Staff Comments. VNG asserts, among other things, that § 56-234 of the Code, regarding experimental rates, applies to the proposed WNA. The Company explains that the WNA meets the criterion of § 56-234, in that it is necessary in order to acquire information which is or may be in furtherance of the public interest. VNG also concludes that the notice previously issued in this proceeding satisfies the notice requirements of § 56-234, and that the Commission may approve an experiment under § 56-234 without an ore tenus hearing. The Company also states that, if it is a matter of any concern to the Commission, the increase to the top of the range for allowed return on common equity contained in the Offer of Settlement can be disregarded.

In addition, VNG states that implementing the WNA as an experiment provides the Commission with the discretion to make adjustments in the methodology, if necessary, to protect the public interest. The Company asserts that instituting the WNA as a temporary matter will set no precedent and will ensure that actual data can be accumulated and studied prior to further consideration of the merits of such riders. VNG represents that there is no such program in Virginia now, and notes that Staff agrees the WNA concept is worth additional evaluation. VNG concludes that there is a sufficient basis in the record for the Commission to find that it should evaluate whether the WNA will reduce bill volatility, reduce customer complaints, and better allow the Company to concentrate its efforts on improving planning and performance, rather than managing cash flow problems.

On September 9, 2002, Staff filed a Motion to Accept Reply and a Reply ("Motion" and "Reply," respectively). The Motion states, among other things, that the Reply identifies and responds to the latest and further changes VNG has made to the WNA proposal and its Offer of Settlement, corrects the Company's misunderstanding of the positions taken in the Staff Comments, and clarifies the issues remaining between Staff and VNG.

On September 10, 2002, VNG filed a letter that, among other things, responds to portions of Staff's Reply and includes a WNA Rider showing the pertinent calculations of the WNA formula and explaining how such calculations will be carried out to produce a monthly bill for each customer subject to the WNA. VNG concludes that the Commission can decide this case based on the pleadings and record lawfully before it. The Company requested oral argument for September 11, 2002, or, in the alternative, requested that it be permitted to file a written response to the Reply on or before September 16, 2002.

NOW THE COMMISSION, upon consideration of the pleadings, the Offer of Settlement, and the applicable law, finds as follows. We approve the proposed WNA as a two-year experiment involving the use of special rates, consistent with the Offer of Settlement and as modified herein. In addition, we note that the WNA, as set forth in the Offer of Settlement, was also proffered by the Office of the Attorney General in its statutory role of representing the interests of consumers.<sup>1</sup> The support of the Offer of Settlement by the Office of the Attorney General's Division of Consumer Counsel, on behalf of consumers, should be given significant weight.

We find that the WNA may be approved under the provisions of § 56-234 of the Code, as proffered in the Offer of Settlement and as modified herein. Section 56-234 of the Code permits "other experiments involving the use of special rates, where such experiments have been approved by order of the Commission after notice and hearing and a finding that such experiments are necessary in order to acquire information which is or may be in furtherance of the public interest."

The notice previously issued in this proceeding satisfies the requirements of § 56-234 of the Code. For example, the published notice in this case explains that VNG requested approval of a WNA applicable to Schedule – 1 Residential Firm Gas Sales Service and Schedule – 2 General Firm Gas Sales Service, that the WNA would address changes in non-gas revenue associated with normal weather, that the WNA would adjust customers' non-gas rate, and that VNG states the WNA will result in both credits and surcharges to customers' bills. In addition, as asserted by both Staff and VNG, and consistent with Commission precedent, we find that § 56-234 does not require the Commission to conduct an ore tenus hearing prior to approving an experiment thereunder.

We find, under § 56-234 of the Code, that the proposed WNA is necessary to acquire information that may be in furtherance of the public interest. We direct VNG to file reports in this docket on or before July 1, 2003 and 2004, which address the following: (1) the impact of the WNA on bill volatility; (2) customer reaction to the WNA, including the number and substance of customer comments by month; (3) the impact of the WNA on the Company's cash flow; (4) any planning and performance benefits achieved by the Company as a result of the WNA, and how such benefits have impacted consumers; (5) the Company's earned rate of return on rate base and return on common equity both with and without revenues from the WNA; (6) the findings of an annual internal audit of the WNA factors for both the residential and general service classes to ensure tariff compliance and to determine the accuracy of the factors; and (7) any other information requested by Staff relevant to the experiment. The information acquired from this experiment will not be limited to these enumerated items. The information acquired from this experiment also may be critical in subsequently evaluating similar proposals.

We decline to adopt the provision in the Offer of Settlement that increases the top of the Company's return on equity range to 11.8 percent. For the purposes of future AIFs, the return on equity range will be 10.0 percent to 11.4 percent, with 10.0 percent being used to determine the write-off of deferred expenses.<sup>2</sup>

The Offer of Settlement requires the Company to file a fully adjusted cost of service study and the schedules required for a general rate case if VNG requests to continue the WNA after the two-year experiment. In this regard, we recognize that a general rate case may be appropriate prior to extending the WNA. For example, in the Offer of Settlement VNG agrees that the WNA Rider reduces its weather-related risks. In addition, the Commission may decide to institute a general rate case or other appropriate proceeding, which evaluates all of the Company's costs and revenues, prior to

<sup>1</sup> Va. Code § 2.2-517 B 1.

<sup>2</sup> This provision of the experiment approved herein is not a measure of the impact of the WNA on risk and return.

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any continuation of the WNA. Further, our approval of the experiment herein in no manner restricts the Commission's authority to institute and conclude a general rate case or other proceeding, which may result in a rate decrease, during the two-year experiment.

Finally, we decline to grant the Motion filed by Staff on September 9, 2002, and will not consider Staff's Reply or the letter filed in response by VNG on September 10, 2002. We appreciate the participants' efforts to create a full record in this case. We conclude that these additional pleadings are not necessary for us to reach a decision in this matter.

Accordingly, IT IS HEREBY ORDERED THAT:

(1) VNG may implement an Experimental Weather Normalization Adjustment Rider as proposed in the Offer of Settlement submitted by the Company and the Office of the Attorney General's Division of Consumer Counsel, and as modified by this Order. This experiment involving the use of special rates shall terminate in two (2) years from the date of this Order.

(2) As provided for in the Offer of Settlement, the Company shall calculate separate weather adjustment factors for the residential and general service rate schedules based on a billing cycle calculation beginning with billing cycle ten (10) in November 2002, for six billing cycles for each year of the experimental period.

(3) As provided for in the Offer of Settlement, the calculation of the WNA rate shall be as follows: (a) determine total revenue by customer class to be recovered from or credited to each billing cycle by multiplying VNG's non-gas rate by the product of the number of customers to be billed, the use/degree day/customer, and the difference between the actual degree days and the weather normalized degree days; and (b) apportion the total revenue to each customer within that class by dividing the revenue determined in (3)(a) by the total actual class consumption within that billing cycle and applying the resulting rate to each customer's consumption.

(4) As provided for in the Offer of Settlement, the Company shall develop a bill format and consumer education program, in a form acceptable to the Commission Staff, that will afford customers an opportunity to understand the need for and the mechanics of the WNA Rider.

(5) The Company's return on common equity range, for purposes of future Annual Informational Filings, will be 10.0 percent to 11.4 percent, with 10.0 percent being used to determine the write-off of deferred expenses.

(6) As provided for in the Offer of Settlement, the Company shall not file a base rate case, or any non-gas revenue neutral rate design proposals applicable to residential and general service classes, before July 1, 2004, except under emergency conditions as set forth in § 56-245 of the Code of Virginia. This ordering paragraph in no manner precludes the Commission, on its own motion or upon proper pleading, from instituting a general rate case or other proceeding that may result in a rate decrease during the two-year experiment.

(7) As provided for in the Offer of Settlement, any request by the Company to extend the experiment approved herein or to make such rate permanent, shall be accompanied by a fully adjusted cost of service study and the schedules required for a general rate case.

(8) The Company shall file reports in this docket on or before July 1, 2003 and 2004, which address the following: (a) the impact of the WNA on bill volatility; (b) customer reaction to the WNA, including the number and substance of customer comments by month; (c) the impact of the WNA on the Company's cash flow; (d) any planning and performance benefits achieved by the Company as a result of the WNA, and how such benefits have impacted consumers; (e) the Company's earned rate of return on rate base and return on common equity both with and without revenues from the WNA; (f) the findings of an annual internal audit of the WNA factors for both the residential and general service classes to ensure tariff compliance and to determine the accuracy of the factors; and (g) any other information requested by Staff relevant to the experiment.

(9) Within five days of the date of this Order, the Company shall contact the Commission Staff to develop the bill format, the consumer education program, and the reports as required herein.

(10) Within five days of the date of this Order, the Company shall file with the Commission's Director of the Division of Energy Regulation a tariff for the Experimental Weather Normalization Adjustment Rider approved herein.

(11) The Motion and Reply filed by Staff on September 9, 2002, and the letter filed in response by VNG on September 10, 2002, are hereby rejected.

(12) This matter is continued pending further orders of the Commission.

**MOORE, Commissioner, Dissents:**

The Weather Normalization Adjustment ("WNA") proposed by Virginia Natural Gas, Inc. ("VNG" or "Company"), cannot be legally approved by this Commission based on the record before us. Accordingly, I must respectfully dissent.

The law in Virginia is clear. Section 56-234 of the Code of Virginia states:

It shall be the duty of every public utility to furnish reasonably adequate service and facilities at reasonable and just rates to any person, firm or corporation along its lines desiring same. It shall be their duty to charge uniformly therefor all persons, corporations or municipal corporations using such service under like conditions.

Section 56-235.2 of the Code provides:

Any rate, toll, charge or schedule of any public utility operating in this Commonwealth shall be considered to be just and reasonable only if: (1) the public utility has demonstrated that such rates, tolls, charges or schedules in the aggregate provide revenues not in excess of the aggregate actual costs incurred by the public utility in serving customers within the jurisdiction of the Commission, subject to such normalization for nonrecurring

costs and adjustments for known future increases in costs as the Commission may deem reasonable, and a fair return on the public utility's rate base used to serve those jurisdictional customers; (1a) the investor-owned public electric utility has demonstrated that no part of such rates, tolls, charges or schedules includes costs for advertisement, except for advertisements either required by law or rule or regulation, or for advertisements which solely promote the public interest, conservation or more efficient use of energy; and (2) the public utility has demonstrated that such rates, tolls, charges or schedules contain reasonable classifications of customers.

There are several exceptions to the statutory scheme set forth above. Section 56-40 provides one such exception. The provision states:

The Commission, in the exercise of its discretion, may permit any public utility corporation to put into effect any proposed revision of its rate schedules, or any part thereof, without notice when the proposed revision effects no increases.

The Company's original Application was based on this section.<sup>1</sup> The Company stated that the WNA "does not increase the rates established by the Commission in the Company's most recent base rate case, Case No. PUE960227." The Application then explains how the WNA is an "adjustment" that would sometimes provide a "credit" and sometimes, when warmer than normal weather occurs, "customers will be surcharged."<sup>2</sup> The statute is specific; § 56-40 applies if the "revision of [the] rate schedules . . . effects no increases." As explained in the application, if the weather is warmer than usual, customers will be surcharged, which effects an increase. The fact that there might be a decrease in another month, or that these might balance out over time does not change the fact that the WNA revision is designed to effect an increase when weather is warmer than normal.<sup>3</sup>

If a ratepayer may be required to pay more under the new rate than he or she would have under the old rate, even for a single month, then § 56-40 does not apply. In such a circumstance we cannot conclude that the revision of the rate schedules "effects no increases." The majority was correct in not approving the WNA under § 56-40.<sup>4</sup>

Second, there are exceptions for "special rates, contracts or incentives to individual customers or classes of customers" and optional performance-based regulation, both subject to separate requirements.<sup>5</sup> The Company does not suggest that the WNA is presented under either exception.<sup>6</sup>

The Company does argue that the "experiment" exception of § 56-234 applies. This exception follows the requirements quoted above and states:

However, no provision of law shall be deemed to preclude voluntary rate or rate design tests or experiments, or other experiments involving the use of special rates, where such experiments have been approved by order of the Commission after notice and hearing and a finding that such experiments are necessary in order to acquire information which is or may be in furtherance of the public interest.

The proposed WNA is not an experiment, and there has not been a showing that the proposal is necessary to acquire information which is or may be in furtherance of the public interest. In addition, notice was not given under that statute, and no hearing was held. The WNA cannot be approved as an experiment.

In its April 16, 2002, Application, the Company proposed a WNA that would apply without a time limit, and the proposal was not designated an "experiment." Section 56-234 was not mentioned.

Later, the Company and the Division of Consumer Counsel of the Office of the Attorney General ("Consumer Counsel") negotiated and agreed to support a modified WNA. Paragraph 7 of the Offer of Settlement<sup>7</sup> presented to the Commission stated:

The Company agrees that the WNA Rider is an experimental rate design as defined in Virginia Code § 56-234, and further, that such rate design will terminate in two (2) years from the date of approval thereof subject to Commission action either extending or making such rate design permanent provided, however, any request by the Company for such extension or permanent rate must be accompanied by a fully adjusted cost of service study and the schedules required for a general rate case.

This is the first mention that the WNA might be an "experiment."

<sup>1</sup> April 16, 2002, Application at 1.

<sup>2</sup> *Id.*

<sup>3</sup> There was also the suggestion that the proposed rate revisions might pass muster under § 56-40 because the change would be revenue neutral or only recover the revenue requirement the Commission envisioned in its 1998 order. *Id.* at 1, 3. While revenue requirement is an important element in establishing rates, this Commission sets, and the utility charges, rates not revenue requirement. If the "rate schedules or any part thereof" effects an increase, then § 56-40 does not apply.

<sup>4</sup> Contrary to the Company's assertion, the applicability of § 56-40 was not mooted by the notice requirement imposed by the Commission in our Order of April 29, 2002. September 5, 2002, Comments of Virginia Natural Gas, Inc. on the Commission's Order of August 15, 2002, and Staff Comments Filed August 29, 2002, ("September 5, 2002, Comments") at 11-12. Had the WNA "effect[ed] no increase," the Commission could have "in the exercise of its discretion," approved the WNA.

<sup>5</sup> §§ 56-235.2 and -235.6.

<sup>6</sup> Nor does the Company suggest other statutory provisions such as the temporary rate increase provisions of § 56-245 are applicable.

<sup>7</sup> Appendix A at 3 to the August 13, 2002, Response of Virginia Natural Gas, Inc. to Staff Report ("August 13, 2002, Comments").

In its Comments supporting the Offer of Settlement, there is scant reference to the "information" we must find necessary "in furtherance of the public interest," required by § 56-234. The Comments state:

Instituting the WNA . . . will ensure that actual data can be accumulated and studied prior to further consideration of the merits of such programs. . . . Valuable insight which would be applicable to other companies, as well, will be gathered during this time. [the two years of the "experiment"].<sup>8</sup>

Although there are more words on the information to be elicited during the "experiment" in the Company's response to our Order of August 15, 2002, there is no additional substance.<sup>9</sup> Typical of the references to the "information" to be acquired and the "experimental" nature of the proposal are those found in the conclusion at page 5:

In short, this is what the experiment will determine, i.e., whether the Company can perform better and whether customers will benefit if their bills are weather normalized.<sup>10</sup>

Experiments are performed to answer questions or to test a hypothesis. Vague generalities do not suffice. Here, there is no description of any experiment nor any indication of what data, or even kinds of data, might be collected.

The majority recognizes the deficiencies of the Company's case with respect to the "information" that may be acquired through the so-called experiment. While the majority attempts to shore up VNG's position, my colleagues do little better than the Company. The majority justifies its position that the WNA is an "experiment" by requiring reports that address the following:

(1) the impact of the WNA on bill volatility; (2) customer reaction to the WNA, including the number and substance of customer comments by month; (3) the impact of the WNA on the Company's cash flow; (4) any planning and performance benefits achieved by the Company as a result of the WNA, and how such benefits have impacted consumers; (5) the Company's earned rate of return on rate base and return on common equity both with and without revenues from the WNA; (6) the findings of an annual internal audit of the WNA factors for both the residential and general service classes to ensure tariff compliance and to determine the accuracy of the factors; and (7) any other information requested by Staff relevant to the experiment.

No experiment is required or warranted for items (1), (3), and (5). In fact, analysis of these items must be completed before the adjustment is allowed, not after. The Company can provide the data sought by these items by adjusting and pro forming prior years' data for actual weather and the WNA. Volatility, with and without the WNA, can be analyzed over a number of years under various weather conditions. The impact the WNA would have had on the Company's cash flow can be determined to the penny for any given period. The impact of the WNA on the Company's rate of return on rate base and return on common equity can likewise be determined with precision for many years. We could see the impacts over a long period of time, and we could be certain there would be years with colder than normal weather and years with warmer than normal weather. Most importantly, of course, we would analyze this information before we act. The suggestion that we must have an experiment to obtain the data in items (1), (3), and (5) is simply incorrect.

Item (6), requiring an internal audit, may ensure the accuracy of bills, but it will not address the fact that the automatic increases are not tied to costs and may not be just and reasonable. The remaining two items, (2) and (4), are nothing more than form over substance. This Commission should not ask, after the WNA is approved, as majority does in item (4), for the Company to advise the Commission of "any planning and performance benefits achieved by the Company as a result of the WNA, and how such benefits have impacted consumers." The Company should have explained the "benefits" in the Application, including their expected value. Then, these benefits could have been examined as part of this proceeding. Also, it is interesting that the Company is not required to report any detrimental effects over the two-year period. Finally, with respect to item (2), we should not ask for customer reaction to a tariff proposal until we are satisfied the rates are just and reasonable.

In addition, the Company states that experiments need not be voluntary<sup>11</sup> and concludes that we can mandate an experiment for customers that would charge rates (without opportunity for refund) that may be unjust, unreasonable, and discriminatory. While we need not answer this question here because the proposal is not an experiment under § 56-234, the Company's contention is questionable at best and was presented without citation to any authority.

The lack of proper notice and hearing must also be noted. Section 56-234 requires "notice and hearing." The majority concludes that since the original notice describes a version of the WNA, including credits and surcharges, additional notice is unnecessary. VNG argues that notice of the change has been given and since the experiment "is a lesser remedy than what was proposed in the notice," nothing further is required.<sup>12</sup> Both miss the point. Experiments under § 56-234 require separate notice. Nothing in any statute or rule suggests otherwise. Contrary to VNG's contention, the remedy now requested is greater than originally sought because the relief requested is an exception to the requirements that rates be just, reasonable, and nondiscriminatory. When a monopoly utility proposes an experiment involving rates that may be unjust, unreasonable, and discriminatory that will be applied for two years without opportunity for a refund, notice of that fact is required. In a normal rate proceeding, the law requires, and the public may presume, that the rates ultimately approved will, in the Commission's view, be just, reasonable, and nondiscriminatory. The fact that this is an experiment where the statutory requirements of just, reasonable, and nondiscriminatory rates will not apply is a critical part of the notice. This is particularly applicable here because the Company has presented no data indicating that the proposed change meets the requirements of just and reasonable rates under § 56-235.2 of the Code of Virginia.

<sup>8</sup> August 13, 2002, Comments at 3.

<sup>9</sup> September 5, 2002, Comments at 2, 4, 5, 7-8.

<sup>10</sup> September 5, 2002, Comments at 5.

<sup>11</sup> September 5, 2002, Comments at 6.

<sup>12</sup> September 5, 2002, Comments at 8-9 (emphasis in original).

Finally, with respect to § 56-234, no hearing was held. Section 56-234 does not say an "opportunity for a hearing"; it says a hearing. A hearing means a hearing, not a consideration of pleadings only, particularly where there are so many issues in controversy and the application is subject to such serious question. For example, for several years we held ore tenus "hearings" before issuing certificates for competitive local exchange carriers under § 56-265.4:4 until the section was amended to require only "an opportunity for hearing."<sup>13</sup> The hearings were formalities, without opposition or significant questions, but we complied with the law. Here, where much is questionable, we should do no less.

The WNA was not an experiment when it was filed and is not one now. While the substance of the WNA presented in the "settlement" is different in certain respects from the original proposal, there is no suggestion that any change other than the two-year limit makes the current WNA an experiment under § 56-234. Including a sunset clause in a proposed rate change that can increase rates without the possibility of a refund does not make the proposal an experiment.

The precedent of this case is far reaching and devastating to critical protections provided by §§ 56-234 and -235.2. From now on, a utility may obtain a rate increase without proof that its proposed rates are just and reasonable. It will be difficult to distinguish other requests from this one as long as there is a time limit on the proposed change.

Without an exception, the Company and this Commission are bound by, among others, §§ 56-235.2, -238, and -240 of the Code of Virginia. These statutes require the utility to charge just and reasonable rates as defined by § 56-235.2. Before rates may be changed, they must be filed with the Commission and notice given. The Commission may, under § 56-238, suspend the proposed rates for up to 150 days during which time we are to investigate the reasonableness or justness of the rates. After 150 days, the rates may become effective, but are subject to refund until a final order is issued by the Commission. Under § 56-240, we may allow the rates to become effective without suspension. To do so, a public utility must have filed:

information and data designed to show that any increase complies with the just and reasonable requirements of § 56-235.2, and . . . based thereon the Commission finds a reasonable probability that the increase will be justified upon full investigation and hearing.

In this case, the Company has provided no information to determine whether the proposed rates comply with the requirements of § 56-235.2. The rates are not subject to refund and will not even be examined for two years. At that time, changes will be prospective only. In sum, customers may be overcharged and there will be no remedy. The Company and, presumably, the majority and Consumer Counsel are not concerned. In its order, the majority does not even state that a general rate proceeding will be required before the "experiment" may be continued, rather "a general rate case may be appropriate prior to extending the WNA" (emphasis added).

Failing to require cost and revenue data as part of a general rate proceeding before approving the WNA is particularly egregious in this case. First, under § 56-235.2, the public utility must "demonstrate" that its rates "in the aggregate" do not provide revenues in excess of "the aggregate actual costs . . . [of] serving customers." The WNA looks at a single element of a utility's rates and adjusts revenues only, without any analysis of the costs. Under § 56-235.2, rate changes are to be made only after the applicant has shown that aggregate revenues do not exceed aggregate costs. Just two years ago, we made this very point explicit in adopting amendments to our rate case rules:

We find that § 56-235.2 requires that when any rate, toll, charge, or schedule is to be increased in a proceeding, the public utility must demonstrate at that time that its rates, tolls, charges, or schedules in the aggregate provide revenues not in excess of the aggregate actual costs incurred by the utility in serving its jurisdictional customers. (emphasis in original).<sup>14</sup>

Here, there is no evidence related to either aggregate revenues or aggregate costs.

Also, a critical element of § 56-235.2 is that costs and revenues are examined together; revenues are not adjusted absent an analysis of costs. Yet, the WNA will do precisely that, adjust revenues without any review of changes in costs.

In light of § 56-235.2, this Commission has been hesitant to establish automatic clauses. The Commission's opinion in *Application of Old Dominion Power Company, Inc.* sets forth basic criteria for automatic clauses. Essentially we concluded that in order to allow an automatic clause, the adjustment must be in response to costs that are volatile, major, continuous, and beyond the control of the company.<sup>15</sup>

Of perhaps more relevance to this proceeding is our decision in *Application of Roanoke Gas Company*.<sup>16</sup> In that case we went beyond the criteria set forth in *Old Dominion Power* and allowed a Distribution System Renewal Surcharge (DSR Surcharge) to permit Roanoke Gas to recover the depreciation and carrying costs on all prudently incurred system renewal costs up to a maximum of \$1.5 million each year without the requirement to file a rate case. The return on equity, for earnings test purposes, was reduced .25%. In addition, procedures were established to ensure that the recovery allowed through the clause tracked the actual dollars expended. Finally, although presented as an "experiment" under § 56-234 by the Hearing Examiner, we approved the program for three years, but stated specifically that "[w]e do not find the DSR Surcharge proposal to be an experiment under § 56-234 of the Code of Virginia."<sup>17</sup>

<sup>13</sup> 2001 Va. Acts, ch. 75.

<sup>14</sup> *Commonwealth of Virginia, At the relationship of the State Corporation Commission, Ex Parte: In the Matter of Adopting Additions and Amendments to the Commission's Rules Governing the Filing of Utility Rate Increase Applications*, Case No. PUA-1999-00054, 2000 S.C.C. Ann. Rept. 140, 141.

<sup>15</sup> *Application of Old Dominion Power Company, Inc., For an increase in rates*, Case No. PUE-1983-00035, 1984 S.C.C. Ann. Rept. 408, 409.

<sup>16</sup> *Application of Roanoke Gas Company, For general increase in rates and to revise its tariff*, Case No. PUE-1998-00626, 1999 S.C.C. Ann. Rept. 440, 442.

<sup>17</sup> *Id.* 1999 S.C.C. Ann. Rept. at 442, n.9.

These cases are instructive. First, both proposed "adjustment clauses" were presented in the context of a general rate case where § 56-235.2 applied, and data showing aggregate costs and aggregate expenses were presented. Second, both cases presented clauses that were tied to actual costs that had been expended. Further, in *Roanoke Gas*, where the clause was approved, we required procedures to ensure that the automatic clause was based on actual current costs for the renewal program.

This case is strikingly different. First, there is no rate case to examine aggregate costs and aggregate revenues. Second, the proposed clause is not based on costs, but rather "revenues" that are, at best, more than six years removed from any cost study. Further, there is no procedure to ensure that the revenues are tied to actual costs.

In addition to these conflicts with § 56-235.2 and our holdings on automatic clauses, the Company's current rates were set based on a test year ending June 30, 1996, more than six years ago. Since then, this Company has been transferred two times, most recently to AGL Resources, Inc. There has been corporate restructuring. The industry itself has changed. Each of these impacts this Company and its costs. None has been considered in this proceeding.

In the 1996 rate case involving data that are more than six years old, costs were established and allocated among classes. These costs then became rates based on normal weather, number of customers, and loads. The proposal seeks to recover the same weather-normalized non-gas revenue as authorized in the Company's 1996 rate case adjusted for customer growth. The proposal is not like a fuel factor or a purchase gas adjustment clause. It is not a flow through of costs. Rather, it is an adjustment to ensure recovery of revenues regardless of their relationship to costs.

A complete review of all costs and revenues must be required before the WNA is considered. For example, certainly the costs have changed. We do not know whether the current rate per ccf recovers those costs. They may under-recover or over-recover VNG's costs. The Company, like most, has implemented cost saving measures including reducing personnel. It has reorganized under a new owner that may have brought new efficiencies to its system. We do not know whether these changes have reduced costs to offset, at least in part, the impact of warmer than normal weather. We do not know what the cost of capital, particularly the cost of equity, is. For example, the current cost of capital, including the cost of equity, was established when VNG was a subsidiary of Consolidated Natural Gas, and VNG's cost of capital was based on CNG's rate making capital structure.<sup>18</sup> In addition, VNG's customer base may have grown which could reduce certain average costs. The characteristics of the various customer classes have probably changed, altering the allocations among these classes in a way that could impact rates regardless of changes in total costs. The "normal" weather used to establish rates in the last case has changed and should be updated. These are merely some of the issues that must be addressed before any rate change that could increase rates is considered.

With respect to the WNA itself, additional analysis is required before it should be considered, even as part of an over-all rate review. In addition to the forgoing, issues are raised such as whether non-heating customers whose usage may not be weather sensitive should be subject to adjustment. Also, the WNA appears to assume that there is no correlation between cost and weather, that costs do not decrease at all with warmer than normal weather. That assumption could be tested without putting customers at risk by analyzing data from prior years and evaluating the correlation between weather and cost, if any. We need to know whether an automatic adjustment such as the one proposed reduces the cost of equity and, if so, by how much. We need to analyze alternatives to the WNA, including stabilizing rate design proposals, weather insurance, or revising the definition of normal weather to reflect a shorter period over which normal weather is measured.

Finally, the majority gives "significant weight" to the fact that Consumer Counsel agreed to the proposed settlement. I agree that such weight should be given. Support by Consumer Counsel, however, cannot and does not change the law. The proposal is not an experiment, and there has been no showing that the WNA meets the requirements of § 56-235.2. There is no mechanism to track the relationship between the WNA and any costs because the WNA is not tied to costs. The costs can decrease, while the revenues increase. An extraordinary showing should be required before such an adjustment is approved. Here there has been no showing and no hearing.

The law, sound regulation, and common sense require that the WNA be considered only as part of a general rate review.

<sup>18</sup> *Application of Virginia Natural Gas, Inc., For an expedited increase in gas rates*, Case No. PUE-1996-00227, 1998 S.C.C. Ann. Rept. 338, 339-340.

**CASE NO. PUE-2002-00238  
JUNE 6, 2002**

PETITION OF  
VIRGINIA ELECTRIC AND POWER COMPANY  
and  
DOMINION NUCLEAR CONNECTICUT, INC.

For an exemption of transaction from the prior approval and filing requirements of the Affiliates Act or, in the alternative, approval under Chapter 4, Title 56 of the Code of Virginia

**ORDER GRANTING APPROVAL**

On April 18, 2002, Virginia Electric and Power Company ("Dominion Virginia Power" or "Company") and Dominion Nuclear Connecticut, Inc. ("DNC"), (collectively, the "Petitioners") filed an application with the State Corporation Commission ("Commission") under Chapter 4, of Title 56 of the Code of Virginia (the "Code") requesting an exemption from the filing and prior approval requirements of the Affiliates Act or, in the alternative, for approval of Dominion Virginia Power's emergency procurement from DNC of an over-current trip device for use at Dominion Virginia Power's Surry Nuclear Power Station. The over-current trip device was purchased by Dominion Virginia Power from DNC for a total cost of \$8,500.00.

The transaction for which the Company is requesting approval occurred during the weekend of March 29-31, 2002. During that time, Surry Unit No. 2 was in a scheduled refueling outage. As is normally the case during a refueling outage, Company personnel were engaged in refurbishing the main



breaker for the inside re-circulation spray pump. The re-circulation spray system is a critical system that supplies water to the containment spray system, a safety system which, in case of an emergency, sprays water to eliminate hydrogen and thereby prevents an explosion that could be caused by sparks. For this reason, the containment spray system must be fully available whenever a unit is on line and must also be available when fuel is being moved in the refueling process. Thus, breaker refurbishment on this critical emergency system can only occur during outages.

During the current outage at Surry Unit No. 2, the over-current trip device failed during an otherwise routine breaker refurbishment process. The trip device is needed for the proper functioning of the main breaker for the inside re-circulation spray pump, which is a critical system that supplies water to the containment spray system. There was only a 48-hour window for replacement of the device in order to maintain the outage schedule. Dominion Virginia Power did not have a spare trip device in its inventory,<sup>1</sup> and it, therefore, sought to procure the device from the manufacturer, ABB, which could provide it in 14 business days.

The RAPID (Readily Accessible Parts Information Directory) system, an online data base available to utilities for the rapid procurement of equipment, was searched, and a component was located at the Millstone Nuclear Generating Station, which is owned by DNC. From the RAPID system search, it appeared that no other nuclear stations within the continental United States had an acceptable spare device that could be procured for use at the Surry Nuclear Power Station. Because of the need to replace the failed device within 48 hours, the Company proceeded with the procurement from its affiliate, DNC.

The price paid to DNC of \$8,500.00 was the same as ABB's cost, as the seller would have to replace the item through a new purchase from ABB. The device was delivered and installed within the 48-hour time window, thus, allowing the breaker to be ready to perform its intended function during and after the outage. As a result of the timely procurement of the device, the original outage schedule was not compromised. If the device had not been replaced within the 48-hour window, an extension of the scheduled outage would have been required, resulting in additional costs for power.

THE COMMISSION, upon consideration of the petition and representations of the Petitioners and having been advised by its Staff, is of the opinion and finds that Dominion Virginia Power's request for exemption should be denied. But, based on the information presented in the application, the emergency procurement of an over-current trip device for use at Dominion Virginia Power's Surry Nuclear Power Station from its affiliate, DNC, served the public interest and should, therefore, be approved.

Accordingly, IT IS ORDERED THAT:

- 1) Pursuant to § 56-77 of the Code, Dominion Virginia Power's request for an exemption from the filing and prior approval requirements under the Affiliates Act is hereby denied.
- 2) Pursuant to § 56-77 of the Code, Dominion Virginia Power is hereby granted approval for the purchase of an over-current trip device from DNC at a total cost of \$8,500.00, as described herein.
- 3) The approval granted herein shall not preclude the Commission from exercising the provisions of §§ 56-78 and 56-80 of the Code hereafter.
- 4) The Commission reserves the authority to examine the books and records of any affiliate in connection with the approval granted herein whether or not the Commission regulates such affiliate.
- 5) The approval granted herein shall have no ratemaking implications.
- 6) Company shall include the transaction approved herein in its Annual Report of Affiliate Transactions to be submitted to the Director of Public Utility Accounting of the Commission by no later than May 1 of each year for the preceding calendar year, subject to extension by the Director of Public Utility Accounting of the Commission.
- 7) If Annual Informational and/or General Rate Case Filings are not based on a calendar year, then Dominion Virginia Power shall include the affiliate information contained in the Annual Report of Affiliate Transactions in such filings.
- 8) There appearing nothing further to be done in this matter, it hereby is dismissed.

<sup>1</sup> The failure rate for such devices is minimal.

**CASE NO. PUE-2002-00246  
NOVEMBER 1, 2002**

NOTIFICATION OF  
AMVEST OIL & GAS, INC.

To furnish natural gas service pursuant to 56-265.4:5 of the Code of Virginia

**ORDER DISMISSING PROCEEDING**

On April 25, 2002, AMVEST Oil & Gas, Inc. ("AOG" or the "Company"), notified the State Corporation Commission ("Commission"), pursuant to § 56-265.4:5 of the Code of Virginia ("Code"), of its plans to furnish natural gas services to Lonesome Pine Dining, Inc. ("Lonesome Pine"), a Virginia corporation operating the Huddle House Restaurant in the Wise Plaza Shopping Center in Wise, Virginia.

On June 19, 2002, the Commission entered an Order docketing the proceeding and notifying all public utilities providing natural gas service in Virginia of AOG's plans to furnish gas service to the Huddle House Restaurant. The utilities were advised that they could file an application with the

Commission to provide natural gas service within the area identified in the Company's notification documents within sixty (60) days of the entry of the June 19, 2002, Order. The Commission found that the Huddle House was not located within a territory for which a certificate of public convenience and necessity has been granted. In addition, the Commission found that the facility was not located within any area, territory, or jurisdiction served by a municipal corporation that provided gas distribution service as of January 1, 1992.

Sixty days now have elapsed since the entry of the June 19, 2002, Order, and no jurisdictional public utility has filed an application to provide natural gas service within the area identified in the above-referenced notification.

NOW THE COMMISSION, upon consideration of the foregoing, is of the opinion and finds that the Company has satisfied the requirements of §§ 56-265.1(b)(4) and 56-265.4:5 of the Code, and that there being nothing further to be done herein, this matter should be dismissed.

Accordingly, IT IS ORDERED THAT this matter shall be dismissed from the Commission's docket of active proceedings, and the papers placed in the Commission's file for ended causes.

**CASE NO. PUE-2002-00248  
MAY 24, 2002**

APPLICATION OF  
VIRGINIA ELECTRIC AND POWER COMPANY

For authority to establish credit facility

**ORDER GRANTING AUTHORITY**

On May 1, 2002, Virginia Electric and Power Company ("Virginia Power" or "Applicant") filed an application under Chapters 3 and 4 of Title 56 of the Code of Virginia requesting authority to establish a revolving credit and competitive loan facility ("New Facility"). The amount of short-term debt proposed in the application is in excess of twelve percent ("12%") of total capitalization as defined in § 56-65.1 of the Code of Virginia. Applicant paid the requisite fee of \$250.

In its application, Virginia Power, along with its parent, Dominion Resources, Inc. ("Dominion"), and affiliate, Consolidated Natural Gas Company ("CNG"), proposes to establish a \$2.0 billion syndicated revolving credit and competitive loan New Facility. The New Facility will consist of two portions: a \$1,250 million 364-day revolving credit and competitive loan facility and a \$750 million 3-year syndicated revolving credit and competitive loan facility. In addition, a portion of the New Facility, \$200 million, will be available for the issuance of letters of credit.

By Commission Order dated May 18, 2001, in Case No. PUF-2001-00010, the Commission granted Virginia Power authority to establish a shared \$1.75 billion syndicated revolving credit and competitive loan facility ("Old Facility") for a 364-day period. The Old Facility was also to be shared by Virginia Power, Dominion, and CNG. The New Facility will replace the facility approved by the Commission in Case No. PUF-2001-00010, as well as Dominion's own \$300 million multi-year revolving credit facility.

Virginia Power's proposal in the current application is similar to the proposal in Case No. PUF-2001-00010, except for the increased total amount available. As before, JPMorgan Chase Bank will act as administrative agent and its affiliate, JPMorgan Securities Inc., will act as arranger for the New Facility. Virginia Power's use of the New Facility will be for general corporate purposes, including commercial paper liquidity back up.

The New Facility will be available for borrowings by the Company, Dominion, and CNG, subject to the maximum aggregate limit of \$2.0 billion, with the maximum amount fully available to be borrowed by each borrower. The New Facility will incorporate two borrowing arrangements. The revolving credit feature of the facility represents funds that will be provided on a committed basis. The competitive loan feature of the facility represents funds that may be provided on an uncommitted basis through an auction mechanism conducted at the request of the borrower. The Company states that the proceeds of any of its borrowings under the New Facility will be used for general corporate purposes, including commercial paper liquidity back up.

Loans under the revolving credit arrangement will bear interest at one of the following rates, depending on the individual borrower's election, plus a margin based on the credit rating of the borrower: 1) the higher of prime rate or the fed funds rate plus 0.5%, or 2) the rate for eurodollar deposits. Loans under the competitive loan arrangement will bear interest at either an absolute rate or a margin above the eurodollar rate.

Facility fees will accrue and be payable to the lenders based on the full amount of the facility. The Company states that Dominion will be responsible for paying the facility fee. This fee will accrue at rates based on the lowest credit rating on senior unsecured debt among the borrowers. Currently, Dominion's senior unsecured long-term ratings of 'EBB+' by Standard & Poor's and "Baal" by Moody's Investors Service, Inc. is the lowest rating among the borrowers. The facility fee will be allocated internally among the borrowers based on the internal commercial paper program size of each borrower and the credit rating of each borrower.

Each borrower is responsible for its own borrowings under the New Facility.

THE COMMISSION, upon consideration of the application, subsequent information provided by Applicant, and the advice of its Staff, is of the opinion and finds that approval of the application will not be detrimental to the public interest. Accordingly,

IT IS ORDERED THAT:

1) Applicant is hereby authorized to establish a \$2.0 billion syndicated revolving credit and competitive loan facility with its parent, Dominion, and its affiliate, CNG, consisting of two portions: a \$1,250 million 364-day revolving credit and competitive loan facility and a \$750 million 3-year syndicated revolving credit and competitive loan facility, under the terms and conditions and for the purposes set forth in the application.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

- 2) Applicant shall file a copy of the executed credit agreement promptly after it becomes available.
- 3) Applicant shall pay facility fees, after internal allocations, based *on* an implied borrowing capacity of \$500 million as stated in the application.
- 4) On or before June 30, 2003, Applicant shall file a report detailing use of the 364-day portion of the New Facility to include the date, amount, applicable interest rate of any loans under the facility segregated by borrower, and the use of the proceeds. In addition, such report shall include a separate accounting by Virginia Power of its daily short-term debt balance and the source of the borrowings.
- 5) On or before June 30, 2005, Applicant shall file a report detailing use of the 3-year portion of the New Facility to include the date, amount, applicable interest rate of any loans under the facility segregated by borrower, and the use of the proceeds.
- 6) The authority granted herein shall not preclude the Commission from applying the provisions of 5 56-78 and § 56-80 of the Code of Virginia hereafter.
- 7) The Commission reserves the right, pursuant to § 56-79 of the Code of Virginia, to examine the books and records of any affiliate in connection with the authority granted herein, whether or not such affiliate is regulated by this Commission.
- 8) The authority granted herein shall have no implications for ratemaking purposes.
- 9) This matter shall remain under the continued review, audit, and appropriate directive of the Commission.

**CASE NO. PUE-2002-00302  
JULY 12, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION  
v.  
UTILIQUEST, LLC,  
Defendant

**ORDER OF SETTLEMENT**

Pursuant to § 56-265.30 of the Code of Virginia, the Virginia State Corporation Commission ("Commission") is charged with enforcing the provisions of the Underground Utility Damage Prevention Act, §§ 56-265.14 *et seq.* of the Code of Virginia ("Act"). The Commission's Division of Utility and Railroad Safety ("Division"), charged with the investigation of probable violations of the Act, has completed investigations of certain incidents between November 7, 2001, and April 4, 2002, listed in Attachment A, involving Utiliquest, LLC ("Company"), and alleges that:

- (1) The Company is a contract locator as that term is defined in § 56-265.15 of the Code of Virginia;
- (2) During the aforementioned period the Company violated the Act by committing the following violations:
  - (a) Failing on certain occasions to mark the approximate horizontal location of the underground utility lines on the ground to within two feet of either side of the underground utility lines, in violation of §§ 56-265.19 A and D of the Code of Virginia.
  - (b) Failing on certain occasions to mark within the time prescribed in the Act, in violation of §§ 56-265.19 A and D of the Code of Virginia.
  - (c) Failing on certain occasions to report to the notification center that lines had been marked or they were not in conflict with the proposed excavation, in violation of §§ 56-265.19 A and D of the Code of Virginia.

As evidenced in the attached Admission and Consent document, the Company neither admits nor denies these allegations but admits the Commission's jurisdiction and authority to enter this Order. As an offer to settle all matters before the Commission arising from the Division's allegations made herein, which includes all probable violations presented to the Underground Utility Damage Prevention Advisory Committee on May 7, 2002, and set out in Attachment A hereto, the Company represents and undertakes that it will pay a civil penalty to the Commonwealth of Virginia in the amount of \$17,600 to be paid contemporaneously with the entry of this Order. This payment will be made by cashier's check or money order, payable to the Treasurer of Virginia and directed to the attention of the Director of the Division of Utility and Railroad Safety.

The Commission, being advised by the Staff and finding sufficient basis herein for the entry of this Order, hereby accepts this settlement.

Accordingly, IT IS ORDERED THAT:

- (1) Pursuant to the authority granted the Commission by § 12.1-15 of the Code of Virginia, the offer of settlement made by the Company be, and it hereby is, accepted.
- (2) The sum of \$17,600 tendered contemporaneously with the entry of this Order is accepted.
- (3) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. PUE-2002-00303  
JULY 18, 2002**

APPLICATION OF  
EAST COAST TRANSPORT, INC.,  
TENASKA VIRGINIA PARTNERS, L.P.,  
TENASKA VIRGINIA II PARTNERS, L.P.,  
and  
TENASKA OPERATIONS, INC.

For approval of transactions under Chapter 4 of Title 56 of the Code of Virginia

**ORDER GRANTING APPROVAL**

On May 7, 2002, East Coast Transport, Inc. ("ECTI"), Tenaska Virginia Partners, L.P. ("TVP"), Tenaska Virginia II Partners, L.P. ("TV2P"), and Tenaska Operations, Inc. ("TO") (collectively, referred to as the "Applicants"), filed an application with the State Corporation Commission ("Commission") pursuant to Chapter 4 of Title 56 of the Code of Virginia. The Applicants request approval of contracts or arrangements whereby ECTI will sublease a parcel of land from TV2P for constructing a water facility and provide untreated water service to TVP's Fluvanna County generating plant. ECTI will also receive management, administrative, operations and maintenance service from TO.

ECTI, a wholly owned subsidiary of Tenaska Energy, Inc. ("TEI"), is a Virginia public service corporation incorporated on January 16, 2001. ECTI filed its initial rates and regulations for water sales and transportation service with the Commission on July 16, 2001, pursuant to § 56-236 of the Code of Virginia ("the Code"). ECTI's rates and regulations were last filed and amended May 2, 2002. ECTI constructs, owns, and operates water facilities that provide untreated, non-potable water to customers in Fluvanna and Buckingham counties.

TVP is a limited partnership that plans to construct and operate a 900-megawatt ("MW") natural gas-fired electrical generating facility in Fluvanna County, Virginia.

TV2P is a limited partnership that plans to construct and operate a 900 MW natural gas-fired electrical generating facility in Buckingham County, Virginia.

TO is a Delaware corporation that provides management, administrative, operational, maintenance, and other support services to Tenaska affiliates.

**Sublease Agreement**

The Applicants are seeking approval for a sublease agreement whereby ECTI will sublease from TV2P 5.5 acres of land at TV2P's Buckingham County generating station site to construct a \$5.9 million water pumping facility to supply cooling water to TVP's Fluvanna County generating station. TV2P currently leases the underlying real estate at its Buckingham County generating station from Mr. and Mrs. John Buschmann<sup>1</sup> of Buckingham County at a net effective rate of \$675 per acre. The proposed sublease calls for ECTI to pay TV2P approximately \$365 per acre, or \$2,000 per year.

ECTI plans to recover the capital costs of the water facility through a facilities construction charge. ECTI's operating costs will be recovered through a fixed capacity charge and a variable volumetric charge as stated in its rate schedule filed with the Commission. The sublease rental costs will be part of the fixed capacity charge.

The Applicants represent that TV2P's site offers engineering, environmental permitting, and business condition advantages that make it uniquely well-suited for serving both Buckingham County and Fluvanna County customers.

**Water Service Agreement**

The Applicants are seeking approval for a water service agreement whereby ECTI will pump and transport untreated water from the James River to TVP's Fluvanna County generating station to cool its 900 MW generating unit. The Applicants represent that there is no alternative source of water available to supply TVP's Fluvanna County generating station. The proposed ECTI-TVP agreement has an initial term of 22 years, specifically commencing June 1, 2003, and ending June 30, 2025. After June 30, 2025, the agreement will continue in effect until either party gives 90 days' written notice of cancellation.

**Operations and Maintenance Agreement**

The Applicants are seeking approval for an operations and maintenance agreement whereby TO will supply ECTI with management, administrative, operations, maintenance, and other support services prior to and during construction and upon full commercial operation of ECTI's water facility. The term of the proposed operations and maintenance agreement is 23 years and four months, from April 23, 2002, until August 31, 2025. ECTI will have the right to terminate the agreement prior to the expiration of the term in the event of a termination event as described in the operations and maintenance agreement or if similar services become available to ECTI on a more cost beneficial basis.

TO plans to charge ECTI the actual costs of managing and operating the facility plus a management fee based on water output. The management fee is intended to reimburse TO for its overhead costs associated with contract administration, including contract management, accounting, and travel. Based on the anticipated cooling water needs of TVP's Fluvanna County generating unit, TO estimates that the management fee will be approximately \$36,000 per year.

<sup>1</sup> The Buschmanns are not affiliated with TEI or any of the Tenaska affiliates.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

The Applicants state that TO currently contracts to provide operating and maintenance services to three water systems that provide water to four Tenaska, generating plants. Two of the systems are operational, and the third is under construction. The two active agreements are with unregulated affiliates. The Applicants represent that TO's experience in operating water facilities that supply cooling water to large electric generating facilities will result in skilled service and economies of scale and will also prove cost beneficial to ECTI and its customers. According to the Applicants, TO's management fees for the two active agreements, if converted to a volumetric basis, are the same or slightly greater than the amount that will be charged to ECTI.

NOW THE COMMISSION, upon consideration of the application and representations of Applicant and having been advised by its Staff, is of the opinion and finds that the above-described transactions are in the public interest and should be approved, subject to certain conditions. Regarding the ECTI-TO service agreement, we are of the opinion that ECTI should ascertain whether a market exists for the services to be obtained from TO. If a market exists, ECTI should pay TO the lower of cost or market for services obtained under the ECTI-TO operations and maintenance agreement.

Accordingly, IT IS ORDERED THAT:

- 1) Pursuant to § 56-77 of the Code of Virginia, East Coast Transport, Inc., is hereby authorized to enter into a sublease agreement with Tenaska Virginia II Partners, L.P., under the terms and conditions and for the purposes described herein.
- 2) Pursuant to § 56-77 of the Code of Virginia, East Coast Transport, Inc., is hereby authorized to enter into a water services agreement with Tenaska Virginia Partners, L.P., under the terms and conditions and for the purposes as described herein.
- 3) Pursuant to § 56-77 of the Code of Virginia, East Coast Transport, Inc., is hereby authorized to enter into an operations and maintenance service agreement with Tenaska Operations, Inc., under the terms and conditions and for the purposes as described herein, provided that for services for which a market exists, ECTI shall pay to TO the lower of cost or market.
- 4) Commission approval shall be required for any changes in terms and conditions of the affiliate agreements from those contained herein, including any successors or assigns under the affiliate agreements.
- 5) The approvals granted herein shall not preclude the Commission from exercising the provisions of §§ 56-78 and 56-80 of the Code of Virginia hereafter.
- 6) The approval granted herein shall have no ratemaking implications should there be any future rate proceedings.
- 7) The Commission reserves the right to examine the books and records of any affiliate in connection with the authority granted herein whether or not such affiliate is regulated by this Commission.
- 8) East Coast Transport, Inc., shall submit to the Commission's Director of Public Utility Accounting, on or before May 1 of each year, beginning May 1, 2003, subject to extension by the Director of Public Utility Accounting, an Annual Report of Affiliate Transactions. Such report shall include all affiliate transactions for the preceding calendar year. Information to be included is as follows: affiliate's name, description of each affiliate agreement or arrangement, dates covered by such agreements or arrangements, and total dollar amount for each agreement or arrangement for the calendar year.
- 9) There appearing nothing further to be done in this matter, it hereby is dismissed.

**CASE NO. PUE-2002-00308  
AUGUST 7, 2002**

APPLICATION OF  
ROBERT A. WINNEY d/b/a THE WATERWORKS COMPANY OF FRANKLIN COUNTY

To cancel certificate of public convenience and necessity

**ORDER CANCELLING CERTIFICATE**

By Order entered May 24, 2000, in Case No. PUE-2000-00095, the State Corporation Commission ("Commission") cancelled Certificate No. W-291, and issued Certificate No. W-291-A to Robert A. Winney, d/b/a The Waterworks Company of Franklin County, permitting the holder to provide water service to three developments in Franklin County, Virginia.

Pursuant to the terms of an agreement entered into between Mr. Winney and StarOverLake, Inc., in David W. Talbott, Receiver, Waterworks Company of Franklin County vs. Robert A. Winney, Franklin Circuit Court, Case No. 02-08-8334, on May 15, 2002, Mr. Winney has agreed to sell all the waterworks assets to StarOverLake, Inc. By petition, also dated May 15, 2002, Mr. Winney has requested cancellation of his certificate of public convenience and necessity.

On July 26, 2002, the Franklin County Circuit Court entered its Final Order in Case No. 02-08-8334, finalizing the agreed sale of the assets. Accordingly, the Commission finds that it is in the public interest to grant the requested cancellation. Further, in accordance with the terms of the Final Order, the General Counsel of the Commission is directed to execute and cause to be filed in the Franklin County Circuit Clerk's Office a release of the liens recorded therein in favor of the Commission and against Mr. Winney. In a separate document filed today, the Commission has waived and released the judgments against Mr. Winney entered in Case Nos. PUE-1999-00619 and PUE-1998-00602.

ACCORDINGLY IT IS ORDERED that:

- (1) This matter be docketed and assigned Case No. PUE-2002-00308.

- (2) Certificate No. W-291-A, issued to Robert A. Winney, d/b/a The Waterworks Company of Franklin County, is cancelled, as outlined above.
- (3) This case is dismissed.

**CASE NO. PUE-2002-00309  
JUNE 4, 2002**

APPLICATION OF  
CENTRAL VIRGINIA ELECTRIC COOPERATIVE

For authority to issue long-term debt

**ORDER GRANTING AUTHORITY**

On May 22, 2002, Central Virginia Electric Cooperative ("Applicant" or "the Cooperative") filed an application with the Virginia State Corporation Commission ("Commission") under Chapter 3 of Title 56 of the Code of Virginia wherein it requests authority to incur long-term debt with the Rural Utilities Service ("RUS"). Applicant has paid the requisite fee of \$250.

Applicant requests authority to borrow \$9,000,000 in the form of a Rural Utilities Service Treasury Rate Loan. The proceeds will be used to fund a portion of Applicant's two-year construction work plan.

The loan will have a 35-year maturity. Applicant represents that the interest rate on the loan is established daily by the United States Treasury. Applicant intends to select the interest rate term for each advance of funds. Such interest rate terms can range from one year to 35 years.

THE COMMISSION, upon consideration of the application and having been advised by its Staff, is of the opinion and finds that approval of the application will not be detrimental to the public interest. Accordingly,

IT IS ORDERED THAT:

- 1) Applicant is hereby authorized to borrow up to \$9,000,000 from the RUS, under the terms and conditions and for the purposes set forth in the application.
- 2) Within thirty (30) days of the date of each advance of funds from RUS, Applicant shall file with the Commission's Division of Economics and Finance a Report of Action which shall include the amount of the advance, the interest rate selected, and the interest rate term.
- 3) The authority granted herein shall have no implications for ratemaking purposes.
- 4) There appearing nothing further to be done in this matter, it is hereby dismissed.

**CASE NO. PUE-2002-00310  
JUNE 28, 2002**

APPLICATION OF  
COLUMBIA GAS OF VIRGINIA, INC.

For approval to borrow and invest short-term funds through an intercompany money pool for the period ending June 30, 2003

**ORDER GRANTING AUTHORITY**

On May 21, 2002, Columbia Gas of Virginia, Inc. ("CGV" or "Applicant"), filed an application under Chapters 3 and 4 of Title 56 of the Code of Virginia for approval to borrow up to \$45,000,000 and invest excess short-term funds up to \$45,000,000 through the NiSource Money Pool for the period ending June 30, 2003. The amount of short-term debt authority requested in the application is in excess of twelve (12) percent of total capitalization as defined in § 56-65.1 of the Code of Virginia. Applicant paid the requisite fee of \$250.

CGV requests authority to borrow from the NiSource Money Pool to finance seasonal gas purchases and related storage activities, to provide for working capital needs, and to provide bridge financing for ongoing capital improvement programs.

CGV's application requests authority to participate in the NiSource Money Pool with borrowing and investment limitations different than those established by the Commission in the Applicant's most recent financing applications, Case Nos. PUF-2000-00045<sup>1</sup> and PUF-2001-00032.<sup>2</sup> In those cases, CGV received authority to borrow up to \$70,000,000 in short-term debt and to invest temporary short-term funds up to \$21,000,000 in the NiSource Money Pool.

<sup>1</sup> Application of Columbia Gas of Virginia, Inc., for approval of intercompany financing for 2001, (Final Orders dated December 15, 2000, and January 24, 2001).

<sup>2</sup> Application of Columbia Gas of Virginia, Inc., for approval of intercompany financinqs for 2002, (Final Order dated December 18, 2001).

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

NOW THE COMMISSION, upon consideration of the application and having been advised by its Staff, is of the opinion and finds that approval of the application will not be detrimental to the public interest. We note that Reports of Action filed in Case Nos. PUF-2000-00045 and PUF-2001-00032 wherein it appears that CGV has exceeded the \$21 million investment limit authorized on 277 separate days.

On May 13, 2002, CGV filed a letter requesting an increase in the investment limitation from \$21 million to \$45 million for the remainder of the authorization period. In the May 13 letter, CGV stated that a primary reason for exceeding the \$21 million investment limitation was an over-collection balance in its purchased gas adjustment and actual cost adjustment ("PGA/ACA") mechanism.

We will ask our Staff to monitor closely CGV's money pool and PGA/ACA over-collection activity and report its findings in any subsequent CGV money pool case. We are concerned that it appears that CGV's ratepayers may be supplying NiSource with interest free funds through over-collections under the PGA/ACA mechanism. Therefore, we will also retain jurisdiction over CGV in Case Nos. PUF-2000-00045, PUF-2001-00025, and PUF-2001-00032 and will consider CGV's unauthorized investments in those cases as unresolved at this time, subject to provisions under § 56-85 of the Code of Virginia.

Should Applicant wish to participate in the NiSource Money Pool beyond June 30, 2003, we will require CGV to file any application requesting such approval no later than May 23, 2003.

Accordingly, IT IS ORDERED THAT:

- 1) The authority granted in Case No. PUF-2001-00032 is hereby terminated and superceded by the authority granted herein.
- 2) CGV is hereby authorized to borrow up to \$45,000,000 from the NiSource Money Pool from the date of this Order through June 30, 2003, under the terms and conditions and for the purposes set forth in the application.
- 3) CGV is hereby authorized to invest temporary excess cash up to \$45,000,000 in the NiSource Money Pool from the date of this Order through June 30, 2003, all in a manner and under the terms and conditions and for the purposes set forth in the application.
- 4) Should Applicant request from the Securities and Exchange Commission ("SEC") any changes to the NiSource Money Pool, Applicant shall submit within ten (10) days of filing with the SEC to the Commission's Division of Economics and Finance a copy of Form U-1 or Form U-1A filed with the SEC.
- 5) Should Applicant wish to obtain authority to participate in the NiSource Money Pool beyond June 30, 2003, it shall file an application requesting such authority no later than May 23, 2003. Such application shall include all information required by: a) the Instructions for Filing Securities Applications dated June 30, 2000; and b) the Transaction Summary-Chapter 4 Applications dated October 21, 1994.
- 6) The application referenced in Ordering Paragraph (5) herein shall include a proforma sources and uses of funds schedules for the next three years; a monthly projection of money pool borrowing and lending balances; and documentation supporting the need of the requested short-term borrowing limit and the requested short-term investment limit.
- 7) Approval of this application shall have no implications for ratemaking purposes.
- 8) The Commission reserves the right, pursuant to § 56-80 of the Code of Virginia, to examine the books and records of any affiliate in connection with the authority granted herein, whether or not such affiliate is regulated by this Commission.
- 9) Applicant shall file reports of action on or before November 27, 2002, February 28, 2003, May 30, 2003, and August 29, 2003, for the preceding calendar quarter, to include:
  - a) a monthly schedule of NiSource Money Pool borrowings, segmented by borrower; and
  - b) a monthly schedule that separately reflects interest expenses, each type of allocated fee, and an explanation of how both the interest rate and allocated fees have been calculated.
- 10) This matter shall be continued, subject to the continued review, audit, and appropriate directive of the Commission.

**CASE NO. PUE-2002-00311  
AUGUST 13, 2002**

APPLICATION OF  
VIRGINIA GAS PIPELINE COMPANY  
and  
SALTVILLE GAS STORAGE COMPANY, L.L.C.

For approval of agreement between affiliated interests pursuant to Title 56, Chapter 4 of the Code of Virginia

**ORDER GRANTING APPROVAL**

On May 22, 2002, Virginia Gas Pipeline Company ("VGPC") and Saltville Gas Storage Company, L.L.C. ("SGSC"), (collectively, the "Applicants") filed an application with the State Corporation Commission ("Commission") for authority to enter into an intercompany agreement with affiliated interests pursuant to Chapter 4, Title 56 of the Code of Virginia ("Code"). Specifically, the Applicants request approval of an "Agreement for Sharing Equipment and Resources" (the "Agreement") between VGPC and SGSC allowing VGPC and SGSC to share certain equipment and resources. By

letter dated August 7, 2002, the Applicants withdrew Section 2 (a) of the Agreement relating to VGPC's right to use an evaporator plant, three brine holding ponds, and one brine disposal well. By Order dated July 15, 2002, the Commission extended the time for reviewing this application through August 20, 2002.

As stated in the application, VGPC is a Virginia public service company and is a wholly owned subsidiary of Virginia Gas Company ("VGC"). VGC is, in turn, wholly owned by NUI Corporation ("NUI"). NUI, domiciled in Bedminster, New Jersey, is an exempt public utility holding company providing energy, telecommunications, consulting, and sales outsourcing services nationwide. NUI operates seven natural gas utilities and businesses involved in natural gas storage and pipeline activities; wholesale energy trading and portfolio management; retail energy sales; energy and environmental project development; energy consulting; telecommunications; and digital mapping and customer information systems and services. SGSC is a Virginia limited liability company whose current members are NUI Saltville Storage, Inc., and Duke Energy Saltville Gas Storage, L.L.C. SGSC was granted a certificate of public convenience and necessity to construct, develop, own, operate, and maintain an underground gas storage facility and attendant pipeline facility and provide underground gas storage services in Saltville, Virginia, by Commission Order dated August 6, 2002, in Case No. PUC-2001-00585.

VGPC currently maintains its pipeline facilities over an existing right-of-way from VGPC's facility at Saltville, Virginia, to Chilhowie, Virginia. Under the Agreement, SGSC will be entitled to co-locate, construct, own, operate, and maintain a pipeline facility related to SGSC's proposed underground natural storage facility in VGPC's existing right-of-way. Pursuant to the Agreement, SGSC will pay VGPC a yearly fee of \$5,000.00 in exchange for the right to use the pipeline right-of-way.

In addition, pursuant to the Agreement, SGSC will be entitled to use certain assets owned by VGPC until such time as SGSC has installed its own equipment. These assets consist of a gas compressor and related equipment and VGPC's existing 8-inch gas pipeline and metering equipment. SGSC will pay VGPC a yearly fee for the use of these assets and will also pay VGPC an injection/withdrawal charge on the basis of the amount of gas injected or withdrawn by SGSC using VGPC's equipment as well as an operating and maintenance charge on the basis of the amount of gas transported through VGPC's pipeline.

The Applicants represent that the proposed Agreement will benefit both VGPC and SGSC and will benefit the public interest because SGSC will have the infrastructure to begin storage operations at its proposed facility in Saltville more quickly than if SGSC were unable to use the existing equipment and pipeline owned by VGPC; the assets will be more efficiently used and will have an extended useful life; and the Agreement will generate additional revenues for VGPC.<sup>1</sup>

#### Use of Right-of-Way

Pursuant to the Agreement, SGSC will be able to use VGPC's existing right-of-way from the Saltville Storage Facility to Chilhowie, Virginia, for the purpose of laying, constructing, maintaining, operating, altering, replacing, inspecting, patrolling, servicing and repairing, and removing one pipeline together with drips, valves, fittings, and other devices appurtenant to and necessary for the proper construction and operation of such pipeline for the transportation of natural gas to and from SGSC's proposed underground natural gas storage facility at Saltville, Virginia. SGSC will construct or cause the pipeline to be constructed at a distance of 20 feet to the east of VGPC's existing 8-inch pipeline and within 15 feet of the eastern boundary of the right-of-way. The use of the right-of-way will be for a period of 25 years and from year-to-year thereafter as long as SGSC continues to transport gas in the pipeline.

VGPC's original cost of the right-of-way was \$55,000.00. If the existing right-of-way is to be used for another pipeline, VGPC will be required to pay an additional \$25,000. In computing the \$5,000.00 annual fee to be charged by VGPC to SGSC, VGPC divided the original cost of the right-of-way of \$55,000.00 by the two users, VGPC and SGSC, and added the \$25,000.00 for the additional amount that VGPC would be required to pay to accommodate SGSC. VGPC calculated an estimated total cost of the right-of-way of \$52,500, applied an estimated VGPC cost of capital of 10%, and arrived at an estimated annual usage fee of \$5,250.00. This amount was rounded down to \$5,000.00.

#### Sharing of Equipment and Resources

Pursuant to the Agreement, VGPC will make available to SGSC for SGSC's use the following equipment, which is solely owned by VGPC: two 600-horsepower compressors and related equipment and VGPC's existing 8-inch pipeline and related metering equipment. In consideration of this, SGSC will pay VGPC a one-time fee of \$10.00 and will also pay VGPC: (1) an injection/withdrawal charge of \$.05 per decatherm for all gas injected or withdrawn on SGSC's behalf using VGPC's compression equipment in accordance with VGPC's tariff; and (2) an operating and maintenance charge of \$.01 per decatherm for all gas injected or withdrawn using VGPC's 6.7 miles of existing 8-inch pipeline. These charges and use of the facilities pursuant to the Agreement will terminate when SGSC places in service its compression facilities and pipeline.

As represented by the Applicants, the \$.05 injection/withdrawal fee is the same fee paid by VGPC's storage customers for gas injected and withdrawn from storage. This fee is included in VGPC's tariffs. VGPC does not, however, have a tariff for the \$.01 per decatherm transportation fee. This fee was computed based on VGPC's operation and maintenance cost applicable to the 6.7-mile pipeline. VGPC does not charge its storage customers a fee for using the pipeline as this fee is incorporated in the storage fee paid to VGPC by its customers. SGSC will use the pipeline for transporting gas to and from SGSC's proposed storage facility. This gas will be owned by SGSC's customers who, in turn, pay SGSC a tariffed rate for storing such gas. The \$10.00 fee is a nominal fee ensuring that SGSC will have the right to use the pipeline and compressor stations that will be retained by VGPC.

THE COMMISSION, upon consideration of the application and representations of the Applicants and having been advised by its Staff, is of the opinion and finds that concerning SGSC's use of VGPC's right-of-way, calculation of the usage fee based on VGPC's cost is appropriate. However, the Applicants rounded down in their calculations, and we believe it would be more appropriate to use exact numbers in calculating the usage fee and in the determination of the final usage fee to charge SGSC. Also, in determining the fee to charge SGSC for use of VGPC's right-of-way, Applicants did not give consideration to the maintenance costs to be incurred by VGPC. We believe that the costs incurred by VGPC in maintaining the right-of-way should be shared equally by SGSC. Therefore, the fee that should be paid by SGSC to VGPC for use of VGPC's right-of-way should be \$5,444.00 per year plus 50% of the actual annual costs incurred by VGPC in maintaining the right-of-way, SGSC's share estimated by the Applicants to be \$6,700.00. With these modifications to the original Agreement, we believe that the Agreement is in the public interest and should, therefore, be approved.

<sup>1</sup> Responses to Staff inquiries indicate that the Agreement will actually result in "cost reimbursement" rather than generation of additional revenues for VGPC.



Accordingly, IT IS ORDERED THAT:

(1) Pursuant to § 56-77 of the Code, VGPC and SGSC are hereby granted approval of the Agreement as described herein, subject to the following revisions to the Agreement: the annual usage fee to be paid by SGSC to VGPC for use of VGPC's right-of-way shall be \$5,444.00 per year plus 50% of the actual annual costs incurred by VGPC in maintaining the right-of-way for the pipeline corridor.

(2) Within 60 days of the date of this Order, subject to extension by the Commission's Director of Public Utility Accounting, the Applicants shall file with the Clerk of the Commission a revised executed copy of the Agreement reflecting the revisions described herein as well as the portion of the Agreement to be withdrawn.

(3) Should the terms and conditions of the Agreement, including "assigns or successors" as referenced in 1(d) of the Agreement, change from those contained herein, Commission approval shall be required for such changes.

(4) The approval granted herein shall not preclude the Commission from exercising the provisions of §§ 56-78 and 56-80 of the Code hereafter.

(5) The Commission reserves the authority to examine the books and records of any affiliate in connection with the approval granted herein whether or not the Commission otherwise regulates such affiliate.

(6) The Agreement approved herein shall have no ratemaking implications.

(7) The Agreement approved herein shall be included in the Applicants' Annual Report of Affiliate Transactions submitted to the Commission's Director of Public Utility Accounting.

(8) If Annual Informational and/or General Rate Case Filings are not based on a calendar year, then VGPC shall include the affiliate information contained in the Annual Report of Affiliate Transactions in such filings.

(9) There being nothing further to be done in this matter, it hereby is dismissed.

**CASE NO. PUE-2002-00312  
JUNE 13, 2002**

APPLICATION OF  
A&N ELECTRIC COOPERATIVE

For authority to issue long-term debt

**ORDER GRANTING AUTHORITY**

On May 28, 2002, A&N Electric Cooperative ("Applicant") filed an application with the Virginia State Corporation Commission ("Commission") under Chapter 3 of Title 56 of the Code of Virginia requesting authority to incur long-term debt. Applicant has paid the requisite fee of \$250.

Applicant requests authority to borrow \$10,500,000 from the Federal Financing Bank ("FFB"). The FFB loan will be guaranteed by the Rural Utilities Services ("RUS"). The loan funds are expected to be drawn down over the next four years. The proceeds will be used to fund Applicant's four-year construction work plan covering the period April 2001 through March 2004.

The FFB loan will have a thirty-five year maturity. Applicant represents that FFB interest rates change daily, so it has requested the flexibility to select the interest rate maturity at the time of each advance.

THE COMMISSION, upon consideration of the application and having been advised by its Staff, is of the opinion and finds that approval of the application will not be detrimental to the public interest. Accordingly,

IT IS ORDERED THAT:

1) Applicant is hereby authorized to borrow up to \$10,500,000 from the Federal Financing Bank, under the terms and conditions and for the purposes set forth in the application.

2) Within thirty (30) days of the date of each advance of funds from FFB, Applicant shall file with the Commission's Division of Economics and Finance a Report of Action which shall include the amount of the advance, the interest rate selected, and the interest rate term.

3) The authority granted herein shall have no implications for ratemaking purposes.

4) There appearing nothing further to be done in this matter, it is hereby dismissed.

**CASE NO. PUE-2002-00313  
SEPTEMBER 20, 2002**

APPLICATION OF  
UAE MECKLENBURG COGENERATION LP

For a certificate of public convenience and necessity pursuant to Va. Code § 56-580 D

**FINAL ORDER**

On May 28, 2002, UAE Mecklenburg Cogeneration LP ("UAE Mecklenburg" or "Company") filed with the State Corporation Commission ("Commission") a Petition and Application ("May 28, 2002, Filing") requesting that the Commission declare that its facility located near Clarksville, in Mecklenburg County, Virginia ("Facility") may cease operation as a qualifying cogeneration facility ("QF") under the federal Public Utilities Regulatory Policies Act ("PURPA")<sup>1</sup> and commence operation as a non-qualifying electric generating facility without obtaining a certificate of public convenience and necessity ("CPCN" or "certificate") or other approvals from the Commission. In the alternative, UAE Mecklenburg also proposed in its May 28, 2002, Filing that if the Commission found that a certificate or other approvals are needed, the Company's filing be treated as an application for a CPCN or for such other approvals as may be required.

Thereafter, on July 3, 2002, UAE Mecklenburg filed an application for a CPCN ("Application") pursuant to § 56-580 D of the Code of Virginia ("Code") to operate its Facility as a merchant plant. The Company further requested therein that the Commission consider the new Application as replacing the Company's May 28, 2002, Filing in its entirety. In the alternative, the Company asked that the Commission treat its Application as an amendment to the May 28, 2002, Filing.

UAE Mecklenburg states in its Application that it is applying for a certificate pursuant to 5 VAC 5-20-80 A of the Commission's Rules of Practice and Procedure and to the extent applicable, the merchant plant rules, 20 VAC 5-302-10 *et seq.* According to the Application, UAE Mecklenburg owns and operates the Facility and is a limited partnership owned by one general partner, Mecklenburg Cogenco, Inc., and one limited partner, Cogeneration Capital Corp., both of which are wholly-owned subsidiaries of United American Energy Corp. ("UAE"). UAE is a privately-held energy company that owns or controls 722 MW of generating capacity. The Application also indicates that the Facility has operated as a QF pursuant to PURPA since November 1992, and that the Federal Energy Regulatory Commission ("FERC") has determined UAE Mecklenburg to be an exempt wholesale generator under the federal Public Utility Holding Company Act.<sup>2</sup> The Company indicates that on May 24, 2002, UAE Mecklenburg filed with the FERC a request for blanket, market-based pricing authority pursuant to § 205 of the Federal Power Act.

The Facility is a 132 MW (net) topping-cycle pulverized coal cogeneration facility consisting of two power generation units. According to the Application, UAE Mecklenburg has obtained and maintains all necessary local zoning approvals and environmental permits. The Application states that UAE Mecklenburg is one of the cleanest coal-fired plants in the Commonwealth, utilizing state-of-the-art emission controls on each of its units. According to the Company, the Facility is interconnected to the system of Virginia Electric and Power Company ("Dominion Virginia Power") at the Buggs Island non-utility generator substation. The Application also states that Dominion Virginia Power conducted an electric transmission interconnection study in May 1991. That study concluded that no additional system modifications or line reconductoring were required to support the interconnection. UAE Mecklenburg currently sells all of the electric capacity and energy from the Facility exclusively to Dominion Virginia Power pursuant to a Power Purchase and Operating Agreement ("PPA") effective as of January 17, 1989. The PPA has an initial 25-year term, which may be extended for periods of up to five years each. According to the Application, the PPA recognizes that UAE Mecklenburg may operate the Facility as a QF or a non-QF.

The Company requests in its Application that the Commission issue an order granting UAE Mecklenburg (i) a certificate to operate the Facility, (ii) with respect to information not furnished in the Company's Application and supporting documents, a waiver of filing requirements therefor pursuant to 20 VAC 5-302-40, and (iii) such other authority, approvals and relief as may be deemed proper under the circumstances.

In support of its Application for a certificate, the Company represents, among other things, that the Facility has been fully operational for more than nine years. The Application further states that the Facility has promoted and will continue to promote the public interest by (i) enhancing electric service reliability, (ii) adding to the diversity of energy sources within the Commonwealth, (iii) providing economic benefits to the Commonwealth of Virginia and Mecklenburg County, (iv) enhancing the competitive market for wholesale electricity, and (v) providing wholesale electricity and generating capacity needed by Dominion Virginia Power to serve its retail customers.

The Company further indicates in its Application that its steam host, Burlington Industries, Inc. ("Burlington"), has filed for bankruptcy protection and that it is anticipated that Burlington will close its facility in Clarksville by the end of the third quarter of 2002. The Company states that it has proposed developing a water distillation plant to maintain its QF status, but would prefer to avoid the significant expenditures and commitments associated with that plant, which the Company states will not be needed if the Commission issues a certificate to the Facility. Thus, the Company states that the public interest will be served if the Commission considers this Application on an expedited basis, and without the necessity of a public hearing.

On July 24, 2002, the Commission issued an Order for Notice and Comment that, among other things: (1) docketed this proceeding; (2) granted UAE Mecklenburg's request to have its July 3, 2002, Application replace its May 28, 2002, Filing in its entirety; (3) required Mecklenburg to provide public notice of its Application; (4) established a procedural schedule permitting interested persons and Commission Staff ("Staff") to submit written comments and requests for hearing; (5) permitted the Company to submit a response; and (6) noted that such comments may also address (i) the Commission's authority to issue a certificate in this case, and (ii) the Commission's discharge of its review obligations in this matter pursuant to § 56-46.1 of the Code, as required by § 56-580 D.

On August 21, 2002, the Department of Environmental Quality ("DEQ") filed a report on the Application. The DEQ's report addresses the status of the Company's compliance, as a permit holder, with applicable permits previously issued to the plant. The DEQ concludes that the Company is in

<sup>1</sup> 16 U.S.C. § 2601 *et seq.*

<sup>2</sup> 15 U.S.C. § 79a *et seq.*

compliance with the water and air permits that have been issued by the DEQ. In addition, the DEQ recommends that the plant should maintain compliance with its existing permits and zoning authorization and should notify the DEQ of any operational changes that would or might require amendment of any applicable permits pertaining to air, water, waste, or petroleum tanks.

Staff filed comments on August 30, 2002. Staff recommends that the certification sought by the Company be granted. Staff concludes that the statutory requirements of § 56-580 D of the Code and the Commission's merchant plant rules have been satisfied. Staff also explains that the DEQ's report does not identify any environmental issues that are not otherwise addressed in the facility's existing permits or approvals. Staff also reviewed the impact on reliability, UAE Mecklenburg's technical and financial ability to operate the facility, economic impacts, and the public interest. In addition, Staff concludes that, under Virginia law, UAE Mecklenburg cannot begin operations as a non-QF without obtaining a certificate from this Commission.

On September 4, 2002, the Company filed a Response and Request for Approval and Expedited Consideration. UAE Mecklenburg states, among other things, that: (1) there are no material facts in dispute; (2) no party has requested a hearing or filed comments in opposition to the Application; (3) the Company has satisfied the requirements for issuance of a certificate; (4) UAE Mecklenburg has not requested the Commission to determine whether a certificate is required under the circumstances in this case; and (5) the Company must initiate construction and incur substantial expenditures to assure continued operation as a QF if the Commission does not issue a final order in this case before September 27, 2002. In addition, the Company did not object to any part of the DEQ's report.

NOW THE COMMISSION, having considered the pleadings and the applicable law, is of the opinion and finds as follows. As set forth in prior orders,<sup>3</sup> the Code of Virginia establishes six general criteria, or areas of analysis, that apply to the Commission's review of applications under § 56-580 D of the Code. The six criteria are as follows: (1) reliability;<sup>4</sup> (2) competition;<sup>5</sup> (3) rates;<sup>6</sup> (4) environment;<sup>7</sup> (5) economic development;<sup>8</sup> and (6) public interest.<sup>9</sup> We have evaluated these six areas.

Pursuant to § 56-580 D of the Code, we find that the proposed facilities: (i) will have no material adverse effect upon reliability of electric service provided by any regulated public utility; and (ii) are not otherwise contrary to the public interest. We have evaluated the application pursuant to § 56-46.1 of the Code and have given consideration to the effect of the proposed facilities on the environment. Amendments to §§ 56-580 D and 56-46.1 A that became effective July 1, 2002, provide, among other things, that permits regulating environmental impact and mitigation of adverse environmental impact shall be deemed to satisfy the requirements of such section with respect to all matters that are governed by the permit.

In this regard, the DEQ concludes that the Company is in compliance with the water and air permits that have been issued by the DEQ. The DEQ's report does not identify any environmental issues that are not otherwise addressed in the facility's existing permits or approvals. In addition, the DEQ recommends that the facility: (1) maintain compliance with its existing permits and zoning authorization; and (2) notify the DEQ of any operational changes that would or might require amendment of any applicable permits pertaining to air, water, waste, or petroleum tanks. As a condition of the certificate granted herein, we require the Company to comply with this recommendation. No other environmental issues were raised in this proceeding.

Finally, we agree with UAE Mecklenburg that the Commission does not need to determine whether the Company could have ceased operation as a QF, and commenced operations as a non-QF, without obtaining a certificate from this Commission.<sup>10</sup> Rather, we find herein that UAE Mecklenburg has satisfied the statutory requirements of § 56-580 D of the Code and will be granted a certificate as requested.

Accordingly, IT IS ORDERED THAT:

(1) Pursuant to § 56-580 D of the Code of Virginia, UAE Mecklenburg is hereby granted authority, and a certificate of public convenience and necessity, to operate an electric generation facility in Mecklenburg County, Virginia, as described in this proceeding.

(2) The certificate of public convenience and necessity granted herein shall be conditioned upon UAE Mecklenburg: (a) maintaining compliance with its existing permits and zoning authorization; and (b) notifying the Department of Environmental Quality of any operational changes that would or might require amendment of any applicable permits pertaining to air, water, waste, or petroleum tanks.

(3) There being nothing further to come before the Commission in this proceeding, this case shall be removed from the docket and the papers transferred to the file for ended causes.

<sup>3</sup> See, e.g., Application of Tenaska Virginia Partners, LP, For approval of a certificate of public convenience and necessity pursuant to Virginia Code § 56-265.2, an exemption from Chapter 10 of Title 56, and interim approval to make financial commitments and undertake preliminary construction work, Case No. PUE-2001-00039, Final Order (April 19, 2002).

<sup>4</sup> Va. Code Ann. §§ 56-580 D(i) and 56-46.1 A.

<sup>5</sup> Va. Code Ann. § 56-596 A.

<sup>6</sup> Va. Code Ann. § 56-580 D(ii); 20 VAC 5-302-20 14. See also Ex Parte: In the matter of amending filing requirements for applications to construct and operate electric generating facilities, Case Nos. PUE-2001-00313 and PUE-2001-00665, Order Adopting Rules and Prescribing Additional Notice at 6 (Dec. 14, 2001).

<sup>7</sup> Va. Code Ann. §§ 56-580 D and 56-46.1 A. This includes scenic assets and historic districts.

<sup>8</sup> Va. Code Ann. §§ 56-46.1 and 56-596 A.

<sup>9</sup> Va. Code Ann. § 56-580 D(ii).

<sup>10</sup> See, e.g., Application of Doswell Limited Partnership, For prior approval of acquisition and disposition of control of a public utility, Order Granting Approval, Case No. PUA-1996-00083 (Dec. 20, 1996).

**CASE NO. PUE-2002-00315  
AUGUST 14, 2002**

IN THE MATTER OF

Receiving comments on a draft memorandum of agreement between the Department of Environmental Quality and the State Corporation Commission

**ORDER DISTRIBUTING MEMORANDUM OF AGREEMENT**

Sections 10.1-1186.2:1 B and 56-46.1 G of the Code of Virginia require the Department of Environmental Quality ("Department") and the State Corporation Commission ("Commission") to enter into a memorandum of agreement regarding the coordination of reviews of environmental impact of electric generating plants and associated facilities. On June 11, 2002, on behalf of the Department and the Commission, the Commission issued an order inviting interested persons or entities to submit comments on a draft memorandum of agreement, which was attached to the order as Attachment A. The order also noted that the Department and the Commission would consider such comments and enter into a final memorandum of agreement, a copy of which would be sent to all persons and entities on the service list.

The Department and the Commission express appreciation to those who have submitted written comments for our consideration. The final memorandum of agreement entered into by the Department and the Commission is attached to today's order. On behalf of the Department and the Commission, this order discusses certain issues raised in the comments and the modifications reflected in the final memorandum of agreement attached hereto.

The draft memorandum of agreement required the Department to provide the Commission, among other things, the following two listings:

- (a) for each governmental entity that grants an environmental permit or approval, a listing of environmental issues identified during the review process, which (1) are not governed by the environmental permit or approval, or (2) are not within the authority of, and can not be considered by, the governmental entity in reviewing such permit or approval; and
- (b) for environmental permits and approvals needed for the proposed facility, a listing of (1) what matters are governed by the permit or approval, and (2) what matters were or will be considered by the governmental entity, within its authority, in reviewing the application for such permit or approval.

In the final memorandum of agreement attached to this order, the Department and the Commission have modified paragraph (a) to more accurately track the language in § 10.1-1186.2:1 C of the Code. We also have deleted paragraph (b) to more accurately track the new statute; § 10.1-1186.2:1 C explicitly requires the Department to provide the Commission with the information reflected in paragraph (a), but not paragraph (b).

In addition, as requested in the filed comments, paragraph 3 of the memorandum of agreement has been clarified to note that the Department will provide its preliminary evaluation to the applicant as well as to the Commission's Staff. Paragraph 3 also has been modified to reduce the number of days by which the Commission's Staff must act after the filing of an application.

The final memorandum of agreement also requires the Department to advise the Commission as to "whether the proposed facility is located in a region that was designated, as of July 1, 2001, as serious nonattainment for the one-hour ozone standard as set forth in the federal Clean Air Act." A number of the filed comments addressed this requirement. For purposes of clarification, we note this information is not provided to initiate any particular environmental review process by the Department. Rather, this information is being provided to ensure that the Commission complies with § 56-46.1 A, which states as follows:

In the case of a proposed facility located in a region that was designated as of July 1, 2001, as serious nonattainment for the one-hour ozone standard as set forth in the federal Clean Air Act, the Commission shall not issue a decision approving such proposed facility that is conditioned upon issuance of any environmental permit or approval.

We also note that Appalachian Power Company ("Apco") objected to paragraphs 7 and 8 of the memorandum of agreement. Apco is concerned that these paragraphs may permit the Commission to re-consider matters addressed in permits and approvals issued by other governmental entities, to duplicate activities already undertaken by other governmental entities, and to exercise general environmental oversight exceeding the proper scope of review permitted by the new legislation. We clarify that such is not the case; paragraphs 7 and 8 in no manner enable the Commission to take any action that is contrary to Virginia statutes. Rather, those paragraphs address cooperation between the Department's Staff and the Commission's Staff to permit the development of a record that ensures compliance with the requirements of §§ 10.1-1186.2:1 and 56-46.1.

In addition, we received comments raising issues that are outside the scope of the memorandum of agreement, the subject of which is "the coordination of reviews of the environmental impacts of proposed electric generating facilities that must obtain certificates from the State Corporation Commission." Va. Code § 10.1-1186.2:1 B. For example, some of the comments discussed matters such as the new eight-hour ozone standard, cumulative water impacts, actions by localities in reviewing proposed generation facilities, specific power plant proposals, and the Department's environmental review procedures. Issues such as these, while they may be important, are outside the scope of the memorandum of agreement.

Finally, as explained in our order of June 11, 2002, this is not a formal proceeding that is regulatory, adjudicatory, or other, as defined by 5 VAC 5-20-80, -90, or -100. There will be no final order issued in this case, nor will there be any final finding, decision settling the substantive law, order, or judgment within the meaning of § 12.1-39 of the Code of Virginia. No general order, rule, or regulation is being promulgated in this case.

Accordingly, this matter is now closed.

NOTE: A copy of Attachment A entitled "Memorandum of Agreement" is on file and may be examined at the State Corporation Commission, Clerk's Office, Document Control Center, Tyler Building, First Floor, 1300 East Main Street, Richmond, Virginia.

**CASE NO. PUE-2002-00316  
JUNE 24, 2002**

APPLICATION OF  
VIRGINIA ELECTRIC AND POWER COMPANY

For authority to lease rail equipment

**ORDER GRANTING AUTHORITY**

On June 6, 2002, Virginia Electric and Power Company ("Virginia Power" or "Applicant") filed an application under Chapter 3 of Title 56 of the Code of Virginia requesting authority to lease railcars. Applicant has paid the requisite fee of \$250.

Applicant requests authority to replace a one-year lease of 318 railcars with a four-year lease (with an option to extend the lease for an additional three years) of 102 railcars. The lease requires monthly payments of \$245.00 per car for the four-year term of the lease. The lease is a modified full service lease wherein the lessor, not Virginia Power, will be responsible for all normal maintenance, licensing, registrations, and taxes associate with ownership, delivery, use and operation of the railcars. Virginia Power estimates that the net freight cost savings resulting from the proposed lease arrangement will be approximately \$600,000 annually.

THE COMMISSION, upon consideration of the application and having been advised by its Staff, is of the opinion and finds that approval of the application will not be detrimental to the public interest.

Accordingly, IT IS ORDERED THAT:

- (1) Applicant is hereby authorized to lease the railcars under the terms and conditions and for the purposes stated in the application.
- (2) Approval of this application shall have no implications for ratemaking purposes.
- (3) There being nothing further to be done, this matter is hereby dismissed.

**CASE NO. PUE-2002-00317  
JUNE 24, 2002**

APPLICATION OF  
VIRGINIA ELECTRIC AND POWER COMPANY

For authority to lease rail equipment

**ORDER GRANTING AUTHORITY**

On June 6, 2002, Virginia Electric and Power Company ("Virginia Power" or "Applicant") filed an application under Chapter 3 of Title 56 of the Code of Virginia requesting authority to lease railcars. Applicant has paid the requisite fee of \$250.

Applicant requests authority to extend a four-year lease of 106 railcars by an additional four years. The lease requires monthly payments of \$230.00 per car for the four-year term of the lease. The lease is a modified full service lease wherein the lessor, not Virginia Power, will be responsible for all normal maintenance, licensing, registrations, and taxes associate with ownership, delivery, use and operation of the railcars. Virginia Power estimates that the net freight cost savings resulting from the proposed lease arrangement will be approximately \$700,000 annually.

THE COMMISSION, upon consideration of the application and having been advised by its Staff, is of the opinion and finds that approval of the application will not be detrimental to the public interest.

Accordingly, IT IS ORDERED THAT:

- (1) Applicant is hereby authorized to lease the railcars under the terms and conditions and for the purposes stated in the application.
- (2) Approval of this application shall have no implications for ratemaking purposes.
- (3) There being nothing further to be done, this matter is hereby dismissed.

**CASE NO. PUE-2002-00318  
AUGUST 26, 2020**

APPLICATION OF  
VIRGINIA GAS COMPANY,  
VIRGINIA GAS DISTRIBUTION COMPANY,  
and  
VIRGINIA GAS PIPELINE COMPANY

For approval of affiliate transfers of real property and property rights pursuant to Chapters 4 and 5 of Title 56 of the Code of Virginia

**ORDER GRANTING APPROVAL**

On June 5, 2002, Virginia Gas Company ("VGC"), Virginia Gas Distribution Company ("VGDC"), and Virginia Gas Pipeline Company ("VGPC") filed an application with the State Corporation Commission ("Commission") pursuant to Chapters 4 and 5 of Title 56 of the Code of Virginia (the "Code") requesting approvals for the transfer of certain property and property rights from VGDC to VGC and the transfer of a building from VGPC to VGC. On August 2, 2002, the Commission issued an Order Extending Time For Review until September 3, 2002.

VGC, VGDC, and VGPC (collectively, the "Applicants") are seeking approval to transfer from VGDC to VGC real property and property rights in connection with approximately 220 acres of land and leases of approximately 1,570 acres of surface rights and approximately 435 acres of partial interest property (the "Grundy Storage Property") located in Buchanan County, Virginia, at a price of \$550,000. According to the application, VGDC initially acquired the Grundy Storage Property for the purpose of developing underground natural gas storage facilities, but it lacks the resources to develop it. The Applicants represent that the Grundy Storage Property is not part of VGDC's utility cost of service or rate base and has never been used in VGDC's natural gas distribution operations and that VGDC has no plans to provide service to the property. The Applicants also represent that the property transfer does not affect VGDC's certificated area and will not impair VGDC's ability to service the Buchanan County area, should service to that area become economically feasible. The Applicants further represent that the book value exceeds the current market value. Accordingly, the proposed transfer will be made at the greater of cost or market.

The Applicants are also seeking approval to transfer VGPC's former headquarters building located at 206 East Main Street in Abingdon, Virginia (the "Abingdon House"), from VGPC to VGC at a price of \$475,000. According to the application, VGPC initially acquired the Abingdon House in 1998 in anticipation of dramatically expanding its operations through the construction of a 450-mile intrastate natural gas pipeline stretching from Saltville to the Tidewater region of Virginia. However, the pipeline project was drastically curtailed due to project financing difficulties, so the building was never used for its original purpose. Instead, VGC used the Abingdon House and two adjacent office buildings as its corporate headquarters. In July 2002, VGC moved its corporate offices to a smaller leased building in Abingdon. The Abingdon House is classified as general plant on VGPC's books and included in its jurisdictional rate base. The Applicants represent that the book value exceeds the current market value. Accordingly, the proposed transfer will be made at the greater of cost or market.

NOW THE COMMISSION, upon consideration of the application and representations of the Applicants and having been advised by its Staff, is of the opinion and finds that the above-described transfers are in the public interest and will not impair or jeopardize the provision of adequate service to the public at just and reasonable rates, and, therefore, should be approved.

Accordingly, IT IS ORDERED THAT:

- 1) Pursuant to §§ 56-77, 56-89, and 56-90 of the Code of Virginia, Virginia Gas Distribution Company is hereby granted approval to transfer the Grundy Storage Property to Virginia Gas Company at the price of \$550,000.
- 2) Pursuant to §§ 56-77, 56-89, and 56-90 of the Code of Virginia, Virginia Gas Pipeline Company is hereby granted approval to transfer the Abingdon House property to Virginia Gas Company at the price of \$475,000.
- 3) The approval granted herein shall have no ratemaking implications.
- 4) The approval granted herein shall not preclude the Commission from exercising the provisions of §§ 56-78 and 56-80 of the Code of Virginia.
- 5) The Commission reserves the authority to examine the books and records of any affiliate in connection with the approval granted herein whether or not the Commission regulates such affiliate.
- 6) Applicants shall include the transfers approved herein in their Annual Report of Affiliate Transactions submitted to the Commission's Director of Public Utility Accounting.
- 7) Applicants shall file a report of the action taken pursuant to the approvals granted herein with the Clerk of the Commission within 30 days of the consummation of the above-referenced transactions, subject to extension by the Commission's Director of Public Utility Accounting. Such report shall include the date(s) the transfers took place, the actual sales prices, and the accounting entries reflecting the transactions.
- 8) There appearing nothing further to be done in this matter, it hereby is dismissed.

**CASE NO. PUE-2002-00319  
OCTOBER 7, 2002**

APPLICATION OF  
WASHINGTON GAS LIGHT COMPANY  
and  
THE SHENANDOAH GAS DIVISION OF WASHINGTON GAS LIGHT COMPANY

For approval of amendments to Rate Schedule No. 9, Firm Delivery Service Gas Supplier Agreement

**FINAL ORDER**

On June 6, 2002, Washington Gas Light Company ("WGL" or "Washington Gas") and the Shenandoah Gas Division ("Shenandoah") (collectively referred to as the "Companies") filed a joint application with the State Corporation Commission ("Commission") for approval of proposed amendments to Rate Schedule No. 9, "Firm Delivery Service Gas Supplier Agreement." In their joint application, the Companies proposed to require Competitive Service Providers ("CSPs") to accept assignment of certain transportation resources when CSPs sell natural gas supplies to the Companies' customers through their retail access programs ("mandatory capacity assignment"). The Companies proposed that all costs associated with the tariff revisions be recoverable through either the Purchase Gas Charge ("PGC") provisions or another existing mechanism. WGL and Shenandoah requested authority to implement mandatory capacity assignment commencing with the November 2002 billing month.

On June 28, 2002, the Commission issued its procedural Order wherein it docketed the matter, directed the Companies to publish notice of the captioned application, and ordered the Companies to serve a copy of the Order on local officials and on all CSPs who have obtained a license pursuant to § 56-235.8 F of the Code of Virginia to provide natural gas supply or aggregation services in the Companies' service territories. The same Order invited interested parties to file comments and requests for hearing by August 12, 2002. Ordering Paragraph (6) of the June 28, 2002, Order provided that any request for hearing must state why the issues raised therein could not be adequately addressed in written comments and directed persons filing a request for hearing and expecting to participate in any scheduled hearing to file a notice of participation as required by Rule 5 VAC 5-20-80 B of the Commission's Rules of Practice and Procedure. The Order also directed the Commission Staff to investigate and file a report on the Companies' application and provided for the Companies to respond to written interrogatories within five (5) calendar days after the receipt of the same.

On August 7, 2002, the Companies filed proof of publication and the proofs of service on local officials and on all CSPs who have obtained a license pursuant to § 56-235.8 F to provide natural gas supply or aggregation services in the Companies' service territories.

On August 9, 2002, Columbia Gas Transmission Corporation ("TCO") filed a Notice of Participation but did not expressly request a hearing in this matter.

On August 13, 2002, Pepco Energy Services, Inc. ("Pepco" or "PES"), filed comments in opposition to the Companies' application. Pepco asserted that it had been able to locate and purchase sufficient capacity to meet its obligations to its customers and that there were sufficient resources available to ensure that competitive suppliers could meet their load obligations. PES commented that the Companies' practice of holding more transportation capacity than required to serve its customers helped to create any illiquidity that may exist in the market. It also alleged that the Companies have not provided documents in support of their allegation that CSPs have not purchased sufficient firm transportation capacity to meet the designated requirements of its customers. Pepco contended that the Companies' proposal would increase supplier costs by restricting the suppliers' ability to assemble a reliable supply portfolio in the most cost effective manner, driving up prices for customers of CSPs and eliminating some suppliers from competing in Virginia.

Pepco further charged that a mandatory capacity proposal failed to recognize capacity obligations that suppliers have incurred and may force suppliers to take additional unnecessary capacity. It maintained that the Companies' existing tariffs provided incentives for suppliers to acquire adequate capacity through penalties or under-deliveries of their Daily Requirements Volumes. PES asserted that the Companies have the ability to issue an operational flow order ("OFO") if, in the Companies' opinion, a supplier's gas deliveries adversely impact the operation of the distribution system. Pepco noted that the penalty for non-compliance with an OFO was \$25 per decatherm, and that these penalties should substantially mitigate the Companies' concerns about adequate capacity. Finally, Pepco argued that the filing seeks to allocate inequitably costs to captive customers and captive suppliers. It argued that the cost recovery methodology, as well as the reasonableness and prudence of the costs, should be subject to a thorough Commission review once an appropriate application concerning the recovery of costs associated with the Companies' provision of a regulated service was before the Commission.

On August 16, 2002, the Commission entered an Order extending the time for consideration of the application for the maximum period permitted under § 56-235.8 of the Code of Virginia; i.e., December 3, 2002, to consider the issues raised by the Companies' application, accepted PES' comments out of time, and permitted the Companies to file pleadings or other documents responsive to the Staff Report, Pepco's comments, and the Notice of Participation filed by TCO.

On August 22, 2002, the Staff filed its Report in the matter. Staff noted that the Companies plan to provide natural gas retail supply choice to all of their customers in Virginia, subject to the conditions set forth in the Commission's March 7, 2001, Order approving WGL's retail access plan, entered in Case No. PUE-2000-00474. According to Staff, under WGL's retail supply choice plan, CSPs are required to match their daily deliveries to the Companies' city-gates to the daily load requirements of their customers in the same way the Companies are required to do so in compliance with interstate pipeline requirements. CSPs are assigned storage and peak resources from the Companies' portfolio to meet the variable and extreme weather characteristics of their customers' loads. These services are assigned and released to CSPs at the Companies' cost. At WGL's discretion, CSPs may exercise an optional assignment of the Company's firm transportation for up to 100% of their firm transportation capacity requirements.

Among other things, the Staff noted that the Companies' proposal would require CSPs to take assignment of a proportionate amount of the Companies' firm transportation capacity and to pay Federal Energy Regulatory Commission ("FERC") approved pipeline rates identical to the rates paid by the Companies. As the load requirements of a CSP change from month to month due to growth or a decline in the number and types of customers served by the CSP, the capacity assigned would be adjusted, similar to the current process for adjusting storage and peaking resources.

Staff also commented on the reliability of secondary and interruptible transportation capacity in its Report. It noted that during an interim period of growth, distribution companies or any other entities that may have executed a long-term contract for capacity with a pipeline company, will often release any capacity not being utilized to meet their immediate supply requirements into the secondary market. According to Staff, CSPs relying on secondary market capacity to meet their supply needs may face constraints when primary holders of capacity require the capacity, and it is no longer available for release. When this occurs, according to Staff, CSPs could find that secondary capacity could actually become more costly than primary capacity or may be unavailable. The reliability of firm and interruptible transportation capacity is dependent upon the conditions in the capacity market itself. Staff opined that secondary firm capacity may not be so reliable as primary firm transportation capacity, thus exposing residential and small commercial customers to more risk than they have been exposed to historically. According to Staff, Virginia's natural gas utilities have relied upon primary firm transportation capacity to serve their residential and small commercial load. Staff observed that as the supplier of last resort, the Companies have an obligation to provide tariffed gas service to any customer not receiving service from a CSP as well as to those who choose to receive gas supplies from a CSP, but then later return to the Company's sales service. Staff acknowledged that all participants in the energy market, including WGL, are faced with the problem of customers switching energy suppliers, but CSPs are not faced with the same customer service requirements as local distribution companies that are default service providers. CSPs, in contrast, may refuse to accept new customers, refuse to renew service to existing customers, or discontinue service altogether by exiting the Companies' retail access program.

Staff noted that the recovery of costs associated with reserve requirements was addressed in WGL's application for a retail supply choice plan docketed as Case No. PUE-2002-00474. In that case, a cap was established in the gas supply realignment adjustment ("GSRA") surcharge applicable to residential firm sales customers. Staff reported that the GSRA was limited to recovery of transition costs and commented that stranded capacity costs were intended to be primarily recovered from residential customers not using WGL's capacity. Therefore, according to Staff, such costs were not intended to be recovered through the PGA as gas costs. Staff commented that WGL must be prepared to provide service to choice customers that return to its sales service although it was unlikely that all of these customers would choose to return to sales service or that all CSPs would exit WGL's program at the same time. Thus, according to Staff, as the choice market develops, some lesser capacity reserve may be sufficient for WGL.

Staff observed that the potential cost associated with mandatory capacity assignment is that if it is not absolutely necessary, *i.e.*, that the capacity CSPs have contracted for themselves is reliable enough, supplier costs may be needlessly increased, and the supplier's ability to assemble the most cost effective supply portfolios may be restricted. The potential benefits for mandatory capacity are that the Companies will be able to ensure that adequate primary firm transportation capacity will always be available to its city-gate.

Staff generally supported the Companies' mandatory capacity proposal but observed that suppliers may have already contracted for capacity to meet some or all of their expected load for the winter. Staff therefore recommended that WGL be required to phase-in its mandatory capacity plan over a one-year period, in a manner that does not force CSPs to acquire excess capacity. Finally, Staff observed that it reviews the reasonableness of the Companies' purchase gas costs and commented that any such costs could be excluded from recovery in the Companies' PGA, GSRA, or reserve capacity if these costs were found to be imprudent.

On September 6, 2002, the Companies filed their response to the Staff Report, the Comments of Pepco, and the Notice of Participation filed by TCO. In that response, the Companies noted that they were addressing short- and long-term reliability to their customers by their mandatory capacity proposal. They explained that as the suppliers of last resort, they must be concerned about the availability of upstream capacity to meet their service obligations over the long-term. According to WGL and Shenandoah, three interstate pipelines with direct connections to WGL, TCO, Transcontinental Gas Pipe Line Company ("Transco"), and Dominion Transmission Corporation ("DTI") are all fully subscribed in the Mid-Atlantic region. Between November 2002, and November 2006, WGL must decide whether to return or terminate 199,045 Dths of pipeline transportation capacity with a primary delivery point to the Company's city-gate and 310,321 Dths of upstream, firm pipeline transportation capacity. According to the Companies, with the current capacity shortage in the Mid-Atlantic region, and with the Company's distribution system not having been tested on a "design day" for several years, the prudent course of action is to retain capacity, particularly when under the FERC's right of first refusal procedure, the maximum commitment term for rollover of existing capacity contracts is five years, compared to the 10 to 15 years traditionally associated with new or open-season capacity projects. The Companies reason that if capacity is contracted for to serve a new load or a new market, that capacity will no longer be available to the Companies or to CSPs to provide service to the Companies' customers. Mandatory assignment of a proportionate share of such capacity to CSPs selling gas supplies to firm customers in the Companies' retail access program would, according to the Companies, be the fairest way to ensure that those who stand to benefit from such capacity pay all applicable costs.

The Companies generally supported the Staff's recommendations, including Staff's proposal that they be required to phase-in mandatory capacity assignment over a one-year period, in a manner that does not force CSPs to acquire excess capacity. They further proposed that a CSP should be required to demonstrate that capacity commitments were contracted for prior to the date of a final order in the captioned proceeding and with entities meeting the Companies' reliability and credit standards.

The Companies expressed the concern that absent mandatory capacity assignment, sales customers may subsidize delivery service customers through the operation of the GSRA provision described in General Service Provision ("GSP") No. 25 of the Companies' tariff. They explained that GSP No. 25 permits the recovery, through the GSRA, of costs related to the release of firm transportation capacity no longer required to serve firm sales customers because customers have elected to acquire gas supplies from CSPs, less any revenues received by the Companies through the release and sale of such capacity. The Companies commented that if the level of "transition costs" do not trigger the current GSRA factor cap,<sup>1</sup> then some level of "stranded" capacity costs could be recovered from firm sales customers through the GSRA. According to the Companies, these types of costs are more appropriately recovered from delivery service customers - a circumstance addressed by mandatory capacity assignment.

The Companies also addressed PES' comments regarding penalties for under-deliveries. They contend that the existing tariff penalties for under-deliveries were intended to provide incentives to CSPs to meet delivery obligations on a daily basis, particularly on days when the Companies may not be able to acquire alternative gas supplies in the event a CSP fails to deliver. The Companies noted that holding capacity does not guarantee delivery of gas and delivery failures may occur because of gas supply constraints. The Companies, therefore, reasoned that existing penalties are necessary even if the mandatory capacity assignment proposed is approved by the Commission. They stated that in the event the CSP elected to terminate service in the Companies' retail access program, they must be in a position to "backstop" all CSPs and to provide reliable service with little or no notice. The Companies

<sup>1</sup> The current monthly GSRA factor cap for Shenandoah is \$0.0099 per ccf and is found in General Service Provision No. 23 (C)(3), Residential Factor Allocation Cap of Shenandoah's tariff. For WGL, the monthly per therm "current" factor is \$0.0082. Staff Report at 14.



urged the Commission to approve their proposed revisions to Rate Schedule No. 9, adopting mandatory capacity assignment as part of the Companies' retail access program.

NOW, UPON CONSIDERATION of the foregoing, the Commission is of the opinion and finds that the Companies' application to revise Rate Schedule No. 9 for their respective retail access programs should be approved, subject to the modification proposed by the Staff at page 16 of the August 22, 2002, Staff Report.<sup>2</sup> Revision of the Companies' tariffs in this manner should permit WGL and Shenandoah to assure the reliable delivery of natural gas to all WGL and Shenandoah customers, including those participating in the Companies' retail access programs.

Further, we find that the Companies should modify their respective tariffs to permit CSPs to demonstrate to the Companies that their capacity commitments were contracted for prior to the date of this Order, as the mandatory capacity assignment provisions are implemented over a period of a year. Additionally, we will not require a CSP to provide proof to the Companies regarding the reliability and credit status of the entity with which the CSP may have contracted for capacity. We have not previously imposed this requirement. There has been no showing of operational difficulties absent such requirement, or that such requirement is necessary for the future. Moreover, as mandatory capacity assignment is phased in, the Companies' concerns in this regard should diminish.

Accordingly, IT IS ORDERED THAT:

(1) The Companies' June 6, 2002, application to approve the proposed amendments to Rate Schedule No. 9, "Firm Delivery Service Gas Supplier Agreement," as modified by the findings made herein, is hereby approved.

(2) WGL and Shenandoah shall forthwith file revised tariffs, reflecting the changes directed herein, with the Division of Energy Regulation, to be effective for meter readings made on and after the date of this Final Order.

(3) There being nothing further to be done herein, this matter shall be dismissed from the Commission's docket of active proceedings and the papers filed herein made a part of the Commission's file for ended causes.

<sup>2</sup> In our June 28, 2002, Order entered in Phase I of Application of Columbia Gas of Virginia, Inc., For Approval of a Retail Supply Choice Plan as Authorized by § 56-235.8 of the Code of Virginia, Doc. Con. Cen. No. 020650134, at p. 9, we accepted Staff's proposal to provide for mandatory capacity assignment of upstream firm transportation service to CSPs as part of Columbia Gas of Virginia, Inc.'s retail access plan.

**CASE NO. PUE-2002-00320  
JUNE 21, 2002**

APPLICATION OF  
MECKLENBURG ELECTRIC COOPERATIVE

For authority to issue long-term debt

**ORDER GRANTING AUTHORITY**

On June 7, 2002, Mecklenburg Electric Cooperative ("Applicant") filed an application with the Virginia State Corporation Commission ("Commission") under Chapter 3 of Title 56 of the Code of Virginia requesting authority to incur long-term debt. Applicant has paid the requisite fee of \$250.

Applicant requests authority to borrow \$16,000,000 from the Federal Financing Bank ("FFB"). The FFB loan will be guaranteed by the Rural Utilities Services ("RUS"). Applicant expects to begin drawing down the loan funds during the third quarter of 2002. The proceeds will be used to fund Applicant's three-year construction work plan covering the period 2001 through 2004.

The FFB loan will have a thirty-five year maturity. The interest rates on the FFB loan will be established on the date of each advance and can change daily.

THE COMMISSION, upon consideration of the application and having been advised by its Staff, is of the opinion and finds that approval of the application will not be detrimental to the public interest. Accordingly,

IT IS ORDERED THAT:

1) Applicant is hereby authorized to borrow up to \$16,000,000 from the Federal Financing Bank, under the terms and conditions and for the purposes set forth in the application.

2) Within thirty (30) days of the date of each advance of funds from FFB, Applicant shall file with the Commission's Division of Economics and Finance a Report of Action which shall include the amount of the advance, the interest rate selected, and the interest rate term.

3) The authority granted herein shall have no implications for ratemaking purposes.

4) There appearing nothing further to be done in this matter, it is hereby dismissed.

**CASE NO. PUE-2002-00321  
JULY 26, 2002**

APPLICATION OF  
WASHINGTON GAS LIGHT COMPANY

For approval of certain affiliate transactions under Chapter 4 of Title 56 of the Code of Virginia

**ORDER GRANTING AUTHORITY**

On June 10, 2002, Washington Gas Light Company ("WGL" or "Company") filed an application with the State Corporation Commission ("Commission") pursuant to Chapter 4 of Title 56 of the Code of Virginia ("Code"). The Company requests approval of a Storage License ("License" or "Contract") with American Combustion Industries, Inc. ("ACI"), an affiliated company. The License will grant ACI the right to store its temporary boilers on unimproved vacant WGL property, which is located in Hyattsville, Maryland. Under the Contract, ACI will pay the Company an annual market rate of \$2,025.00 for the use of the property.

WGL is a wholly owned subsidiary of WGL Holdings, Inc. ("WGL Holdings"). ACI is a wholly owned subsidiary of Washington Gas Resources Corporation, which is also a wholly owned subsidiary of WGL Holdings. ACI is a mechanical contracting company and a part of its business consists of renting temporary boilers to its customers. ACI has an inventory of temporary boilers available for this purpose and these boilers are large pieces of equipment that require considerable space to store.

The Hyattsville property was acquired as part of the settlement of a lawsuit regarding environmental contamination of the property from the operations of an old manufactured gas plant. The portion of property to be used by ACI has been unoccupied since its acquisition by WGL in 1994. The property has never been included in WGL's Virginia rate base. The fair market rate to be charged for the use of the property was determined by an independent real estate broker retained by WGL. The annual rate to be charged for use of the property is more than WGL's annual cost. WGL revenues and costs related to this property are non-jurisdictional to Virginia.

Under the terms and conditions of the License, one annual payment shall be made in advance upon Contract execution. Thereafter, annual payments are due in advance on the anniversary date of the Contract. The term of the Contract is three years, which may be canceled by either party upon 90 days' written notice to the other party.

NOW THE COMMISSION having considered the application and representations of WGL, the applicable law, and having been advised by its Staff, is of the opinion that the above-referenced License in the public interest and should be approved.

Accordingly, IT IS ORDERED THAT:

- 1) Pursuant to § 56-77 of the Code, WGL is hereby granted approval to enter into the Contract with ACI as described herein.
- 2) The approval granted herein shall have no ratemaking implications.
- 3) The approval granted herein shall not preclude the Commission from exercising the provisions of §§ 56-78 and 56-80 of the Code.
- 4) The Commission reserves the right and authority to examine the books and records of any affiliate in connection with the approval granted herein whether or not the Commission regulates such affiliate.
- 5) Should any terms and conditions of the License change, from those contained herein, Commission approval shall be required for such changes.
- 6) The Company shall include affiliate information related to the License in its Annual Report of Affiliate Transactions.
- 7) If Annual Informational and/or General Rate Case Filings are not based on a calendar year, then the Company shall include the affiliate information contained in its Annual Report of Affiliate Transactions in such filings.
- 8) There appearing nothing further to be done in this matter, it is hereby dismissed.

**CASE NO. PUE-2002-00322  
AUGUST 15, 2002**

APPLICATION OF  
THE POTOMAC EDISON COMPANY D/B/A ALLEGHENY POWER

To revise its cogeneration tariff pursuant to PURPA § 210

**ORDER ESTABLISHING PROCEEDING AND INVITING COMMENTS  
AND REQUESTS FOR HEARING**

On June 12, 2002, the Potomac Edison Company d/b/a Allegheny Power ("AP" or "Company"), filed with the State Corporation Commission ("Commission"), an application, written testimony and exhibits to support its proposal for the year 2002 to change its cogeneration and small power production rates under its Schedule CO-G. The Company proposes to revise its Schedule CO-G to replace its administratively-determined avoided cost pricing methodology with a market-based pricing methodology for determining the Company's payments to qualifying generating facilities for electricity

purchased under the Public Utility Regulatory Policies Act of 1978 ("PURPA"). The Company requests that the new cogeneration rate tariff be effective with October, 2002, cycle bills rendered on and after October 7, 2002. The Company further proposes to revise and update its cogeneration rates annually hereafter based on current projections of forward energy prices.

In support of its proposed rate schedule, AP states in its application that there have been significant changes in Virginia's energy markets since the Commission last reviewed the Company's cogeneration rates. The Company refers, for example, to the passage of the Virginia Electric Utility Restructuring Act by the General Assembly in 1999. The Company also points to the Commission's approval of the Company's plan for functional separation whereby AP transferred ownership of all of its electric generating facilities to an affiliate, Allegheny Energy Supply, LLC. The Company indicates that it no longer owns generating facilities but purchases electric generation supply under contract to meet its default service obligations. The Company further states that it has no plans to build or purchase new generation in the future. Furthermore, according to AP, in the Company's functional separation case, AP and the Staff agreed that the Company's current co-generation schedule would continue in effect through the end of 2001, and after January 1, 2002, after consultation with the Commission Staff, the Company could file to modify its Schedule CO-G.

NOW THE COMMISSION, having considered the application, is of the opinion that the application should be docketed and that a procedural schedule should be established allowing interested parties an opportunity to file comments and/or request a hearing on the Company's application. We also grant, on an interim basis, until we decide this case, the Company's request that its proposed cogeneration tariff be effective with its bills rendered on and after October 7, 2002.

Accordingly, IT IS ORDERED THAT:

- (1) This matter is docketed and assigned Case No. PUE-2002-00322.
- (2) The Company's proposed cogeneration tariff shall be effective, on an interim basis, with Company bills rendered on and after October 7, 2002, and until the date the Commission issues its order deciding this case.
- (3) Pursuant to 5 VAC 5-20-120 of the Commission's Rules of Practice and Procedure, a hearing examiner is appointed to conduct all further proceedings in this matter.
- (4) AP shall forthwith provide copies of this Order and its application and testimony to any existing cogenerator in its service territory and any small power production or cogeneration developer who has contacted the Company within the last year.
- (5) Any member of the public may obtain a copy of AP's application and testimony by contacting counsel for the Company, Philip J. Bray, Esquire, Allegheny Power, 10435 Downsview Pike, Hagerstown, Maryland 21740-1766.
- (6) On or before September 17, 2002, any interested person wishing to comment or request a hearing on AP's application, shall file an original and fifteen (15) copies of the comments and/or request for hearing, with the Clerk of the Commission, Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218, and shall refer to Case No. PUE-2002-00322. A copy of such comments and/or requests for hearing shall simultaneously be sent to counsel to AP: Philip J. Bray, Esquire, Allegheny Power, 10435 Downsview Pike, Hagerstown, Maryland 21740-1766. Any request for hearing shall detail reasons why such issues cannot be adequately addressed in written comments. If no sufficient request for hearing is received, a formal hearing with oral testimony may not be held, and the Commission may make its decision based upon papers filed in this proceeding.
- (7) The Commission's Staff shall investigate the reasonableness of AP's application and shall file an original and fifteen (15) copies of its report or testimony with the Clerk of the Commission, on or before October 18, 2002, sending a copy to the Company and each Respondent.
- (8) On or before October 31, 2002, the Company shall file with the Clerk of the Commission an original and fifteen (15) copies of any response to comments filed and the Staff report. The Company shall serve a copy of its response upon Staff and all parties of record.
- (9) On or before September 24, 2002, the Company shall file with the Clerk of the Commission proof of service as required in this Order.

**CASE NO. PUE-2002-00323  
OCTOBER 29, 2002**

APPLICATION OF  
KENTUCKY UTILITIES COMPANY D/B/A OLD DOMINION POWER COMPANY

Requesting waiver of certain regulations governing electronic data exchange between incumbent electric utilities and competitive suppliers

**ORDER**

On June 12, 2002, Kentucky Utilities Company d/b/a Old Dominion Power Company ("Old Dominion" or "Company") filed an application with this Commission requesting a waiver of certain regulations within Chapter 312 of the Virginia Administrative Code, Rules Governing Retail Access to Competitive Energy Services ("Retail Access Rules"). In its application, the Company requested that the Commission grant its request for a waiver of 20 VAC 5-312-20 K and L of such rules governing the exchange of data between an incumbent electric utility, or local distribution company ("LDC") and competitive service providers ("CSPs") in accordance with Electronic Data Interchange ("EDI") standards as established by the Virginia Electronic Data Transfer Working Group ("VAEDT"). The Company indicated that it would comply with all other requirements of the Commission's Retail Access Rules.

The Company's principal rationale for seeking this waiver is that the costs the Company will incur to achieve EDI compliance at this time are wholly disproportionate to any perceived benefit.<sup>1</sup>

This Commission issued a July 19, 2002, Order Establishing Proceeding, in which we established a procedural schedule governing our consideration of the Company's waiver request. Under that Order, the Commission Staff and any interested persons were permitted to file comments concerning the Company's request on or before August 9, 2002. The Company was authorized to file its response thereto by August 16, 2002. Thereafter, comments in this proceeding were filed by the Commission Staff ("Staff"), Virginia's electric cooperatives ("the cooperatives") and by Michel A. King. The Company also filed reply comments.

As stated in the Company's application, and summarized in the Staff's comments, as an alternative to the electronic exchange of data in compliance with EDI standards, Old Dominion proposes to exchange enrollment, switching, and billing transaction data via e-mail or facsimile. In conjunction with this alternative structure for exchanging data, the Company proposed in its waiver application that the Company be permitted to perform LDC consolidated billing on a manual basis until 100 customers within its service territory have switched to CSPs. When such a threshold is reached, Old Dominion proposed that the Company would notify the Commission and immediately undertake the task of outsourcing the development of a fully automated billing system compliant with then-current EDI standards.

During the period of system development, but for no longer than 12 months, Old Dominion further proposed that a customer switching to a CSP would receive two separate bills—one from the Company for distribution service and another from the CSP for electricity supply service. The Company asserted that the brief 12-month suspension of consolidated billing, which is required to develop a system that will ensure accurate, timely, and consumer-friendly bills, is not inconsistent with § 56-581.1 of the Code of Virginia ("Code") and would not dissuade market entry or long-term participation by CSPs. Additionally, Old Dominion notes that § 56-581.1 C of the Code authorizes the Commission, on its own motion or by application of a distributor, to delay any element of competitive billing services for up to one year to resolve issues such as billing accuracy, timeliness, and quality or adverse competitive impacts. Should the Commission find that the Company's potential 12-month suspension of consolidated billing is a delay as contemplated by this provision, Old Dominion requested that its waiver request also be deemed an application requesting delay under § 56-581.1 C of the Code and urges the Commission to grant such request.

The Company states that its waiver request is prompted by its determination that Old Dominion's costs of full EDI compliance at this time—estimated at \$1.4 million over the next four years, followed by \$1.5 million per year in recurring costs—are not off-set by any meaningful benefits to its customers.<sup>2</sup> The Company believes that little, if any, switching to competitive suppliers will occur in its service territory since at least 86 percent of its customers are small, low-load factor residential customers, currently receiving bundled electric service at uniquely low rates, far below the national average and the rates of Virginia's other major investor-owned utilities.<sup>3</sup> Thus, in the Company's view, its Virginia customer base will not likely attract competitive entry since—Old Dominion contends—CSPs are far more likely to favor larger, higher load factor customers in denser, urban markets.

The Staff noted in its comments that through its enactment of the Virginia Electric Utility Restructuring Act ("Restructuring Act" or "Act")<sup>4</sup>, the General Assembly has decided that competitive generation markets and the provision of retail choice to Virginia's electricity consumers are in the public interest. However, the Staff also notes that § 56-596 A of the Act specifically directs the Commission to take into consideration, among other things, the goals of advancement of competition and economic development in all relevant proceedings pursuant to the Act. Whether requiring the Company's EDI compliance will advance (or retard) the development of competition within its service territory is an issue this Commission must therefore consider as part of its review of this application.

With respect to the development of competition, the Staff observes in its comments that both nationally and in Virginia, CSPs have consistently emphasized that standardized business practices and electronic data exchange protocols are essential to the development and operation of competitive retail markets. Thus, in the Staff's view, the Company's proposed departure from data exchange standardization creates a barrier to competitive entry—particularly for those CSPs that are mass marketers attempting to serve a large volume of residential and small commercial customers. The Staff also points out that in addition to the burden of accommodating a non-standardized approach in its day-to-day business operations, a CSP, as a practical matter, would also be extremely limited in the number of customers that could be served within Old Dominion's territory.

The Staff however, suggests that despite its concerns about data exchange standardization and its role in helping build a competitive market, the Company's waiver request should be viewed in a broader context. The Staff believes that the Restructuring Act envisions—if not anticipates—an evolutionary transition to competitive retail markets. A good example can be found in those provisions of the Act concerning the implementation of competitive metering.<sup>5</sup>

The Staff also notes that with respect to the development of a competitive market, the Company's waiver request is unlikely to be the root cause of any delay in the development of a competitive market in the Company's service territory. At present, there appear to be larger and more significant

<sup>1</sup> The Commission would note that the Company is not required to offer retail choice to its customers until January 1, 2004, in accordance with our Order in PUE-2000-00740 in which we established retail choice phase-in schedules for each of Virginia's incumbent electric utilities. In that same Order, we also authorized Virginia's electric cooperatives to delay the implementation of retail choice in their service territories until January 1, 2004.

<sup>2</sup> According to the Company, should such cost be recovered pro-rata from the Company's 29,500 Virginia retail customers, the monthly bill of a residential customer using 1000 kWh would increase by approximately nine percent. Smaller usage customers, of course, would experience a significantly higher percentage increase.

<sup>3</sup> Based on its analysis of information contained in the Edison Electric Institute's *Typical Bills and Average Rates Reports* (Winter 2001), the Company indicates the monthly bills of Virginia Electric and Power Company, The Potomac Edison Company, and Appalachian Power Company are 71 percent, 40 percent, and 18 percent higher, respectively, than those of Old Dominion for a residential customer using 1,000 kWh per month.

<sup>4</sup> Chapter 23 (§ 56-576 et seq.) of Title 56 of the Code of Virginia.

<sup>5</sup> In § 56-581.1 E, the Virginia General Assembly directs the Commission to implement competitive metering services *subject to* such considerations as readiness of customers and suppliers, technological feasibility, and the technical and administrative readiness of local distribution companies.

competitive barriers within Virginia, generally. Electric retail access was implemented in a large portion of Virginia on January 1, 2002, yet nearly ten months later there are virtually no competitive offers of electricity supply service being made to retail consumers within these areas. The Staff also points out that the Company (although not presently open to retail competition) currently has the lowest average "price to beat" within the Commonwealth, making the Company's service territory potentially a daunting challenge to competitive entry.<sup>6</sup>

Thus, given the Company's low embedded costs and the present level of competitive activity in the areas of Virginia where retail access has been implemented, it seems unlikely—from the Staff's perspective—that significant market activity will rapidly develop in Old Dominion's service territory when it is opened to retail access in 2004. From this perspective, granting the Company's requested waiver would appear to have little immediate impact on the development of competition either in the Company's service territory or other parts of Virginia, especially when also considering the nature of the Company's small, isolated service territory in Southwest Virginia.

Beyond the Company's low price to compare, Old Dominion is unique in another key respect. Its Virginia service territory, which represents approximately five percent of the Company's total sales, is located in parts of five counties in the southwestern corner of Virginia. Furthermore, the Company is not interconnected with any other Virginia electric utility, thus essentially forming its own isolated retail market, separate from the rest of Virginia. Additionally, the majority of the Company's service territory is in Kentucky, which has not implemented retail access at the current time. Therefore, the significant cost of a new automated billing system would be incurred to serve an extremely small portion of the Company's customers.

Nevertheless, the Staff observes, Old Dominion is subject to the Act's requirement for the implementation of retail access within its Virginia territory. Under the Act, capped rates expire no later than July 1, 2007. The Staff emphasizes its belief that standardized business practices and automated data exchange systems must be developed, tested, and operating smoothly well before the expiration of capped rates to allow for market development.

Within this context, the Staff states that the potential ramifications of a decision in the instant proceeding must be considered carefully. With the disappointing results of initial market development described above, it is conceivable—in the Staff's view—that other parties may decide to seek waivers of Commission regulations based on similar arguments, including the imposition of significant cost without benefit and the (arguably) unique circumstances of the requesting parties. In that vein, the Staff cautions that such requests may become increasingly difficult to easily distinguish. Ultimately, the Staff is concerned that a liberal accommodation of a large number of waiver requests could serve to undercut the development of a competitive market and in a sense become a self-fulfilling prophecy.

The Staff concludes it cannot support Old Dominion's waiver request as proposed without a specified date for expiration of such waiver. The Staff, however, states that it would not object to the Commission granting Old Dominion's request for waiver of these regulations pursuant to 20 VAC 5-312-20 A, but only until January 1, 2005, with full EDI compliance required at that time and thereafter.<sup>7</sup>

The Staff has also recommended that in the event this Commission grants the waivers requested, the Company be directed to coordinate with the VAEDT in developing statewide guidelines for the proposed alternative non-EDI data exchanges, including, at a minimum, guidelines for standardizing format, content, and interpretation of any e-mail or facsimile data exchange.

The Cooperatives' filing expressed support for the Company's application; they requested that the Commission approve Old Dominion's application, characterizing the manual work-around as a "sensible approach." The Cooperatives state, in particular that they, like Kentucky Utilities, "are very concerned that the transition costs associated with implementing the system changes necessary for retail access in strict compliance with VAEDT standards may far outweigh any of the economic benefits that may be enjoyed by consumers who elect to shop for competitive electricity."<sup>8</sup> The Cooperatives go on to state that "it makes no sense to expend financial resources to purchase, install and test systems that may never be utilized."<sup>9</sup>

Thus, the Cooperatives conclude that, on balance, Old Dominion's manual workaround approach allows retail access to proceed while reducing costs associated with VAEDT compliance otherwise required of all LDCs under the Retail Access Rules. They assert that this approach will cause minimal disruption and inconvenience to CSPs. Additionally, they suggest that the proposed business practice that relies on e-mail and fax transmissions to accomplish communications between CSPs and LDCs may actually serve to promote CSP entry into remove service territories in an economical fashion.<sup>10</sup> In that vein, the Cooperatives suggest that the outcome of this proceeding may "prompt those Cooperatives that continue to prepare their systems for retail access to implement similar procedures for handling data transfers and billing until switching to CSPs becomes prevalent."

The comments of Michel A. King, as president of Old Mill Power Company, a CSP headquartered in Charlottesville, Virginia, raised some concern that permitting an incumbent electric utility to "develop a unique non-EDI system for communicating with CSPs while simultaneously allowing the

<sup>6</sup> According to the Staff, the 2002 average "price-to-compare" values for residential customers in the service territories of Virginia Electric and Power Company, Appalachian Power Company, and The Potomac Edison Company are approximately 3.7¢ per kWh, 3.3¢ per kWh, and 3.9¢ per kWh, respectively. By comparison, Old Dominion's unbundled regulated rate for electricity supply service (comparable to the "price-to-compare") is approximately 2.9¢ per kWh for a residential customer using 1000 kWh per month.

<sup>7</sup> The Staff expressed its uncertainty about whether Old Dominion's application could be considered by the Commission under § 56-581.1 C of the Restructuring Act. As noted by the Staff, that provision addresses the delay of competitive billing service "elements" (with corresponding reports to the Legislative Transition Task Force concerning such delays), and not delays of the provision of such services by LDCs or CSPs—at least not explicitly. Thus, in the Staff's view, the Commission's regulations adopted pursuant to § 56-581.1 of the Code, would seem to be a more appropriate framework in which to consider the Company's application herein. These rules authorize in 20 VAC 5-312-20 A, requests for waivers of the Retail Access Rules to be considered by the Commission on a case-by-case basis. And, we would also note that Old Dominion proposes to exchange enrollment, switching, as well as billing transaction data on a non-EDI compliant basis, which broadens the scope of the waivers required in any event beyond the limited scope of § 56-581.1 C.

<sup>8</sup> August 9, 2002, Comments of the Virginia Electric Cooperatives in this docket, at 2-3.

<sup>9</sup> *Id.* at 3.

<sup>10</sup> *Id.* at 6.

Company to refuse to do business with CSPs on an EDI basis would set a precedent potentially encouraging other Virginia utilities to do the same."<sup>11</sup> Thus, Mr. King states, the potential proliferation of unique, non-EDI systems coupled with the right of utilities to refuse to do business with CSPs on an EDI basis, could suppress the development of competition in those service territories, indefinitely.

Accordingly, Mr. King recommends that to the extent that Old Dominion or any other incumbent utility is authorized to communicate and otherwise do business with CSPs on a non-EDI basis, that the Commission do the following: (i) establish a working group to determine statewide standards for such non-EDI transactions, i.e., standardizing on a statewide basis, format, content and interpretation of any e-mail, fax or other paper document transmitting EDI-like information, and (ii) limit the duration of an incumbent's authorization to utilize non-EDI communications system by providing such utilities a reasonable length of time to develop EDI-compliant systems, but not authorize such time to extend indefinitely.

On August 14, 2002, Old Dominion filed reply comments stating specifically that the Company requests that this Commission adopt the recommendations made by the Staff, and grant the Company a waiver of 20 VAC-5-312-20 K and L, through and including December 31, 2004. The Company's reply further states that it has no objection to the formation of a working group established for the purpose of determining statewide standards for non-EDI transactions. However, the Company asks that establishing such standards not delay the Commission's issuance of a waiver to the Company at this time.

NOW THE COMMISSION, having examined the Company's application, and the comments thereon by the Staff, the Cooperatives, and Mr. King, and having further reviewed the Company's reply comments, is of the opinion and finds that the Company request for the waivers of 20 VAC 5-312-20 K and L of the Retail Access Rules outlined in their application and discussed above, should be granted, subject to the modifications proposed by the Staff.<sup>12</sup>

The Commission finds that granting such a waiver through December 31, 2004, strikes a reasonable balance between the Virginia Electric Utility Restructuring Act's implementation schedule, and due consideration of Old Dominion's circumstances described in its application. The Commission's Retail Access Rules make reasonable allowance for waivers of their requirements on a case-by-case basis. Delaying the Company's obligation to become EDI-compliant for a twelve-month period beyond its retail choice phase-in deadline (January 1, 2004), should result in no harm to the development of a competitive market for retail generation in Virginia. In the meantime, that delay will provide the Company an additional year to prepare for the significant investment required to achieve that compliance, as described in its application, herein.<sup>13</sup>

We are, however, sensitive to Mr. King's concern that the implementation of unique non-EDI data exchange systems could discourage CSP entry into service territories served by EDI non-compliant utilities. At a minimum, a variety of such non-EDI systems would impose practical burdens on CSPs seeking competitive entry.

Thus, in keeping with Mr. King's concerns and the Staff's recommendation in that regard, we will require that the Company coordinate with the Staff, the VAEDT, and other interested parties in developing statewide guidelines for proposed alternative non-EDI data exchanges, including, at a minimum, guidelines for standardizing format, content, and interpretation of any e-mail or facsimile data exchange.

Accordingly, IT IS ORDERED THAT:

(1) The Company's application for waivers of 20 VAC 5-312-20 K and L of the Commission's Retail Access Rules is granted through and including December 31, 2004, subject to the modifications proposed by Staff and more fully detailed in this Order. On and after January 1, 2005, full EDI compliance in accordance with the Commission's then current Retail Access Rules, shall be required of the Company.

(2) The Company shall forthwith coordinate with the Staff, the VAEDT, and all interested parties in developing statewide guidelines for proposed alternative non-EDI data exchanges, including, at a minimum, guidelines for standardizing format, content, and interpretation of any e-mail or facsimile data exchange.

(3) The waiver granted Old Dominion shall become effective upon the entry of the Commission's Order herein, and shall not be contingent upon the development of statewide guidelines for proposed alternative non-EDI data exchanges described in Ordering Paragraph (2) above. However, to the extent that such guidelines are developed and adopted, then Old Dominion shall promptly conform its non-EDI data exchanges to such guidelines as soon as practicable following their adoption.

(4) There being nothing further to come before the Commission in this matter, this case shall be removed from the docket and the papers filed herein placed in the file for ended causes.

<sup>11</sup> August 6, 2002, Comments of Michel A. King at 2.

<sup>12</sup> Inasmuch as we have granted the Company the relief it requests under the aegis of a waiver granted pursuant to 20 VAC 5-312-20 A of such rules, it is not necessary for us to consider the issue of whether the Commission can or should implement a 12-month delay of competitive billing "elements" (i.e., EDI compliance in this case) in the Company's service territory pursuant to § 56-581.1 C of the Restructuring Act.

<sup>13</sup> We would also note that in our August 21, 2002, Order establishing rules and regulations governing consolidated billing services in Case No. PUE-2001-00297, we permitted LDCs to implement *interim* "workarounds" of standardized business practices and EDI protocols.

**CASE NO. PUE-2002-00368  
AUGUST 9, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION  
v.  
CENTRAL LOCATING SERVICE, LTD.,  
Defendant

**ORDER OF SETTLEMENT**

Pursuant to § 56-265.30 of the Code of Virginia, the Virginia State Corporation Commission ("Commission") is charged with enforcing the provisions of the Underground Utility Damage Prevention Act, §§ 56-265.14 *et seq.* of the Code of Virginia ("Act"). The Commission's Division of Utility and Railroad Safety ("Division"), charged with the investigation of probable violations of the Act, has completed investigations of certain incidents between December 3, 2001, and May 16, 2002, listed in Attachment A, involving Central Locating Service, Ltd. ("Company"), and alleges that:

- (1) The Company is a contract locator as that term is defined in § 56-265.15 of the Code of Virginia;
- (2) During the aforementioned period the Company violated the Act by committing the following violations:
  - (a) Failing on certain occasions to mark the approximate horizontal location of the underground utility lines on the ground to within two feet of either side of the underground utility lines, in violation of §§ 56-265.19 A and D of the Code of Virginia.
  - (b) Failing on certain occasions to mark within the time prescribed in the Act, in violation of §§ 56-265.19 A and D of the Code of Virginia.
  - (c) Failing on certain occasions to report to the notification center that lines had been marked or they were not in conflict with the proposed excavation, in violation of §§ 56-265.19 A and D of the Code of Virginia.

As evidenced in the attached Admission and Consent document, the Company neither admits nor denies these allegations but admits the Commission's jurisdiction and authority to enter this Order.

As an offer to settle all matters before the Commission arising from the Division's allegations made herein, which includes all probable violations presented to the Underground Utility Damage Prevention Advisory Committee on June 11, 2002, and set out in Attachment A hereto, the Company represents and undertakes that it will pay a civil penalty to the Commonwealth of Virginia in the amount of \$19,150 to be paid contemporaneously with the entry of this Order. This payment will be made by cashier's check or money order, payable to the Treasurer of Virginia and directed to the attention of the Director of the Division of Utility and Railroad Safety.

The Commission, being advised by the Staff and finding sufficient basis herein for the entry of this Order, hereby accepts this settlement.

Accordingly, IT IS ORDERED THAT:

- (1) Pursuant to the authority granted the Commission by § 12.1-15 of the Code of Virginia, the offer of settlement made by the Company be, and it hereby is, accepted.
- (2) The sum of \$19,150 tendered contemporaneously with the entry of this Order is accepted.
- (3) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. PUE-2002-00369  
JULY 30, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION  
v.  
UTILIQUEST, LLC,  
Defendant

**ORDER OF SETTLEMENT**

Pursuant to § 56-265.30 of the Code of Virginia, the Virginia State Corporation Commission ("Commission") is charged with enforcing the provisions of the Underground Utility Damage Prevention Act, §§ 56-265.14 *et seq.* of the Code of Virginia ("Act"). The Commission's Division of Utility and Railroad Safety ("Division"), charged with the investigation of probable violations of the Act, has completed investigations of certain incidents between December 11, 2000, and April 23, 2002, listed in Attachment A, involving Utiliquest, LLC ("Company"), and alleges that:

- (1) The Company is a contract locator as that term is defined in § 56-265.15 of the Code of Virginia;
- (2) During the aforementioned period the Company violated the Act by committing the following violations:
  - (a) Failing on certain occasions to mark the approximate horizontal location of the underground utility lines on the ground to within two feet of either side of the underground utility lines, in violation of §§ 56-265.19 A and D of the Code of Virginia.

- (b) Failing on certain occasions to mark within the time prescribed in the Act, in violation of §§ 56-265.19 A and D of the Code of Virginia.
- (c) Failing on certain occasions to report to the notification center that lines had been marked or they were not in conflict with the proposed excavation, in violation of §§ 56-265.19 A and D of the Code of Virginia.

As evidenced in the attached Admission and Consent document, the Company neither admits nor denies these allegations but admits the Commission's jurisdiction and authority to enter this Order. As an offer to settle all matters before the Commission arising from the Division's allegations made herein, which includes all probable violations presented to the Underground Utility Damage Prevention Advisory Committee on June 11, 2002, and set out in Attachment A hereto, the Company represents and undertakes that it will pay a civil penalty to the Commonwealth of Virginia in the amount of \$20,050 to be paid contemporaneously with the entry of this Order. This payment will be made by cashier's check or money order, payable to the Treasurer of Virginia and directed to the attention of the Director of the Division of Utility and Railroad Safety.

The Commission, being advised by the Staff and finding sufficient basis herein for the entry of this Order, hereby accepts this settlement.

Accordingly, IT IS ORDERED THAT:

- (1) Pursuant to the authority granted the Commission by § 12.1-15 of the Code of Virginia, the offer of settlement made by the Company be, and it hereby is, accepted.
- (2) The sum of \$20,050 tendered contemporaneously with the entry of this Order is accepted.
- (3) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. PUE-2002-00371  
JULY 11, 2002**

APPLICATION OF  
KENTUCKY UTILITIES COMPANY

For authority to issue long term debt

**ORDER GRANTING AUTHORITY**

On June 17, 2002, Kentucky Utilities Company ("KU" or "Applicant") filed an application under Chapter 3 of Title 56 of the Code of Virginia requesting authority to issue long-term debt. Applicant paid the requisite fee of \$250.

In its application, KU proposes to issue up to \$96,000,000 of first mortgage bonds and to assume certain obligations in connection with the simultaneous issuance by Carroll County, Kentucky of the Carroll County Pollution Control Revenue Bonds ("New Bonds"), the proceeds of which will be loaned to KU. KU's first mortgage bonds will be used to secure and collateralize the New Bonds.

The transaction is being undertaken to refund an existing series of tax exempt revenue bonds that have a September 15, 2002, first call date. The new bonds will be issued by the fourth quarter of 2002. The estimated interest rate based on current market conditions would be either fixed at 5.32% or 2.26% to 2.71% if a variable rate option is selected. In the case of a variable rate, the rate may fluctuate weekly, monthly or on another basis as determined by KU. KU would have the option to convert the New Bonds to other interest rate modes, including a fixed rate of interest. The maturity of the New Bonds will, at a minimum, be equal to the maturity of the existing bonds, 2016, but may be extended based on current tax laws.

In connection with the issuance of the New Bonds, KU may enter into one or more interest rate hedging agreements with a bank or financial institution. The purpose of an interest rate hedge would be to allow KU to manage and limit its exposure to variable interest rates or to lower its overall borrowing costs on any fixed rate bonds.

THE COMMISSION, upon consideration of the application, subsequent information provided by Applicant, and the advice of its Staff, is of the opinion and finds that approval of the application will not be detrimental to the public interest. Accordingly,

IT IS ORDERED THAT:

- 1) Applicant is hereby authorized to issue up to \$96,000,000 of first mortgage bonds and to assume certain obligations in connection with the simultaneous issuance of the New Bonds, the proceeds of which will be loaned to KU, all under the terms and conditions and for the purposes set forth in the application, provided that the issuance of any notes for the purpose of refunding outstanding securities prior to maturity results in cost savings to Applicant.
- 2) Applicant is hereby authorized to enter into interest hedging agreements, under the terms and conditions and for the purposes set forth in the application.
- 3) Applicant shall submit a report of action on or before February 28, 2003, to include the date securities were issued, the face amount of the issue, the interest rate, a summary of any provisions relating to the variable interest rate, the maturity date, net proceeds to Applicant, an itemized list of actual expenses to date associated with the securities issuances, and a balance sheet reflecting the actions taken. Such report shall also include a cost-benefit analysis for securities issued for the purpose of refunding outstanding securities prior to maturity .



- 4) Approval of this application shall have no implications for ratemaking purposes.
- 5) This matter shall remain under the continued review, audit, and appropriate directive of the Commission.

**CASE NO. PUE-2002-00373  
JULY 17, 2002**

APPLICATION OF  
ROANOKE GAS COMPANY

For a general increase in rates

**ORDER FOR NOTICE AND HEARING**

On June 17, 2002, Roanoke Gas Company ("Roanoke Gas" or the "Company") filed an application with the State Corporation Commission ("Commission") for a general increase in rates. Roanoke Gas seeks to increase the Company's annual revenues by \$1,276,206, an increase of approximately 2.9%. The proposed increase includes the impact of the Company's termination of its Distribution System Renewal Surcharge ("DSR Surcharge").<sup>1</sup>

In 1999, the Commission approved the merger of Commonwealth Public Service Corporation ("Commonwealth"), which served the Bluefield area, with Roanoke Gas contingent upon the maintenance of separate rates and accounting records until a consolidating rate case.<sup>2</sup> In this proceeding, the proposed revenue requirement includes both the Roanoke and Commonwealth service territories. Roanoke Gas proposes one tariff with separate commodity rates for each area and identical terms and conditions for service ("Terms and Conditions") for both Roanoke and Bluefield.

The rates are proposed to go into effect for service rendered on and after December 1, 2002. The proposed rates are based on the 10.5% rate of return on equity found appropriate in the Company's last increase in rates.<sup>3</sup> The proposed rates would increase customer bills between 1% and 7%, with the exception of interruptible transportation customers in Bluefield, where the increases would be in excess of 50%.

Roanoke Gas wishes to make several changes to its Terms and Conditions. The Company proposes to modify its main extension policy to provide for a standard main extension of 100 feet per service. Roanoke Gas also proposes to modify the Company's PGA mechanism to provide for a gross-up to recover the gas cost portion of bad debt expense, and to include in the PGA mechanism the interest expense for inventory and prepaid gas. In addition, the proposed Terms and Conditions specify in each rate schedule how the billing units will be rounded. The Company proposes that the Terms and Conditions provide that bill payment and deposits may be placed on a major credit card for a fee of \$5.00 per transaction. The Terms and Conditions would apply the provisions of the Other Special Services section of Section 15 – Special Service Charges when customers request a meter reading and/or billing that is not on their normal reading and billing cycle. Roanoke Gas also proposes to increase the reconnection fee at the meter after a disconnection from \$30 to \$50, in order to more closely reflect the cost of such reconnection.

Roanoke Gas is requesting to implement a Revenue Stabilization Factor ("RSF") to adjust on an annual basis the Company's revenues based on experienced weather. According to the application, the Company will compare the heating degree days experienced in a future 12-month period (for example, April 1, 2003 - March 31, 2004) to those calculated for a weather-normalized test year used in this proceeding. To the extent the heating degree days in this future 12-month period fall outside a 6% band around the normalized test year level, the Company will determine a per therm adjustment and, after Staff review, bill or credit the annual adjustment to each customer's account in the billing month following the calculation. Roanoke Gas proposes to implement the RSF for the 12-month period that begins on April 1, 2003, with the first possible RSF, if applicable, to be placed on customers' bills in May 2004. The Company argues that the RSF will reduce the financial impact of uncertain weather on the Company and its customers.

NOW UPON CONSIDERATION of the Company's application, the Commission is of the opinion and finds that this matter should be docketed, that a Hearing Examiner should be assigned to conduct all further proceedings on this matter on behalf of the Commission, and that a procedural schedule should be established as prescribed herein.

Accordingly, IT IS ORDERED THAT:

(1) Roanoke Gas' application for approval of a general increase in rates is docketed as Case No. PUE-2002-00364.

(2) A public hearing shall be convened on December 10, 2002, at 10:00 a.m., in the Commission's Courtroom, Second Floor, Tyler Building, 1300 East Main Street, Richmond, Virginia, to receive comments from members of the public and to receive evidence on the captioned application. Any person not participating as a respondent as provided in ordering paragraph (10) below, may give oral testimony concerning the application as a public witness at the December 10, 2002, public hearing. Public witnesses desiring to make statements at the public hearing concerning this application need only appear in the Commission's second floor courtroom in the Tyler Building at the address set forth above prior to 9:45 a.m. on the day of the hearing and register a request to speak with the Commission's bailiff.

(3) Roanoke Gas may put its rates into effect on an interim basis subject to refund on December 1, 2002.

<sup>1</sup> The revenue requirement associated with the DSR Surcharge termination is \$587,017, with \$579,144 attributable to Roanoke and \$7,872 attributable to Bluefield, and represents approximately 46% of the Company's requested increased revenue requirement.

<sup>2</sup> Application of Roanoke Gas Company and Commonwealth Public Service Corporation, For approval of a merger agreement and establishment of a holding company, Case No. PUA-1998-00035, 1999 S.C.C. Ann. Rpt. 143.

<sup>3</sup> Application of Roanoke Gas, For a general increase in rates, Case No. PUE-1998-00626, 1999 S.C.C. Ann. Rpt. 440.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

(4) As provided by § 12.1-31 of the Code of Virginia and Rule 5 VAC 5-20-120 of the Commission's Rules of Practice and Procedure, a Hearing Examiner is appointed to conduct all further proceedings in this matter on behalf of the Commission and to issue a final report herein.

(5) Upon written request received by its counsel, the Company shall provide a copy of the application to the requesting party at no cost. If acceptable to the requesting individual, the Companies may provide the application, with or without attachments, by electronic means. Written requests shall be made to Richard D. Gary, Esquire, Hunton & Williams, River Plaza, East Tower, 951 East Byrd Street, Richmond, Virginia 23219-4074. Interested persons may also review a copy of the application and the Commission's Order for Notice and Hearing in the Commission's Document Control Center, located on the First Floor of the Tyler Building, 1300 East Main Street, Richmond, Virginia between the hours of 8:15 a.m. and 5:00 p.m., Monday through Friday.

(6) On or before August 23, 2002, Roanoke Gas shall complete publication of the following notice as display advertising (not classified) on one occasion in newspapers of general circulation throughout the Company's service territories within the Commonwealth of Virginia:

NOTICE TO THE PUBLIC OF AN APPLICATION  
BY ROANOKE GAS COMPANY, FOR APPROVAL OF  
A GENERAL INCREASE IN RATES  
CASE NO. PUE-2002-00373

On June 17, 2002, Roanoke Gas Company ("Roanoke Gas" or the "Company") filed an application with the State Corporation Commission ("Commission") for a general increase in rates. Roanoke Gas seeks to increase the Company's annual revenues by \$1,276,206, an increase of approximately 2.9%. The proposed increase includes the impact of the Company terminating its Distribution System Renewal Surcharge ("DSR Surcharge"). The proposed revenue requirement includes both the Roanoke and Bluefield service territories. Roanoke Gas proposes one tariff with separate commodity rates for each area and identical terms and conditions for service ("Terms and Conditions") for both Roanoke and Bluefield.

The rates are proposed to go into effect for service rendered on and after December 1, 2002. Roanoke Gas may put its rates into effect on an interim basis subject to refund on December 1, 2002. The proposed rates are based on the 10.5% rate of return on equity found appropriate in the Company's last increase in rates. The proposed rate would increase customer bills between 1% and 7%, with the exception of interruptible transportation customers in Bluefield, where the increases would be in excess of 50%.

Roanoke Gas proposes several changes to its Terms and Conditions, including modification of its main extension policy, PGA mechanism, and how billing units will be rounded. The Company proposes that bill payment and deposits may be placed on a major credit card for a fee of \$5.00 per transaction. Further proposed changes to the Terms and Conditions are set out in the Application.

Roanoke Gas is requesting to implement a Revenue Stabilization Factor ("RSF") to adjust on an annual basis the Company's revenues based on experienced weather. To the extent the heating degree days in future 12-month periods fall outside a 6% band around the normalized test year weather, the Company will determine a per therm adjustment and, after Staff review, bill or credit the annual adjustment to each customer's account in the billing month following the calculation. Roanoke Gas proposes to implement the RSF for the 12-month period that begins on April 1, 2003, with the first possible RSF, if applicable, placed on customers' bills in May 2004. The Company argues that the RSF will reduce the financial impact of uncertain weather on the Company and its customers.

Copies of the application are available through written request to counsel for Company, Richard D. Gary, Esquire, Hunton & Williams, River Plaza, East Tower, 951 East Byrd Street, Richmond, Virginia 23219-4074. Interested persons may also review a copy of the application and the Commission's Order for Notice and Hearing in the Commission's Document Control Center, located on the First Floor of the Tyler Building, 1300 East Main Street, Richmond, Virginia between the hours of 8:15 a.m. and 5:00 p.m., Monday through Friday. A copy of the Commission's Order may also be obtained on the Commission's website: [www.state.va.us/scc/caseinfo/orders.htm](http://www.state.va.us/scc/caseinfo/orders.htm).

A public hearing on the application will be held on December 10, 2002, at 10:00 a.m., in the Commission's Courtroom, Second Floor, Tyler Building, 1300 East Main Street, Richmond, Virginia.

Any interested person may participate as a respondent in the proceeding by filing, on or before October 1, 2002, an original and fifteen (15) copies a notice of participation with the Clerk of the Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. Interested parties should obtain a copy of the Commission's Order for further details on participation as a respondent.

Interested persons not participating as a respondent may give oral testimony concerning the application as a public witness at the December 10, 2002, public hearing. Public witnesses desiring to make statements at the public hearing concerning this application need only appear in the Commission's second floor courtroom in the Tyler Building at the address set forth above prior to 9:45 a.m. on the day of the hearing and register a request to speak with the Commission's bailiff.

Any interested person may file comments on the application with the Clerk of the Commission at the address set forth above on or before October 28, 2002.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

All filings with the Clerk of the Commission shall refer to Case No. PUE-2002-00373 and shall simultaneously be served on counsel to the Company at the address set forth above.

ROANOKE GAS COMPANY

(7) On or before August 23, 2002, the Company shall mail a copy of their application and this Order by personal delivery or by first-class mail, postage prepaid to the chairman of the board of supervisors and county attorney of each county and upon the mayor or manager of every city and town (or upon equivalent officials in counties, towns and cities having alternate forms of government) in which the Company provides service. Service shall be made by first-class mail to the customary place of business or residence of the person served.

(8) On or before September 6, 2002, Roanoke Gas shall file with the Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118, proof of the publication and service required in ordering paragraphs (6) and (7).

(9) On or before September 11, 2002, Roanoke Gas shall file with the Clerk at the address set forth in ordering paragraph (8) above an original and fifteen (15) copies of any additional direct testimony, exhibits and other material supporting its application.

(10) Any interested person may participate as a respondent in this proceeding by filing, on or before October 1, 2002, an original and fifteen (15) copies a notice of participation with the Clerk at the address set forth in ordering paragraph (8) above, and shall simultaneously serve a copy of the notice of participation on counsel to the Company, Richard D. Gary, at the address set forth in ordering paragraph (5) above. Pursuant to Rule 5 VAC 5-20-80 of the Commission's Rules of Practice and Procedure, any notice of participation shall set forth (i) a precise statement of the interest of the respondent; (ii) a statement of the specific action sought to the extent then known; and (iii) the factual and legal basis for the action. Interested parties shall refer in all of their filed papers to Case No. PUE-2002-00373.

(11) Within five (5) business days of receipt of a notice of participation as a respondent, the Company shall serve upon each respondent a copy of this Order, a copy of the application, and all materials filed with the Commission, unless these materials have already been provided to the respondent.

(12) On or before October 28, 2002, each respondent may file with the Clerk at the address set forth in ordering paragraph (8) above an original and fifteen (15) copies of any testimony and exhibits by which it expects to establish its case and shall serve copies of the testimony and exhibits on counsel to the Company and on all other respondents. The respondent shall comply with Rules 5 VAC 5-20-140, 5 VAC 5-20-150, and 5 VAC 5-20-240 of the Commission's Rules of Practice and Procedure.

(13) On or before October 28, 2002, any interested person may file any comments on the captioned application with the Clerk at the address in paragraph (8) above and shall mail a copy to counsel to the Company, Richard D. Gary, at the address set forth in paragraph (5) above.

(14) The Commission Staff shall investigate the Company's application for a general increase to its rates and charges and incentive rate plan. On or before November 18, 2002, the Staff shall file with the Clerk of the Commission an original and fifteen (15) copies of the Staff's testimony and exhibits regarding the captioned application and shall promptly serve a copy on counsel to the Company and all respondents.

(15) On or before December 2, 2002, the Company shall file with the Clerk of the Commission an original and fifteen (15) copies of any rebuttal testimony that it expects to offer in rebuttal to the testimony and exhibits of the respondents and the Commission Staff and shall on the same day serve one copy on Staff and all respondents.

(16) Roanoke Gas and respondents shall respond to written interrogatories within seven (7) calendar days after receipt of the same. Except as modified above, discovery shall be in accordance with the Commission's Rules of Practice and Procedure.

**CASE NO. PUE-2002-00375  
JULY 18, 2002**

APPLICATION OF  
VIRGINIA-AMERICAN WATER COMPANY

For a general increase in rates

ORDER FOR NOTICE AND HEARING

On June 24, 2002, Virginia-American Water Company ("Virginia-American" or the "Company") filed its Application. The Company filed copies of public financial reports and revised tariff sheets on June 25, 2002.<sup>1</sup> According to its Application, at 3, Virginia-American has applied for a general increase in rates in accordance with Article 2 (§ 56-234 *et seq.*) of Title 56 of the Code of Virginia ("Code") and the Commission's Rules Governing Utility Rate Increase Applications and Annual Informational Filings, 20 VAC-5-200-30.

The Company seeks \$1,110,669 in additional annual revenues based on a test year ending December 31, 2001. This amount would represent an overall increase in revenues of approximately 3.7 percent. Of the total increase, \$238,349 in additional annual revenues would be allocated to the Company's Alexandria District. Additional annual revenues of \$872,320 would be allocated to the Hopewell District. Virginia-American proposes that the revised rates and charges take effect for service rendered on and after November 22, 2002. (Application at 2, 3)

In addition to the revised rates and charges, the Company proposes a Rider B, Computation of Piping Facilities Charge for Non-potable Water System, for two Hopewell District customers. Virginia-American advanced funds to these customers to pay the cost of piping for non-potable water, and the

<sup>1</sup> After consultation with the Commission Staff, Virginia-American filed on July 8, 2002, several revised schedules and additional working papers.

surcharge would recover these advances over 10 years. Application of the surcharge would commence with the bill following the last advance. (Id. at 2-3 and Exhibit A)

As provided by the Commission's Rules of Practice and Procedure ("Rules of Practice"), 5 VAC 5-20-160, the Staff prepared on July 3, 2002, a memorandum of completeness. The Staff determined that the application was complete on June 25, 2002.

Upon consideration of the Application with accompanying schedules, testimony, and exhibits, and the memorandum of completeness, the Commission finds that this application for a general increase in rates should be docketed and that, as required by §§ 56-237 and 56-237.1 of the Code, notice of the application should be given. While the Company does not propose any changes in rates and charges for its Prince William District, we will direct that notice of the application be provided to customers in that district as well as the Hopewell and Alexandria Districts.

The Commission further finds that a public hearing on the lawfulness of the proposed revised rates and charges should be held. We will assign a hearing examiner to conduct the hearing and to file a report with Commission. We will also direct the Commission Staff to investigate the application and present its findings at the hearing. The Commission will provide an opportunity for participation and representation of persons affected by the proposed changes in rates and charges.

As provided by § 56-240 of the Code, the proposed revised rates and charges for the Hopewell and Alexandria Districts shall go into effect on November 22, 2002. The Hopewell District piping facilities charge did not bear an effective date, so it will go into effect after 30 days' notice on July 25, 2002.

The proposed rates and charges and surcharge shall take effect subject to the power of the Commission to fix and to substitute just and reasonable rates and to order the utility to make refunds or give credits. While § 56-240 of the Code does not expressly provide for interest on any refund ordered, we have interpreted this and other provisions of Title 56 of the Code to empower the Commission to require a utility to pay interest on any refund. Commonwealth Public Service Corp., Case No. PUE940076, 1994 Ann. Rep. 424.

Accordingly, IT IS ORDERED THAT:

(1) As provided by Article 2 (§ 56-234 et seq.) and related provisions of Title 56 of the Code, Virginia-American's application be docketed as Case No. PUE-2002-00375 and that all associated papers be filed in that docket.

(2) As provided by § 56-240 of the Code, Virginia-American's proposed rates and charges, with the exception of the Hopewell District Rider B, Computation of Piping Facilities Charge for Non-potable Water System, may take effect on November 22, 2002, subject to the Commission's power to fix and order substituted just and reasonable rates, charges, terms, and conditions, and to order refunds or credits.

(3) As provided by § 56-240 of the Code, the Hopewell District Rider B, Computation of Piping Facilities Charge for Non-potable Water System, may take effect on July 25, 2002, subject to the Commission's power to fix and order substituted just and reasonable rates, charges, terms, and conditions, and to order refunds or credits.

(4) On or before August 2, 2002, Virginia-American shall file with the Commission's Division of Energy Regulation two copies of tariff sheets showing proposed rates and charges for the Hopewell and Alexandria Districts and bearing a filing date of June 25, 2002. Sheets setting out the proposed rates and charges for all services except Rider B shall bear an effective date of November 22, 2002, and the following caption at the foot of each sheet: "Effective November 22, 2002, subject to investigation and modification by the Virginia State Corporation Commission in Case No. PUE-2002-00375." Sheets setting out Rider B, Computation of Piping Facilities Charge for Non-potable Water System, shall bear an effective date of July 25, 2002, and the following caption at the foot of each sheet: "Effective July 25, 2002, subject to investigation and modification by the Virginia State Corporation Commission in Case No. PUE-2002-00375."

#### Procedures for the Public Hearing

(5) A public hearing be held beginning at 10:00 a.m., December 11, 2002, in the Commission's Courtroom, Second Floor, Tyler Building, 1300 East Main Street, Richmond, Virginia, to receive evidence on the application for a general increase in rates.

(6) As provided by § 12.1-31 of the Code and the Commission's Rules of Practice, 5 VAC 5-20-120, *Procedure before hearing examiners*, a hearing examiner be appointed to conduct all further proceedings in this matter on behalf of the Commission and to file a final report.

(7) On or before August 12, 2002, Virginia-American may file with the Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118, an original and fifteen (15) copies of any additional testimony and exhibits by which it expects to establish its case.

(8) On or before September 23, 2002, any person who expects to participate as a respondent in this proceeding shall file with the Clerk at the address set out in ordering paragraph (7) an original and fifteen (15) copies of a notice of participation as a respondent, as required by the Rules of Practice, 5 VAC 5-20-80 B, *Participation as a respondent*, and shall serve a copy on counsel to Virginia-American, Richard D. Gary, Esquire, Hunton & Williams, Riverfront Plaza, East Tower, 951 East Byrd Street, Richmond, Virginia 23219-4074, and on Commission Staff counsel assigned to the matter, Wayne N. Smith, Office of General Counsel, State Corporation Commission, P.O. Box 1197, Richmond, Virginia 23218-1197. The notice of participation shall be filed and served as required by the Rules of Practice, 5 VAC 5-20-140, *Filing and service*, and 5 VAC 5-20-150, *Copies and format*. Any organization, corporation, or government entity participating as a respondent must be represented by counsel as required by the Rules of Practice, 5 VAC 5-20-30, *Counsel*.

(9) Within five (5) business days of receipt of a notice of participation as a respondent, Virginia-American shall serve upon each respondent a copy of this Order, a copy of the application, and all materials filed with the Commission, unless these materials have already been provided to the respondent.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

(10) On or before October 28, 2002, each respondent shall file with the Clerk an original and fifteen (15) copies of the testimony and exhibits by which it expects to establish its case and shall serve a copy of the testimony and exhibits on counsel to Virginia-American and on all other parties. Respondents shall comply with the Rules of Practice, 5 VAC 5-20-140, *Filing and service*, 5 VAC 5-20-150, *Copies and format*, and 5 VAC 5-20-240, *Prepared testimony and exhibits*

(11) Interested persons may file written comments on the application with the Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. Comments should refer to Case No. PUE-2002-00375 and should be filed by October 28, 2002. The filing of comments by e-mail or facsimile is not authorized in this proceeding.

(12) The Commission Staff shall investigate the application. On or before November 15, 2002, the Staff shall file with the Clerk the testimony and exhibits that it intends to present at the hearing and copies of any workpapers that support the recommendations made in its testimony. Copies of the testimony and exhibits shall be served on all parties.

(13) On or before December 2, 2002, Virginia-American may file with the Clerk an original and fifteen (15) copies of all testimony and exhibits that it expects to offer in rebuttal to testimony and exhibits of the respondents and the Commission Staff and shall serve one copy on all parties.

(14) The Rules of Practice, 5 VAC 5-20-260, *Interrogatories to parties or requests for production of documents and things*, shall be modified for this proceeding as follows: (i) answers and objections shall be served within twelve (12) days after receipt of interrogatories, counting weekends and holidays; (ii) motions on the validity of any objections raised shall be filed within four (4) business days of receipt of the objection; and (iii) answers, objections, and motions on the validity of objections shall be served by 3:00 p.m. on the date due, unless the Staff or party upon whom service must be made agrees in advance to other arrangements.

## Procedures for Providing Notice

(15) On or before August 9, 2002, Virginia-American shall serve by first-class mail a copy of this Order on all officials previously served as required by Commission's Rules Governing Utility Rate Increase Applications and Annual Informational Filings, 20 VAC-5-200-30 H.

(16) On or before August 9, 2002, Virginia-American shall make available for inspection copies of the application, as supplemented, and this Order at the following offices:

Virginia-American Water Company  
2223 Duke Street  
Alexandria, VA  
(Alexandria and Prince William Districts)

Virginia-American Water Company  
900 Industrial Street  
Hopewell, VA  
(Hopewell District).

(17) Virginia-American shall publish as display advertising the following notice once a week for two consecutive weeks in a newspaper or newspapers of general circulation in its *Alexandria* and *Prince William Districts*. Publication shall be completed by August 30, 2002.

NOTICE TO CUSTOMERS OF  
VIRGINIA-AMERICAN WATER COMPANY OF  
A GENERAL INCREASE IN RATES FOR  
THE ALEXANDRIA DISTRICT

Virginia American-Water Company has filed with the Virginia State Corporation Commission an application for a general increase in rates. The application has been docketed as Case No. PUE-2002-00375. The Company seeks \$1,110,669 in additional annual revenues based on a test year ending December 31, 2002. This amount would represent an overall increase in revenues of approximately 3.7 percent. *Of the total increase, \$238,349 in additional annual revenues would be allocated to the Alexandria District. Additional annual revenues of \$872,320 would be allocated to the Hopewell District. No increase is proposed for the Prince William District.*

The proposed rates for the Alexandria District follow:

RATE:

	Gallons per		Rate Per
	<u>Month</u>	<u>Quarter</u>	<u>1,000 Gallons</u>
For the first	2,000	6,000	(minimum charge)
For all over	2,000	6,000	1.3611

MINIMUM CHARGE:

No bill will be rendered for less than the minimum charges set forth below:

<u>Size of Meter</u>		Minimum Charge	
		<u>Per Month</u>	<u>Per Quarter</u>
5/8	inch	8.19	24.57
3/4	inch	12.30	36.90

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1	inch	20.49	61.47
1 1/2	inch	40.99	122.97
2	inch	65.58	196.74
3	inch	122.97	368.91
4	inch	204.95	614.85
6	inch	409.90	1,229.70
8	inch	655.83	1,967.49

SERVICE CONNECTION CHARGE:

3/4 inch service connection	\$900.00
Service Connections over 3/4 inch	Actual cost to Company including overhead

All service connection charges will be grossed-up for federal income tax if any should occur.

The rates and charges approved by the State Corporation Commission after the investigation and hearing discussed in the following paragraphs may differ from these proposed rates and charges.

The proposed rates and charges shall take effect for service rendered on and after November 22, 2002. The proposed rates and charges shall take effect subject to the power of the Commission to fix and to substitute just and reasonable rates and to order the utility to make refunds or give credits.

The application and related filings may be inspected in the Document Control Center, Office of the Clerk, First Floor, Tyler Building, 1300 East Main Street, Richmond, Virginia, between 8:15 a.m. and 5:00 p.m. on Commission business days. The application may also be inspected during regular business hours at Virginia-American Water Company, 2223 Duke Street, Alexandria, Virginia.

The State Corporation Commission has ordered its Staff to investigate the application and has established procedures for affected persons to participate or be represented in the proceeding. A hearing will be held on the application beginning at 10:00 a.m. on December 11, 2002, in the Commission's Courtroom, Second Floor, Tyler Building, 1300 East Main Street. Individuals with disabilities who require an accommodation to participate in the hearing should contact the Commission at least seven (7) days before the scheduled hearing date at 1-800-552-7945 (voice) or 1-804-371-9206 (TDD).

Interested persons may file written comments on the application with the Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. Comments should refer to Case No. PUE-2002-00375 and should be filed by October 28, 2002. The Commission cannot accept in this proceeding comments provided by e-mail or facsimile. The Commission cannot assure senders using these methods of communication that any comments will be associated with Case No. PUE-2002-00375.

Any interested person may participate as a public witness at the hearing on December 11, 2002. Interested persons should arrive at the Commission's Courtroom by 9:45 a.m. and tell the Commission's Bailiff that they wish to be a public witness.

On or before September 16, 2002, any person who expects to present evidence, to cross-examine witnesses, and to otherwise participate as a respondent in this proceeding, as provided by the State Corporation Commission Rules of Practice and Procedure (Rules of Practice), 5 VAC 5-20-80 B, *Participation as a respondent*, shall file with the Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118, an original and fifteen (15) copies of a notice of participation as a respondent. Copies shall be served on counsel to Virginia-American, Richard D. Gary, Esquire, Hunton & Williams, Riverfront Plaza, East Tower, 951 East Byrd Street, Richmond, Virginia 23219-4074, and on Commission Staff counsel assigned to the matter, Wayne N. Smith, Office of General Counsel, State Corporation Commission, P.O. Box 1197, Richmond, Virginia 23218-1197. The notice of participation shall be filed and served as required by the Rules of Practice, 5 VAC 5-20-140, *Filing and service*, and 5 VAC 5-20-150, *Copies and format*. As required by the Rules of Practice, 5 VAC 5-20-30, *Counsel*, any organization, corporation, or government entity participating as a respondent must be represented by counsel.

The unofficial text of the State Corporation Commission's orders in Case No. PUE-2002-00375, may be viewed at <http://www.state.va.us/scc/caseinfo/orders.htm>. The Commission's Rules of Practice and Procedure and other information may be viewed at <http://www.state.va.us/scc>.

(18) Virginia-American shall publish as display advertising the following notice once a week for two consecutive weeks in a newspaper or newspapers of general circulation in its *Hopewell District*. Publication shall be completed by August 23, 2002.

NOTICE TO CUSTOMERS OF  
VIRGINIA-AMERICAN WATER COMPANY OF  
A GENERAL INCREASE IN RATES FOR  
THE HOPEWELL DISTRICT

Virginia American-Water Company has filed with the Virginia State Corporation Commission an application for a general increase in rates. The application has been docketed as Case No. PUE-2002-00375. The Company seeks \$1,110,669 in additional annual revenues based on a test year ending December 31, 2002.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

This amount would represent an overall increase in revenues of approximately 3.7 percent. *Of the total increase, additional annual revenues of \$872,320 would be allocated to the Hopewell District. Additional annual revenues of \$238,349 would be allocated to the Alexandria District. No increase is proposed for the Prince William District.*

The proposed rates for the Hopewell District follow:

RATE:

	<u>Month</u>	<u>Quarter</u>	Rate Per <u>100 Cubic Feet</u> (minimum charge)
For the first	3 ccf	9 ccf	
For the next	17 ccf	51 ccf	3.2640
For the next	2,980 ccf	8,940 ccf	2.7500
For the next	7,000 ccf	21,000 ccf	1.7670
For the next	50,000 ccf	150,000 ccf	0.7320
All Over	60,000 ccf	180,000 ccf	1.0000

MINIMUM CHARGE:

No bill will be rendered for less than the minimum charges set forth below:

<u>Size of Meter</u>		<u>Per Month</u>	Minimum Charge <u>Per Quarter</u>
5/8	inch	11.80	35.40
3/4	inch	17.70	53.10
1	inch	29.40	88.20
1 1/2	inch	58.90	176.70
2	inch	94.20	282.60
3	inch	176.60	529.80
4	inch	294.00	882.00
6	inch	589.00	1,767.00
8	inch	942.00	2,826.00
10	inch	1,276.00	3,828.00
12	inch	2,537.00	7,611.00

SERVICE CONNECTION CHARGE:

3/4 inch service connection	\$560.00
Service Connections over 3/4 inch	Actual cost to Company including overhead

All service connection charges will be grossed-up for federal income tax if any should occur.

Available to all metered customers that purchase non-potable service and have potable and non-potable annual consumption averages less than 3 million gallons per day.

RATE:

	<u>Month</u>	<u>Quarter</u>	Rate Per <u>100 Cubic Feet</u>
First	10,000 ccf	30,000 ccf	1.4030
Next	20,000 ccf	60,000 ccf	1.2000
All over	30,000 ccf	90,000 ccf	.6648

MINIMUM CHARGE:

No bill will be rendered for less than the minimum charges set forth below:

<u>Size of Meter</u>		<u>Per Month</u>	Minimum Charge <u>Per Quarter</u>
5/8	inch	11.80	35.40
3/4	inch	17.70	53.10
1	inch	29.40	88.20
1 1/2	inch	58.90	176.70
2	inch	94.20	282.60
3	inch	176.60	529.80
4	inch	294.00	882.00
6	inch	589.00	1,767.00
8	inch	942.00	2,826.00
10	inch	1,276.00	3,828.00
12	inch	2,537.00	7,611.00

Available to all metered customers that purchase non-potable service and have potable and non-potable annual consumption averages greater than or equal to 3 million gallons per day.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

RATE:

	<u>Month</u>	<u>Quarter</u>	<u>Rate Per 100 Cubic Feet</u>
First	10,000 ccf	30,000 ccf	1.0000
Next	290,000 ccf	870,000 ccf	.6658
All over	300,000 ccf	900,000 ccf	.7320

MINIMUM CHARGE:

No bill will be rendered for less than the minimum charges set forth below:

<u>Size of Meter</u>		<u>Per Month</u>	<u>Per Quarter</u>
5/8	inch	11.80	35.40
3/4	inch	17.70	53.10
1	inch	29.40	88.20
1 1/2	inch	58.90	176.70
2	inch	94.20	282.60
3	inch	176.60	529.80
4	inch	294.00	882.00
6	inch	589.00	1,767.00
8	inch	942.00	2,826.00
10	inch	1,276.00	3,828.00
12	inch	2,537.00	7,611.00

In addition, Virginia-American has proposed Hopewell District Rider B, Computation of Piping Facilities Charge for Non-potable Water System, for two Hopewell District customers. Virginia-American advanced funds to these customers to pay the cost of piping for non-potable water, and the surcharge would recover these advances over 10 years. Application of the surcharge would commence with the bill following the last advance.

The rates and charges approved by the State Corporation Commission after the investigation and hearing discussed in the following paragraphs may differ from these proposed rates and charges.

Rider B shall take effect July 25, 2002, and the proposed rates and charges for other service shall take effect for service rendered on and after November 22, 2002. The proposed rates and charges and Hopewell District Rider B shall take effect subject to the power of the Commission to fix and to substitute just and reasonable rates and to order the utility to make refunds or give credits.

The application and related filings may be inspected in the Document Control Center, Office of the Clerk, First Floor, Tyler Building, 1300 East Main Street, Richmond, Virginia between 8:15 a.m. and 5:00 p.m. on Commission business days. The application may also be inspected during regular business hours at Virginia-American Water Company, 900 Industrial Street, Hopewell, Virginia.

The State Corporation Commission has ordered its Staff to investigate the application and has established procedures for affected persons to participate or be represented in the proceeding. A hearing will be held on the application beginning at 10:00 a.m. on December 11, 2002, in the Commission's Courtroom, Second Floor, Tyler Building, 1300 East Main Street. Individuals with disabilities who require an accommodation to participate in the hearing should contact the Commission at least seven (7) days before the scheduled hearing date at 1-800-552-7945 (voice) or 1-804-371-9206 (TDD).

Interested persons may file written comments on the application with the Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. Comments should refer to Case No. PUE-2002-00375 and should be filed by October 28, 2002. The Commission cannot accept in this proceeding comments provided by e-mail or facsimile. The Commission cannot assure senders using these methods of communication that any comments will be associated with Case No. PUE-2002-00375.

Any interested person may participate as a public witness at the hearing on December 11, 2002. Interested persons should arrive at the Commission's Courtroom by 9:45 a.m. and tell the Commission's Bailiff that they wish to be a public witness.

On or before September 16, 2002, any person who expects to present evidence, to cross-examine witnesses, and to otherwise participate as a respondent in this proceeding, as provided by the State Corporation Commission Rules of Practice and Procedure (Rules of Practice), 5 VAC 5-20-80 B, *Participation as a respondent*, shall file with the Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118 an original and fifteen (15) copies of a notice of participation as a respondent. Copies shall be served on counsel to Virginia-American, Richard D. Gary, Esquire, Hunton & Williams, Riverfront Plaza, East Tower, 951 East Byrd Street, Richmond, Virginia 23219-4074, and on Commission Staff counsel assigned to the matter, Wayne N. Smith, Office of General Counsel, State Corporation Commission, P.O. Box 1197, Richmond, Virginia 23218-1197. The notice of participation shall be filed and served as required by the Rules of Practice, 5 VAC 5-20-140, *Filing and service*, and 5 VAC 5-20-



150, *Copies and format.* As required by the Rules of Practice, 5 VAC 5-20-30, *Counsel*, any organization, corporation, or government entity participating as a respondent must be represented by counsel.

The unofficial text of the State Corporation Commission's orders in Case No. PUE-2002-00375 may be viewed at <http://www.state.va.us/scc/caseinfo/orders.htm>. The Commission's Rules of Practice and Procedure and other information may be viewed at <http://www.state.va.us/scc>.

(19) Virginia-American shall include once as a bill insert for customers in the Alexandria and Prince William Districts the text of the public notice prescribed in ordering paragraph (17) and shall include once for customers in the Hopewell District the text of the public notice prescribed in ordering paragraph (18). Including the bill insert shall commence as soon as practicable and shall continue until all customers have received the insert.

(20) On or before November 1, 2002, Virginia-American shall file with the Clerk proof of the posting, mailing and publication required by ordering paragraphs (15), (16), (17), (18), and (19).

**CASE NO. PUE-2002-00376  
JULY 17, 2002**

APPLICATION OF  
VIRGINIA ELECTRIC AND POWER COMPANY

For authority to issue debt and preferred securities

**ORDER GRANTING AUTHORITY**

On June 28, 2002, Virginia Electric and Power Company ("Virginia Power" or "Applicant") filed an application with the Virginia State Corporation Commission ("Commission") under Chapters 3 and 4 of Title 56 of the Code of Virginia requesting authority to issue debt and preferred securities. Applicant has paid the requisite fee of \$250.

Virginia Power proposes to sell through December 31, 2004, up to \$2 billion aggregate principal amount of its First and Refunding Mortgage Bonds, unsecured Senior Notes (including Medium-Term Notes, Series H<sup>1</sup>), unsecured Junior Subordinated Notes, and preferred securities (collectively "the Securities"). The Securities will be registered with the Securities and Exchange Commission.

Virginia Power also proposes to establish a Trust Preferred Securities Financing Facility, Virginia Power Capital Trust II ("the Trust"). According to Virginia Power, the Trust will exist only for the purpose of issuing its own preferred and common securities, investing the proceeds from the sales in Virginia Power's Junior Subordinated Notes, and conducting other incidental activities. Since the Trust will be an affiliate of Virginia Power, Applicant has sought approval under Chapter 4 of Title 56 of the Code of Virginia.

The Securities may be issued in various series with various maturities and will bear interest or pay dividends at rates determined by their maturities, features, and conditions in the financial markets at the time of sale. Virginia Power proposes to market the Securities on a competitive basis at market rates to or through underwriters and dealers to the public or through private placement with financial institutions, depending on the most economically desirable circumstances at the time of issuance. The Securities may also be sold directly to purchasers or through agents at market rates.

The proceeds from the Securities will be used to meet a portion of Applicant's capital requirements such as construction, upgrading and maintenance expenditures, capacity expansion, and the refunding of outstanding debt and preferred securities.

Virginia Power also proposes to enter into anticipatory hedging transactions such as treasury locks and similar pre-issuance hedging activities related to the issuance of the Securities. Virginia Power states that the purpose of entering into a Treasury lock transaction is, in effect, to set the underlying Treasury rate that is used in pricing the new security at the Treasury yield effective as of the date of the lock. Further, Applicant states that the authority to execute anticipatory hedging transactions will provide a mechanism to mitigate the risk that economic circumstances underlying decisions to refund an outstanding security or to issue a new security will change adversely by the time the transaction can be executed.

Applicant proposes to limit such authority in a manner similar to that authorized by the Commission in Case No. PUF970017. Specifically, Virginia Power states that it will not enter into any hedging transaction with counterparties having a credit rating less than investment grade and that it will abide by certain reporting requirements.

THE COMMISSION, upon consideration of the application and having been advised by its Staff, is of the opinion and finds that approval of the application will not be detrimental to the public interest. Accordingly,

IT IS ORDERED THAT:

1) Applicant is hereby authorized to: 1) issue up to \$2 billion in aggregate of its First Mortgage bonds, unsecured Senior Notes, unsecured Junior Subordinated Notes, and preferred securities, and 2) establish a Trust for the issuance of trust preferred securities, under the terms and conditions and for the purposes set forth in the application through December 31, 2004, provided that any refinancings result in demonstrated cost savings to Virginia Power.

2) Applicant shall submit a preliminary report of action within ten days after the issuance of any Securities pursuant to this Order to include the type of security, the date of issuance, the amount of issuance, the applicable interest rate or dividend rate, the maturity date, and net proceeds to Applicant.

<sup>1</sup> The issuance of Medium-Term Notes will involve the establishment of a new medium-term note program.

- 3) Within 60 days of the end of the calendar quarter in which Securities are issued, Applicant shall file a more detailed report to include the information required in Ordering Paragraph (2), as well as an itemized list of actual expenses to date associated with the Securities issuances, a comparison of the effective rate of Securities issued and any refunded securities, use of proceeds, and a balance sheet reflecting the actions taken.
- 4) On or before February 28, 2005, Applicant shall file a final report of action to include all information required in Ordering Paragraph (3) which incorporates then-current actual expenses and fees paid for the proposed Securities issuances.
- 5) The authority granted herein shall have no implications for ratemaking purposes.
- 6) The authority granted herein shall not preclude the Commission from applying the provisions of § 56-78 and § 56-80 of the Code of Virginia hereafter.
- 7) The Commission reserves the right, pursuant to § 56-79 of the Code of Virginia, to examine the books and records of any affiliate in connection with the authority granted herein, whether or not such affiliate is regulated by this Commission.
- 8) This matter shall remain under the continued review, audit and appropriate directive of the Commission.

**CASE NO. PUE-2002-00377  
OCTOBER 16, 2002**

APPLICATION OF  
VIRGINIA ELECTRIC AND POWER COMPANY

To revise its fuel factor pursuant to Va. Code §56-249.6

**ORDER ESTABLISHING 2003 FUEL FACTOR**

On July 1, 2002, Virginia Electric and Power Company ("Virginia Power" or "Company") filed with the State Corporation Commission ("Commission") its application, written testimony, and exhibits requesting a decrease in its fuel factor from 1.613¢ per kWh to 1.576¢ per kWh effective with usage on or after January 1, 2003, which results in a decrease in annual fuel revenues of approximately \$21.7 million. Concurrently, and by motion dated July 1, 2002, the Company also requested that the Commission enter a protective order governing the treatment of confidential information in the Company's fuel factor proceeding.

By Order dated July 16, 2002, the Commission established a procedural schedule, required notice of the application, and set a public hearing date for this matter. In the July 16, 2002, Order, the Commission directed its Staff to file testimony and provided an opportunity for any person desiring to participate in the hearing to do so. The Virginia Committee for Fair Utility Rates ("VCFUR"), the Apartment and Office Building Association of Metropolitan Washington ("AOBA"), Chaparral (Virginia), Inc. ("Chaparral"), and the Division of Consumer Counsel, Office of the Attorney General ("Consumer Counsel") filed notices of participation as respondents in the case. VCFUR filed direct testimony and exhibits on August 4, 2002.

On July 26, 2002, the Commission issued its Order on Motion for Protective Order granting the Company's motion for a protective order with additional modifications proposed by the Commission Staff ("Staff").

On September 12, 2002, Staff filed its testimony. Staff recommended that Virginia Power's proposed estimate of energy sales and fuel prices used in the development of the proposed fuel factor be accepted as reasonable.

On September 16, 2002, the Company filed a letter with the Commission updating the estimated fuel expenses for the months of June, July, and August 2002, and changing the Company's under-recovery balance to \$45,829,329 and changing the proposed prior period factor from \$0.00028/kWh to \$0.00078/kWh. In addition, the Company's letter acknowledged that since no increase in the current total fuel factor of \$0.01613 was noticed, the Company's change to the proposed prior period factor was limited to \$0.00065/kWh in the case. On September 19, 2002, the Company filed its rebuttal testimony.

The hearing to receive evidence on the fuel factor issues was convened on September 25, 2002. Appearances were made by counsel for the Staff, DVP, VCFUR, Chaparral, and Consumer Counsel. Testimony was received from Mr. Kurt W. Swanson, Mr. Charles A. Stadelmeier, Mr. William R. Eckroade, Mr. Harrison H. Barker, Mr. Gregory J. Morgan, and Mr. Andrew J. Evans for DVP; Mr. Ali Al-Jabir for VCFUR; and Mr. Michael W. Martin, Mr. David R. Eichenlaub, Mr. Lawrence T. Oliver, and Mr. Thomas E. Lamm for the Staff.

Parties agreed to stipulate as to the testimonies of DVP's witnesses Swanson, Stadelmeier, Eckroade, and Barker, and Staff witnesses Martin and Eichenlaub.

VCFUR Witness Al-Jabir testified that the Commission should fix the Company's fuel factor beyond 2003 through July 1, 2007, and defer the Company's recovery of a portion of the energy charges associated with certain power purchases made by DVP as a result of the Company's March 25, 2002, Request for Proposals. Staff Witness Lamm testified that there were many complexities raised by the issue of the fuel factor treatment of DVP's firm energy purchases. Witness Lamm indicated that the Staff was not prepared to propose a final resolution as to the fuel factor treatment. In addition, Staff Witness Lamm noted that these issues merited additional study by the Staff, and that Staff would make recommendations before or during DVP's next fuel factor proceeding. Staff Witness Oliver testified concerning the continuation of a prior study by the Staff, requested by the Commission in DVP's most recent fuel factor case, of the Company's wholesale sales, off-system sales, out-of-system sales, option trading, and other related activities. Witness Oliver testified that he had not participated in Staff's study of DVP's wholesale trading practices and he had no recommendation relative to the amount of money that ratepayers received as a credit to fuel expenses from off-system sales relative to how much money shareholders received from off-system sales.

Finally, DVP rebuttal witnesses Morgan and Evans testified in response to the concerns raised by both Staff and VCFUR witnesses regarding appropriateness of certain firm energy purchases DVP entered into primarily for the summer months of 2002. DVP rebuttal witness Morgan testified that DVP's decision to purchase the energy was reasonable given the information available to the Company at that time, and that the component pricing structures agreed to by the Company with their counter-parties were fully consistent with the market and were fair to ratepayers. DVP rebuttal witness Evans testified that the Company's purchase of the energy under the contracts was necessitated by DVP's need for peaking capacity for the summer to meet its reserve margin. Witness Evans further testified that the energy purchased by DVP under the contracts was purchased as economy energy displacing higher-cost Company generation.

NOW THE COMMISSION, upon consideration of the record and the applicable law, is of the opinion that the Company's fuel factor shall remain at 1.613¢ per kWh effective with usage on and after January 1, 2003. We will also require continued Staff study relating to the appropriate allocation of the net proceeds that arise from the Company's participation in wholesale power markets. Further, we will require Staff to investigate issues surrounding the appropriate recovery in the fuel factor of costs incurred by the Company for power purchased pursuant to its March 25, 2002, request for proposals ("purchase power RFP contracts") as well as similar resource acquisition expenditures should they arise in the future.

As noted above, we will allow DVP to continue its fuel factor charge at the current level. As such, we decline to adopt the recommendation of VCFUR witness Al-Jabir to defer a portion of the charges associated with the recovery of the purchase power RFP contracts until such time as the above-mentioned study is completed. Nor will we adopt a "fixed" fuel factor as advocated by Mr. Al-Jabir. The instant proceeding did not encompass the notice required by § 56-249.6 prior to dispensing with the adjustable fuel factor. We note, however, that such a fixed fuel factor may have certain merits, including increased judicial economies, changed incentives on the part of DVP, and increased electricity cost certainty for customers during the freeze period. As such, we remain open to proposals of this nature.

In addition, Staff seeks to continue study of the appropriateness of the mechanism by which net proceeds of DVP's wholesale trading activities are shared with ratepayers. Staff recommends further study noting that it has yet to complete a report as directed by the Commission in a prior DVP fuel factor proceeding (Case No. PUE-2000-00585). Staff notes that personnel changes as well as the complexity of the issue has thus far delayed Staff's report. We will allow Staff to continue its efforts in this area.

Finally, we require the aforementioned investigation and study of the Company's purchase power RFP contracts. The bulk of the contracts in question may be characterized as base loaded capacity resources, at least during the term of the respective contracts. DVP proposes to collect 94% of the contracts' costs through the fuel factor with the remaining 6% assumed to be collected via the Company's base rates. Both Staff and the VCFUR believe that this 94%/6% fuel/capacity split allows DVP to recover non-fuel expenses in the fuel clause.

Staff and VCFUR both recommend further study of the issue. Staff recommends no adjustment at this time, while VCFUR recommends that \$13.4 million of recovery be deferred until the Commission makes a final determination as to the proper energy component of these contracts. DVP maintains that it has appropriately quantified energy and capacity costs associated with the purchase power RFP contracts. The Company argues that their inclusion of virtually all of the contracts' costs in the fuel factor is appropriate based on current and expected near term energy and capacity market prices.

DVP's actions in administering its March 25, 2002, solicitation and closing these transactions have not been challenged. In fact, these actions appear to have been well executed producing a minimum fuel factor given the feasible generation resource choices available to DVP in the spring of 2002. Given those choices, the Company appears to have made a reasonable decision to enter into the transactions at issue in this proceeding.

While the Company's decision to enter into the purchase power RFP contracts may not be at issue, the proportion of the contracts' cost proposed to be collected via the fuel factor remains in question. DVP has proposed one method to effect that split; there may be others. Modifications to that split, if any, subsequently adopted by the Commission may apply to the 2002 fuel period and to future fuel factors. Staff's study should consider alternative mechanisms that may be employed to allocate a portion of the costs of the purchase power RFP contracts, or similar types of arrangements, to the fuel factor. We expect that Staff will explore market based methods as well as methods that may reflect the construction cost of new capacity. We are also interested in the Company's efforts through time to optimize its system with the goal of minimizing the total cost of providing service pursuant to § 56-249.6. We stress that we are interested in the Company's optimization efforts here for the purpose of Staff's study herein of the fuel factor.

Accordingly, IT IS ORDERED THAT:

(1) The total fuel factor of 1.613¢ per kWh, effective for usage on and after January 1, 2003, established by Commission Order dated December 8, 2000, remains in effect.

(2) Staff shall study the appropriate recovery of the fuel costs associated with the purchase power RFP contracts entered into by DVP pursuant to its March 25, 2002, solicitation as described herein. The Company shall assist the Staff in this effort by making available relevant documents and personnel as well as other assistance deemed necessary by Staff. The VCFUR may participate in the study.

(3) Staff shall continue its study of the Company's wholesale sales, off-system sales, out-of-system sales, options trading, and other related activities, and shall file a report detailing its findings and recommendations.

(4) This matter is continued generally.

**CASE NO. PUE-2002-00378  
NOVEMBER 8, 2002**

APPLICATION OF  
APPALACHIAN POWER COMPANY d/b/a AMERICAN ELECTRIC POWER

To revise its fuel factor pursuant to Va. Code § 56-249.6

**ORDER ESTABLISHING 2003 FUEL FACTOR**

On July 1, 2002, Appalachian Power Company d/b/a American Electric Power ("AEP," "Appalachian" or the "Company") filed with the State Corporation Commission ("Commission") its application, written testimony, and exhibits requesting an increase in its fuel factor from 1.310¢ per kWh to 1.488¢ per kWh effective with bills rendered on and after January 1, 2003, which results in an increase in annual fuel revenues of approximately \$28.1 million.

By Order dated July 16, 2002, the Commission established a procedural schedule, required notice of the application, and set a public hearing date for this matter. In the July 16, 2002, Order, the Commission directed its Staff to file testimony and provided an opportunity for any person desiring to participate in the hearing to do so. The Old Dominion Committee for Fair Utility Rates (the "Committee"), the Town of Wytheville and the Virginia Municipal League/Virginia Association of Counties APCo Steering Committee ("Town of Wytheville & VML/VACo APCo Steering Committee"), and the Division of Consumer Counsel, Office of the Attorney General ("Consumer Counsel") filed notices of participation as respondents in the case.

On September 16, 2002, Staff filed its testimony. Staff recommended that Appalachian's in-period factor should be 1.401¢ per kWh and correction factor should be 0.023¢ per kWh which incorporated Staff's proposed disallowance of approximately \$10 million in replacement power costs (i) allocated to Appalachian through the AEP Interconnection Agreement, and (ii) necessitated by the Nuclear Regulatory Commission ("NRC")-prompted shut-down of the Donald C. Cook nuclear generating units ("Cook") operated by Appalachian's affiliate, Indiana Michigan Power Company ("I&M"), which outage extended from 1997 to 2000. On September 19, 2002, the Company filed its rebuttal testimony.

The hearing to receive evidence on the fuel factor issues was convened on September 23, 2002. Appearances were made by counsel for the Staff, Appalachian, the Committee, Town of Wytheville & VML/VACo APCo Steering Committee, and Consumer Counsel. Testimony was received from Mr. Barry L. Thomas, Mr. Stephen D. Baker, Mr. Oliver J. Sever, and Mr. Thomas L. Stephens for Appalachian; and Mr. Jarilaos Stavrou, Dr. Timothy Lough, and Mr. Michael W. Martin for the Staff.

Company witness Thomas testified that consistent with the Commission's longstanding treatment of costs related to the AEP system pool ("Pool"), the Commission should approve the Company's proposed fuel factor and reject Staff's proposed disallowance for replacement fuel costs resulting from the Cook outage.

Company witness Baker testified concerning Appalachian's long-term coal supply agreements, coal purchasing strategy, and responses to the coal market conditions. Mr. Baker supported the Company's fuel forecast as being reasonable for the purpose of setting fuel cost factors.

Company witness Sever testified concerning Appalachian's forecast of total net energy cost for the June through December of 2002 period, as well as the forecast period of calendar year 2003. Mr. Sever's rebuttal testimony opposed Staff's recommendation of disallowance of the Cook replacement fuel costs and clarified the Company's position that complex regulatory settlements related to the Cook outage were reached in the Michigan and Indiana jurisdictions.

Company witness Stephens testified regarding Appalachian's actual monthly fuel costs and fuel costs over- and under-recovery calculations, the development of the Company's proposed fuel factor, and revenue and customer impacts associated with implementation of the proposed fuel factor. In addition, Mr. Stephens' testimony addressed the Company's currently approved definitional framework of fuel expenses to accommodate proposed changes in the purchased power component of the Company's fuel expense going forward. Finally, Mr. Stephens' testimony updated the Company's projections for the months of May 2002, through August 2002, to reflect an updated estimated under-recovery position at the end of 2002, of \$9,817,137. This results in a total fuel factor of 1.463¢ per kWh.

Staff Witness Martin testified concerning Staff's recommendation of year 2003 fuel factor of 1.424¢ per kWh for Appalachian, which is composed of an in-period factor of 1.401¢ per kWh, and a correction factor of 0.023¢ per kWh.

Staff Witness Stavrou testified concerning his evaluation of the reasonableness of forecasted energy sales and fuel prices and the appropriateness of the fuel cost projections with respect to the Commission's standards. Mr. Stavrou's testimony concluded that the Staff did not oppose the Company's estimates for the purpose of developing a fuel factor, but he added that his conclusion did not constitute a finding of prudence by the Staff.

Staff witness Lough testified concerning Staff's recommendation of a partial disallowance of the net replacement power costs incurred as a result of the three-year outage at the Cook plant, from 1997 to 2000. During Mr. Lough's testimony, Company counsel Michael Quinan proffered a motion to strike Mr. Lough's testimony. The Commission took Mr. Quinan's motion under advisement and deferred making a ruling on the motion to strike. At the conclusion of the hearing, parties requested the presentation of briefs of legal issues before the Commission.

On October 18, 2002, the participants filed their respective post-hearing briefs. The Committee argued in its brief in support of a disallowance of all or a portion of the Cook replacement power costs. The Committee maintained that the Company failed to make its required showings, pursuant to Va. Code § 56-249.6, regarding the costs of replacement power used during the extended outage of the Cook nuclear units from September 1997 through December 2000. In addition, the Committee argued that Appalachian failed to demonstrate to the Commission that it made every reasonable effort to minimize its fuel costs during the outage and the Company has failed to demonstrate that none of its decisions resulted in unreasonable fuel costs during that outage.

The Town of Wytheville & VML/VACo APCo Steering Committee argued in its brief that the facts of this case supported a reasonable conclusion that the increased fuel costs associated with and arising from the Cook nuclear plant outage need not and should not be recognized in the

Company's fuel factor. In addition, the Town of Wytheville & VML/VACo APCo Steering Committee argued that the Commission is not disabled from disallowance of replacement fuel costs as it finds necessary to protect Appalachian's Virginia retail customers from absorbing such costs.

Consumer Counsel argued in its brief that, under Va. Code § 56-235.3, the Company has the burden of proof to show that the proposed change in its fuel costs are just and reasonable. Consumer Counsel maintained that Appalachian failed to show at hearing that the proposed revision to its fuel factor is just and reasonable and the Company did not make every reasonable effort to minimize its fuel costs during the past period. Therefore, Consumer Counsel stated that the Commission was required to disallow recovery of the portion of the fuel costs applied for by the Company associated with the Cook plant replacement power. Finally, Consumer Counsel argued that the Commission has the authority under Virginia law to determine whether Appalachian has shown that it has reasonably incurred its fuel costs, and under the facts in this case, the Commission's authority to make this determination is not subject to federal preemption.

The Company argued in its brief that the Commission may not properly deny the Company's recovery of its replacement power fuel costs associated with the Cook outage. First, the Company maintained that the Staff has provided the Commission with an insufficient evidentiary foundation for its recommendation that the Company should be denied its replacement power fuel costs. Second, the Company argued that in order for the Commission to disallow their replacement power fuel costs it would need to assert jurisdiction over I&M to inquire into the prudence of I&M's actions as they relate to the Cook outage, and such jurisdiction cannot be maintained. Third, the Company argued that Virginia's fuel factor statute, Va. Code § 56-249.6, does not provide the Commission with any basis to deny Appalachian recovery of replacement power fuel costs under the circumstances of this case. Fourth, the Company disagreed with the Staff's theory of "concomitant entrustment," based upon the interdependent nature of the AEP Pool, and maintains that Staff's theory does not provide a lawful or appropriate basis to deny recovery of the replacement power fuel costs. Finally, the Company maintained that the Commission is preempted by federal law from disallowing replacement power fuel costs where Appalachian incurred those costs through the AEP Interconnection Agreement approved by the Federal Energy Regulatory Commission ("FERC").

The Staff argued in its brief that the FERC's approval of the AEP operating companies' Interconnection Agreement does not mean that the FERC has thus pre-approved all costs flowing through the interconnection — only the methodology for their allocation. The Staff maintained that the Commission can disallow replacement power costs proposed to be paid by Appalachian's Virginia jurisdictional ratepayers to the extent that the Company has failed to make every reasonable effort to minimize fuel costs, as required by law under the provisions of Va. Code § 56-249.6. Furthermore, the Staff argued that through Appalachian's inaction, and failure to pursue remedies available to it under and related to the Interconnection Agreement, the Company failed to satisfy its obligations to its Virginia ratepayer under § 56-249.6 to minimize fuel costs. Therefore, the Staff argued that, as a matter of fact and law, the Commission can and should disallow Appalachian's replacement power costs, in whole or in part. Finally, the Staff maintained that the evidentiary record of the case supports the disallowance recommended — the Company's motion to strike the testimony of Staff witness Lough, notwithstanding.

NOW THE COMMISSION, upon consideration of the pleadings, the record, and the applicable law, is of the opinion and finds as follows. We deny Appalachian's motion to strike the testimony of Staff witness Lough. We approve Appalachian's inclusion in its proposed fuel factor of net replacement power costs associated with the Cook outage. Accordingly, we adopt Appalachian's requested total fuel factor of 1.463¢ per kWh.

The standard that we must apply in this proceeding is set forth in § 56-249.6 of the Code, which provides, among other things, the following:

The Commission shall disallow recovery of any fuel costs that it finds without just cause to be the result of failure of the utility to make every reasonable effort to minimize fuel costs or any decision of the utility resulting in unreasonable fuel costs, giving due regard to reliability of service and the need to maintain reliable sources of supply, economical generation mix, generating experience of comparable facilities, and minimization of the total cost of providing service.

Based on the record developed in this proceeding, we do not find that Appalachian's proposed net replacement power costs are, without just cause, the result of the failure of Appalachian to make every reasonable effort to minimize fuel costs or are the result of any decision of Appalachian resulting in unreasonable rates. As a result of such finding, we do not reach the issue of federal preemption addressed in the participants' briefs.

The Company has the initial burden under § 56-249.6 of the Code. Appalachian must show how its efforts minimized, and resulted in reasonable, fuel costs. Appalachian has met its initial burden in this case. For example, the Company presented evidence that its Virginia jurisdictional customers historically have received the benefit of low cost electricity in part because of the Pool, that the Pool enables Appalachian's energy requirements to be met economically, that Appalachian benefited from membership in the Pool during the Cook outage, and that its cost of replacement energy from the Pool in this case was lower than its cost would have been for replacement energy outside the Pool. The Company does not, as part of its initial burden, have to rebut every conceivable alternative that it may have taken.

The Staff and the respondents seek denial of part or all of net replacement fuel costs resulting from the Cook outage. With Appalachian having met its initial burden, these participants must present a minimum threshold of evidence that could support a disallowance. This has not occurred. We find that there is insufficient evidence in the record upon which to deny recovery of part or all of the net replacement power costs under § 56-249.6 of the Code.

First, regarding any alleged imprudence that resulted in the Cook outage, the evidence presented in this proceeding falls short of establishing the imprudence of any action or inaction that may have caused such outage. Next, the respondents and the Staff identify actions that Appalachian could have taken, but did not, in an effort to minimize fuel costs subsequent to the Cook outage.<sup>1</sup> There is, however, essentially no evidence in this case beyond the listing of actions that could have been taken by Appalachian. We also note that the participants, in arguing that the Company should have taken actions such as purchasing outside of the Pool or issuing a request for proposal to determine if less expensive power was available, did not even suggest what the savings might have been. Once the Company has met its initial burden, as Appalachian did here, there must be more than simple allegations or a list of other

<sup>1</sup> For example, the participants assert that Appalachian could have, among other things: (1) made independent arrangements for power outside of the Pool; (2) issued a request for proposal to determine if a less expensive source was available; (3) sought modification of its Interconnection Agreement; (4) instituted action at FERC to protect itself or its customers from increased fuel costs resulting from the Cook outage; (5) negotiated with its parent company or sister AEP utilities; (6) attempted to shorten the duration of the outage; (7) asserted a claim against the owner of Cook; or (8) withheld payments from the Pool. Specific assertions that Appalachian did not make reasonable efforts subsequent to the outage to minimize fuel costs were raised for the first time at the hearing and were repeated in the briefs of the Staff and the respondents.

possible actions the Company might have taken. The alternatives must be developed and there must be evidence before we can consider the actions proffered by those who seek to disallow a part of the Company's fuel expense.

Accordingly, IT IS HEREBY ORDERED THAT:

- (1) Appalachian's motion to strike the testimony of Staff witness Lough is denied.
- (2) Appalachian's total fuel factor, effective for usage on and after January 1, 2003, shall be 1.463¢ per kWh.
- (3) This matter is continued generally.

**CASE NO. PUE-2002-00378  
NOVEMBER 13, 2002**

APPLICATION OF  
APPALACHIAN POWER COMPANY d/b/a AMERICAN ELECTRIC POWER

To revise its fuel factor pursuant to Va. Code §56-249.6

**AMENDING ORDER**

On November 8, 2002, the Commission issued its Order Establishing 2003 Fuel Factor in the above-captioned case. In the first paragraph of page one of the November 8, 2002, Order, it is stated that the Company in its application requested an increase in its fuel factor to become effective with bills rendered on and after January 1, 2003. In Ordering Paragraph two (2) of the same Order, it is incorrectly stated that: "Appalachian's total fuel factor, effective for usage on and after January 1, 2003, shall be 1.463¢ per kWh." Therefore, the Commission recognizes that Ordering Paragraph two (2) should have stated: "Appalachian's total fuel factor, effective with bills rendered on and after January 1, 2003, shall be 1.463¢ per kWh."

Accordingly, IT IS THEREFORE ORDERED THAT:

- (1) Ordering Paragraph two (2) of the November 8, 2002, Order Establishing 2003 Fuel Factor shall be amended to include the following language: "Appalachian's total fuel factor, effective with bills rendered on and after January 1, 2003, shall be 1.463¢ per kWh."
- (2) All other provisions of the Commission's Order Establishing 2003 Fuel Factor of November 8, 2002, shall remain in effect.

**CASE NO. PUE-2002-00411  
SEPTEMBER 25, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION  
v.  
CENTRAL LOCATING SERVICE, LTD.,  
Defendant

**ORDER OF SETTLEMENT**

Pursuant to § 56-265.30 of the Code of Virginia, the Virginia State Corporation Commission ("Commission") is charged with enforcing the provisions of the Underground Utility Damage Prevention Act, § 56-265.14 *et seq.* of the Code of Virginia. The Commission's Division of Utility and Railroad Safety ("Division"), after having conducted an investigation of this matter, alleges that:

- (1) On or about March 19, 2002, Precon Construction Company damaged a four-inch plastic gas main line operated by Virginia Natural Gas, Inc., located at or near 1352 Fentress Road, Chesapeake, Virginia, while excavating;
- (2) On or about March 21, 2002, Tidewater Deck & Fence damaged a three-quarter inch plastic gas service line operated by Virginia Natural Gas, Inc., located at or near 3804 Wenlock Court, Virginia Beach, Virginia, while excavating;
- (3) On or about March 22, 2002, Virginia Electric and Power Company damaged a one-half inch plastic gas service line operated by Virginia Natural Gas, Inc., located at or near 614 Pile Street, Chesapeake, Virginia, while excavating;
- (4) On or about March 27, 2002, Suburban Grading & Utilities, Inc., damaged a three-quarter inch steel gas service line operated by Virginia Natural Gas, Inc., located at or near 1430 Wingfield Avenue, Chesapeake, Virginia, while excavating;
- (5) On or about March 28, 2002, Glen Buckner Plumbing and General Contracting damaged a two-inch plastic gas main line operated by Virginia Natural Gas, Inc., located at or near 211 Water Pointe Way, Suffolk, Virginia, while excavating;
- (6) On or about April 1, 2002, Newport News Water Works damaged a one-half inch plastic gas service line operated by Virginia Natural Gas, Inc., located at or near 647 34th Street, Newport News, Virginia, while excavating;

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

(7) On the occasions set out in paragraphs (1) through (6) above, Central Locating Service, Ltd. ("Company"), failed to mark the approximate horizontal location of the lines on the ground to within two feet of either side of the underground utility lines, in violation of § 56-265.19 A of the Code of Virginia;

(8) On or about June 5, 2002, Green Stream Irrigation, Incorporated, notified the notification center of plans to excavate at or near 12933 Champlain Drive, Manassas, Virginia; and

(9) On the occasion set out in paragraph (8) above, the Company failed to mark the approximate horizontal location of the line on the ground to within two feet of either side of the underground utility line, no later than forty eight hours after receiving notice from the notification center, in violation of § 56-265.19 A of the Code of Virginia.

As evidenced in the attached Admission and Consent document, the Company neither admits nor denies these allegations but admits the Commission's jurisdiction and authority to enter this Order.

As an offer to settle all matters before the Commission arising from the Division's allegations made herein, the Company represents and undertakes that it will pay a civil penalty to the Commonwealth of Virginia in the amount of \$6,150 to be paid contemporaneously with the entry of this Order. This payment will be made by cashier's check or money order, payable to the Treasurer of Virginia and directed to the attention of the Director of the Division of Utility and Railroad Safety.

The Commission, being advised by the Staff and finding sufficient basis herein for the entry of this Order, hereby accepts this settlement.

Accordingly, IT IS ORDERED THAT:

(1) Pursuant to the authority granted the Commission by § 12.1-15 of the Code of Virginia, the offer of settlement made by the Company be, and it hereby is, accepted.

(2) The sum of \$6,150 tendered contemporaneously with the entry of this Order is accepted.

(3) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. PUE-2002-00412  
SEPTEMBER 25, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION  
v.  
UTILIQUEST, LLC,  
Defendant

**ORDER OF SETTLEMENT**

Pursuant to § 56-265.30 of the Code of Virginia, the Virginia State Corporation Commission ("Commission") is charged with enforcing the provisions of the Underground Utility Damage Prevention Act, § 56-265.14 *et seq.* of the Code of Virginia ("Act"). The Commission's Division of Utility and Railroad Safety ("Division"), charged with the investigation of probable violations of the Act, has completed investigations of certain incidents between March 28, 2002, and May 31, 2002, listed in Attachment A, involving Utiliquest, LLC ("Company"), and alleges that:

- (1) The Company is a contract locator as that term is defined in § 56-265.15 of the Code of Virginia;
- (2) During the aforementioned period the Company violated the Act by committing the following violations:
  - (a) Failing on certain occasions to mark the approximate horizontal location of the underground utility lines on the ground to within two feet of either side of the underground utility lines, in violation of §§ 56-265.19 A and D of the Code of Virginia.
  - (b) Failing on certain occasions to mark within the time prescribed in the Act, in violation of §§ 56-265.19 A and D of the Code of Virginia.
  - (c) Failing on certain occasions to report to the notification center that lines had been marked or they were not in conflict with the proposed excavation, in violation of §§ 56-265.19 A and D of the Code of Virginia.

As evidenced in the attached Admission and Consent document, the Company neither admits nor denies these allegations but admits the Commission's jurisdiction and authority to enter this Order.

As an offer to settle all matters before the Commission arising from the Division's allegations made herein, which includes all probable violations presented to the Underground Utility Damage Prevention Advisory Committee on July 9, 2002, and set out in Attachment A hereto, the Company represents and undertakes that it will pay a civil penalty to the Commonwealth of Virginia in the amount of \$9,300 to be paid contemporaneously with the entry of this Order. This payment will be made by cashier's check or money order, payable to the Treasurer of Virginia and directed to the attention of the Director of the Division of Utility and Railroad Safety.

The Commission, being advised by the Staff and finding sufficient basis herein for the entry of this Order, hereby accepts this settlement.

Accordingly, IT IS ORDERED THAT:

- (1) Pursuant to the authority granted the Commission by § 12.1-15 of the Code of Virginia, the offer of settlement made by the Company be, and it hereby is, accepted.
- (2) The sum of \$9,300 tendered contemporaneously with the entry of this Order is accepted.
- (3) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. PUE-2002-00413  
OCTOBER 7, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION

v.

VIRGINIA GAS PIPELINE COMPANY,  
Defendant

**ORDER OF SETTLEMENT**

The Accountable Pipeline Safety and Partnership Act of 1996, 49 U.S.C. § 60101 *et seq.* ("Act"), requires the Secretary of Transportation ("Secretary") to establish minimum federal safety standards for the transportation of gas and pipeline facilities. The Secretary is further authorized to delegate to an appropriate state agency the authority to prescribe safety standards and enforce compliance with such standards over gas pipeline facilities used for intrastate transportation.

The Virginia State Corporation Commission ("Commission") has been designated as the appropriate state agency for the Commonwealth of Virginia to prescribe and enforce compliance with standards for gas pipeline facilities used for intrastate transportation. In Case No. PUE-1989-00052, the Commission adopted Parts 191, 192, 193, and 199 of Title 49 of the Code of Federal Regulations to serve as minimum gas pipeline safety standards ("Safety Standards") in Virginia. The Commission is authorized to enforce the Safety Standards under § 56-5.1 of the Code of Virginia, which allows the Commission to impose the fines and penalties authorized therein.

The Commission's Division of Utility and Railroad Safety ("Division")<sup>1</sup>, charged with the investigation of each jurisdictional gas company's compliance with the Safety Standards, has conducted various inspections of construction, operation, and maintenance activities involving the Virginia Gas Pipeline Company ("VGPC" or "Company"), the Defendant, and alleges that:

- (1) VGPC is a public service corporation as that term is defined in § 56-1 of the Code of Virginia and, specifically a natural gas company within the meaning of § 56-5.1 of the Code of Virginia; and
- (2) The Company violated the Commission's Safety Standards by the following conduct:
  - (a) 49 C.F.R. § 192.303 – Failing on numerous occasions to properly handle and store various pipe sections;
  - (b) 49 C.F.R. § 192.303 – Failing on numerous occasions to install CANUSA KTC shrink sleeves properly;
  - (c) 49 C.F.R. § 192.303 – Failing to have and follow comprehensive written specifications relative to the use of coating patches cut from CANUSA shrink sleeves;
  - (d) 49 C.F.R. § 192.303 – Failing on numerous occasions to follow Section 4 D 2.2, Preheating and Postheating, of VGPC's welding specifications by not verifying the pre-heat temperature requirements;
  - (e) 49 C.F.R. § 192.303 – Failing to follow Section 7, Coatings, Part 4.3, of VGPC's construction specifications by not using the proper setting on the holiday detection device for the specified coating thickness;
  - (f) 49 C.F.R. § 192.303 – Failing to follow Section 7, Coatings, General Application Step 2, of VGPC's construction specifications by not verifying the proper preheat temperature for the coating area to be repaired;
  - (g) 49 C.F.R. § 192.303 – Failing to follow Section 7, Coatings, CANUSA Pipeline Repair Products Installation Guide, of VGPC's construction specifications, by using the CANUSA melt stick on damages to the pipe coating with a width and breadth greater than 10 millimeters by 10 millimeters;
  - (h) 49 C.F.R. § 192.303 – Failing to follow Section 7, Coatings, Scotchkote Hot Melt Patch Compounds Installation Guide, of VGPC's construction specifications, by not applying heat in a manner to avoid burning or charring of the epoxy coating;
  - (i) 49 C.F.R. § 192.303 – Failing to follow Section 7, Coatings, Part 4.6 of the Powercrete J Installation Guide, of VGPC's construction specifications, by allowing the wet coating to be contaminated with foreign materials;

<sup>1</sup> Effective July 1, 2002, the Commission created the Division of Utility and Railroad Safety out of the Division of Railroad Regulation and part of the Division of Energy Regulation.



## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

- (j) 49 C.F.R. § 192.319(a) – Failing to install the pipe so that it fits the ditch to minimize stresses and protect the pipe coating from damage;
- (k) 49 C.F.R. § 192.461(c) – Failing on several occasions to properly repair damage detrimental to effective corrosion control; and
- (l) 49 C.F.R. § 192.461(c) – Failing on several occasions to inspect the protective coating of the pipe just prior to installation.

The Company neither admits nor denies these allegations but admits the Commission's jurisdiction and authority to enter this Order.

Subsequent to the discovery of the probable violations listed above, VGPC took action to correct those probable violations that could be corrected. In light of the corrective actions taken by the Company, and as an offer to settle all matters arising from the allegations made against it, VGPC represents and undertakes that:

(1) The Company shall pay a fine to the Commonwealth of Virginia in the amount of \$410,000, of which \$55,000, shall be paid contemporaneously with the entry of this Order. The remaining \$355,000, is due as outlined in Paragraph (2), below, and may be suspended in whole, or in part, provided the Company tenders the requisite certification that it has completed specific remedial actions, as set forth below in Paragraph (2) on or before the scheduled date for completion of said remedial action. At the completion of all remedial actions described below, the Commission may vacate any outstanding amounts. The initial payment, and any subsequent payments, will be made by check, payable to the Treasurer of Virginia, and directed to the attention of the Director of the Division of Utility and Railroad Safety, Post Office Box 1197, Richmond, Virginia, 23218-1197;

(2) The Company will take remedial actions pursuant to the following schedule:

(A) Corrosion Specialist Firm

- (i) The Company shall solicit and engage a corrosion specialist firm ("corrosion specialist"), satisfactory to the staff of the Division of Utility and Railroad Safety, to develop and implement a monitoring and corrective action program which shall, at a minimum, contain the elements delineated in Paragraph (B) below. Such corrosion specialist shall be hired within three months of the date of this Order and shall prepare a monitoring and corrective action program to begin within six months of the date of this Order. The Company shall tender to the Clerk of the Commission an affidavit from the General Manager of Virginia Gas Pipeline Company, certifying that the monitoring program has begun.
- (ii) Upon timely receipt of said affidavit, the Commission may suspend \$55,000, of the fine amount specified in Paragraph (1) above. Should VGPC fail to tender said affidavit or begin the actions required by Paragraph (2)(A)(i) within 7 months of the date of the Order, a payment of \$55,000 shall become immediately due. The Company shall immediately notify the Division of the reasons for its failure to accomplish the actions required by Paragraph (2)(A)(i) herein and upon investigation, if the Division determines that the reason for said failure justifies a payment lower than \$55,000, it may recommend to the Commission a reduction in the amount due. The Commission shall determine the amount due. Upon the Commission's determination of the amount due, the Company shall immediately tender to the Commission that amount.

(B) Monitoring and Corrective Action Program

- (i) The Company will begin a ten year monitoring program to inspect a statistically significant number, acceptable to the Division, of shrink sleeves each year for the entire pipeline by direct examination. Of the number selected for examination each year, 25% should be selected randomly and 75% should be at locations where disbonding and migration of moisture is most likely. The inspection program, at a minimum, should document the peel strength of the sleeve, mode of failure (e.g., coating adhesive failure, piping adhesive failure, adhesive separation, among others), presence or lack of moisture, presence of any staining under the sleeve, presence of corrosive bacteria, and detailed photographic documentation of each examination. The areas selected for examination should be first chosen from the most populated areas along the pipeline.
- (ii) The Company will run a high resolution in-line inspection device with appropriate instrumentation to measure and identify metal loss relative to the pipe wall thickness through the entire pipeline within three years of the date of this Order and again with eight years of the date of this Order. Any deficiencies discovered will be corrected immediately. Should either of the in-line inspection devices identify significant deficiencies, the Company shall run another high resolution in-line inspection device with appropriate instrumentation to measure and identify metal loss relative to the pipe wall thickness through the entire pipeline at appropriate intervals as determined by the corrosion specialist in consultation with the Division.
- (iii) The Company will run an in-line inspection device, within three years of the date of this Order, equipped with appropriate instrumentation to locate and assess ovality, wrinkles, and dents in the entire pipeline. Any deficiencies discovered will be corrected immediately.
- (iv) The Company will perform a direct assessment corrosion survey for the entire pipeline at least twice during the next ten years from the date of this Order. The direct assessment survey shall include, at a minimum, close interval surveys, and, where appropriate, direct current voltage gradient measurement, a Pearson type survey, and an electromagnetic survey. The schedule for the surveys will be determined by the corrosion specialist in consultation with the Division. Any deficiencies noted will be corrected immediately.
- (v) The results of the direct examination, in-line inspection, and direct assessment surveys will be reviewed at least annually by the corrosion specialist to determine if additional cathodic protection facilities should be installed. If additional facilities are needed, they shall be installed within 3 months of such determination.

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- (vi) The Company shall submit reports of its findings, inspections, and corrective actions every six months to the Commission's Division of Utility and Railroad Safety.
- (vii) Should the Company fail to take immediate corrective action for deficiencies noted during its cathodic protection examinations or submit the findings of its cathodic protection examinations to the Division of Utility and Railroad Safety at the required six month intervals, the remaining \$300,000, shall become due immediately. The Company shall immediately notify the Division of the reasons for its failure to accomplish the corrective actions or submit the required reports, and upon investigation, if the Division determines that the reason for said failure justifies a payment lower than \$300,000, it may recommend to the Commission a reduction in the amount due. The Commission shall determine the amount due. Upon the Commission's determination of the amount due, the Company shall immediately tender to the Commission that amount.

(3) Any fines paid in accordance with this Order shall not be recovered in the Company's rates as part of VGPC's cost of service. Any such fines and costs shall be booked in Uniform System of Account No. 426.3. The Company shall verify its booking by filing a copy of the trial balance showing this entry with the Commission's Division of Public Utility Accounting.

The Commission being fully advised in the premises and finding sufficient basis herein for the entry of this Order, and in reliance on the Defendant's representations and undertakings set forth above, is of the opinion and finds that VGPC has made a good faith effort to cooperate with the Staff during the investigation of this matter; and that, the offer of compromise and settlement should be accepted. The failure of VGPC to comply with the undertakings referenced above may result in the initiation of a Rule to Show Cause proceeding against the Company. Such proceeding may include any action necessary to effect immediate completion of the remedial actions discussed herein.

Accordingly, IT IS ORDERED THAT:

- (1) Pursuant to the authority granted the Commission by § 12.1-15 of the Code of Virginia, the offer of compromise and settlement made by VGPC be, and it hereby is, accepted.
- (2) VGPC timely comply with the remedial actions outlined herein. The failure of VGPC to so comply with said remedial actions may result in the initiation of a Rule to Show Cause proceeding against VGPC. Such proceeding may include any action necessary to affect immediate completion of the remedial actions described herein.
- (3) Pursuant to § 56-5.1 of the Code of Virginia, VGPC be, and it hereby is, fined in the amount of \$410,000.
- (4) The sum of \$55,000, tendered contemporaneously with the entry of this Order is accepted.
- (5) The remaining \$355,000, is due as outlined herein and may be suspended and subsequently vacated, in whole or in part, provided the Company timely undertakes the actions required in Paragraphs (2) (A) and (2) (B) found on pages 4, 5, and 6 of this Order, and files the timely certification of the remedial actions as outlined herein.
- (6) The Commission shall retain jurisdiction over this matter for all purposes, and the matter is continued, pending further orders of the Commission.

**CASE NO. PUE-2002-00415  
AUGUST 21, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION  
v.  
WASHINGTON GAS LIGHT COMPANY,  
Defendant

**ORDER OF SETTLEMENT**

The Accountable Pipeline Safety and Partnership Act of 1996, 49 U.S.C. § 60101 *et seq.* ("Act"), requires the Secretary of Transportation ("Secretary") to establish minimum federal safety standards for the transportation of gas and pipeline facilities. The Secretary is further authorized to delegate to an appropriate state agency the authority to prescribe safety standards and enforce compliance with such standards over gas pipeline facilities used for intrastate transportation.

The Virginia State Corporation Commission ("Commission") has been designated as the appropriate state agency for the Commonwealth of Virginia to prescribe and enforce compliance with standards for gas pipeline facilities used for intrastate transportation. In Case No. PUE-1989-00052, the Commission adopted Parts 191, 192, 193, and 199 of Title 49 of the Code of Federal Regulations to serve as minimum gas pipeline safety standards ("Safety Standards") in Virginia. The Commission is authorized to enforce the Safety Standards under § 56-5.1 of the Code of Virginia, which allows the Commission to impose the fines and penalties authorized therein.

The Commission's Division of Utility and Railroad Safety ("Division"),<sup>1</sup> charged with the investigation of each jurisdictional gas company's compliance with Safety Standards, has conducted various inspections of construction, operation, and maintenance activities involving the Washington Gas Light Company ("WG" or "Company"), the Defendant, and alleges that:

<sup>1</sup> Effective July 1, 2002, the Commission created the Division of Utility and Railroad Safety out of the Division of Railroad Regulation and part of the Division of Energy Regulation.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

(1) WG is a public service corporation as that term is defined in § 56-1 of the Code of Virginia and, specifically a natural gas company within the meaning of § 56-5.1 of the Code of Virginia; and

(2) The Company violated the Commission's Safety Standards by the following conduct:

- a) 49 C.F.R. § 192.303 – Failing to follow Canusa repair patch procedures by overlapping a repair patch with another repair patch;
- b) 49 C.F.R. § 192.353(a) – Failing to protect a meter and service regulator on the outside of a building from damage;
- c) 49 C.F.R. § 192.605(a) – Failing on several occasions to follow Company procedure P-1 IV by not removing pipe sections with gouges exceeding 10% of the pipe wall thickness and not avoiding contact with sharp edges that could cause such damage;
- d) 49 C.F.R. § 192.605(a) – Failing to follow Company procedure No. MP-20, Black Mastic, by not installing the mastic properly;
- e) 49 C.F.R. § 192.605(a) – Failing to follow Company procedure No. 4215, Pretesting Pipe;
- f) 49 C.F.R. § 192.605(a) – Failing to prepare and follow a Company procedure to repair service lines with a stab type coupling without shutting off gas in the service line;
- g) 49 C.F.R. § 192.605(a) – Failing on several occasions to properly store pipe;
- h) 49 C.F.R. § 192.707(d)(2) – Failing to display the word "Warning", "Caution", or "Danger" followed by the words "Gas Pipeline", all of which must be in letters at least 1-inch high with a ¼ inch stroke on a pipeline marker on an above ground main;
- i) 49 C.F.R. § 192.725(a) – Failing to test a disconnected service line in the same manner as a new service line before reinstating service; and
- j) 49 C.F.R. § 199.202 – Failing to follow WGL/Danella's Substance Abuse & Alcohol Misuse Policy, Appendix C, Step 6 (G) relative to the DOT testing form.

The Company neither admits nor denies these allegations but admits the Commission's jurisdiction and authority to enter this Order.

As an offer to settle all matters arising from the allegations made against it, WG represents and undertakes that:

(1) The Company will pay a fine to the Commonwealth of Virginia in the amount of \$19,500, which will be paid contemporaneously with the entry of this Order. The payment will be made by check, payable to the Treasurer of Virginia, and directed to the attention of the Director of the Division of Utility and Railroad Safety, Post Office Box 1197, Richmond, Virginia, 23218-1197;

(2) Any fines paid in accordance with this Order shall not be recovered in the Company's rates as part of WG's cost of service. Any such fines and costs shall be booked in Uniform System of Account No. 426.3. The Company shall verify its booking by filing a copy of the trial balance showing this entry with the Commission's Division of Public Utility Accounting.

The Commission being fully advised in the premises and finding sufficient basis herein for the entry of this Order, and in reliance on the Defendant's representations and undertakings set forth above, is of the opinion and finds that WG has made a good faith effort to cooperate with the Staff during the investigation of this matter; and that, the offer of compromise and settlement should be accepted.

Accordingly, IT IS ORDERED THAT:

- (1) Pursuant to the authority granted the Commission by § 12.1-15 of the Code of Virginia, the offer of compromise and settlement made by WG be, and it hereby is, accepted.
- (2) Pursuant to § 56-5.1 of the Code of Virginia, WG be, and it hereby is, fined in the amount of \$19,500.
- (3) The sum of \$19,500 tendered contemporaneously with the entry of this Order is accepted.
- (4) This case is hereby dismissed, and the papers herein shall be placed in the Commission's file for ended causes.

**CASE NO. PUE-2002-00416  
OCTOBER 7, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION

v.  
VIRGINIA NATURAL GAS, INC.,  
Defendant

**ORDER OF SETTLEMENT**

The Accountable Pipeline Safety and Partnership Act of 1996, 49 U.S.C. § 60101 *et seq.* ("Act"), requires the Secretary of Transportation ("Secretary") to establish minimum federal safety standards for the transportation of gas and pipeline facilities. The Secretary is further authorized to delegate to an appropriate state agency the authority to prescribe safety standards and enforce compliance with such standards over gas pipeline facilities used for intrastate transportation.

The Virginia State Corporation Commission ("Commission") has been designated as the appropriate state agency for the Commonwealth of Virginia to prescribe and enforce compliance with standards for gas pipeline facilities used for intrastate transportation. In Case No. PUE-1989-00052, the Commission adopted Parts 191, 192, 193, and 199 of Title 49 of the Code of Federal Regulations to serve as minimum gas pipeline safety standards ("Safety Standards") in Virginia. The Commission is authorized to enforce the Safety Standards under § 56-5.1 of the Code of Virginia, which allows the Commission to impose the fines and penalties authorized therein.

The Commission's Division of Utility and Railroad Safety ("Division"),<sup>1</sup> charged with the investigation of each jurisdictional gas company's compliance with the Safety Standards, has conducted various inspections of construction, operation, and maintenance activities involving Virginia Natural Gas, Inc. ("VNG" or "Company"), the Defendant, and alleges that:

(1) VNG is a public service corporation as that term is defined in § 56-1 of the Code of Virginia and, specifically, a natural gas company within the meaning of § 56-5.1 of the Code of Virginia; and

(2) The Company violated the Commission's Safety Standards by the following conduct:

- a) 49 C.F.R. § 192.197(c) – Failing on several occasions to install a device between the upstream regulator and the service regulator to limit the pressure on the inlet of the service regulator;
- b) 49 C.F.R. § 192.199(c) – Failing on several occasions to properly install pressure limiting devices so that they are readily accessible;
- c) 49 C.F.R. § 192.199(e) – Failing on several occasions to properly install vents on pressure limiting devices;
- d) 49 C.F.R. § 192.303 – Failing to follow Section 4.4.4 of the manufacturer's installation procedures for Powercrete J by not leveling all runs and sags;
- e) 49 C.F.R. § 192.307 – Failing to visually inspect a length of pipe at the site of installation;
- f) 49 C.F.R. § 192.455(a) – Failing to ensure that each buried pipeline installed after July 31, 1971, has an external protective coating;
- g) 49 C.F.R. § 192.479(a) – Failing on several occasions to clean and either coat or jacket a portion of a pipeline that is exposed to the atmosphere;
- h) 49 C.F.R. § 192.515 (a) – Failing to ensure that every reasonable precaution is taken to protect its employees and the general public while conducting pressure tests;
- i) 49 C.F.R. § 192.605 (a) – Failing on several occasions to follow VNG Procedure 3-3.9.2.8 by not installing casing spacers to bring pipe to its original roundness ;
- j) 49 C.F.R. § 192.605 (a) – Failing to follow VNG Gas Operating Standards ("GOS") Part 3, Section 3, Table 12 by exceeding the maximum pipe gap during the installation of a 4-inch electrofusion coupling;
- k) 49 C.F.R. § 192.605 (a) – Failing to follow VNG GOS Part 3, Section 9.4.9, by not taking CGI readings in a trench atmosphere wherein ignition sources were present;
- l) 49 C.F.R. § 192.605 (a) – Failing to follow VNG GOS Part 3, Section 3.9.2.1 by not installing properly grounded squeeze off tools;
- m) 49 C.F.R. § 192.605 (a) – Failing to follow VNG GOS Part 3, Section 3.9.2.3 by not installing a second squeeze off unit three feet from the first to confirm no gas flow;
- n) 49 C.F.R. § 192.605 (a) – Failing to follow VNG GOS Part 3, Section 3.8.1.3 by not grounding metallic tools prior to use;

<sup>1</sup> Effective July 1, 2002, the Commission created the Division of Utility and Railroad Safety out of the Division of Railroad Regulation and part of the Division of Energy Regulation.

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- o) 49 C.F.R. § 192.605 (a) – Failing to follow VNG GOS Part 3, Section 3.8.2.1 by not bleeding the static charge off of a plastic purge line left blowing and unattended;
- p) 49 C.F.R. § 192.605 (a) – Failing to follow VNG GOS Part 10, 5.2, Immediate On-Site Action, Part 5.2.4 of VNG's Emergency Manual by not checking nearby buildings, etc. for the presence of gas;
- q) 49 C.F.R. § 192.605 (a) – Failing to follow VNG GOS Part 3, Section 10.1.1 and 10.1.2 by installing a meter and service regulator in an alley without providing protection against damage;
- r) 49 C.F.R. § 192.707 (d)(2) – Failing on several occasions to have the company name and telephone number on a pipeline marker;
- s) 49 C.F.R. § 192.725(b) – Failing to test a service line from the point of disconnection to the service line valve in the same manner as a new service line; and,
- t) 49 C.F.R. § 192.751(a) – Failing to have a fire extinguisher when a hazardous amount of gas is being vented into open air while working in an excavation and during purging operations.

The Company neither admits nor denies these allegations but admits the Commission's jurisdiction and authority to enter this Order.

As an offer to settle all matters arising from the allegations made against it, VNG represents and undertakes that:

(1) The Company will pay a fine to the Commonwealth of Virginia in the amount of \$92,000, of which \$37,500, will be paid contemporaneously with the entry of this Order. The remaining \$54,500, is due as outlined in paragraph (2), below, and may be suspended in whole, or in part, provided the Company tenders the requisite certification that it has completed specific remedial actions, as set forth below in paragraph (2) on or before the scheduled date for completion of said remedial action. At the completion of all remedial actions described below, the Commission may vacate any outstanding amounts. The initial payment, and any subsequent payments, will be made by check, payable to the Treasurer of Virginia, and directed to the attention of the Director of the Division of Utility and Railroad Safety;

(2) The Company will take remedial actions pursuant to the following schedule:

(A) Double Cut Services

- (i) The Company will design a program to repair or replace all double cut services as needed by September 1, 2003. The Company shall provide quarterly reports, beginning January 1, 2003, to the Division relative to the status of the program. The reports shall enumerate the double cut services repaired, the double cut services replaced, and the remaining double cut services to be evaluated for repair or replacement in the program. Upon completion of the program, VNG shall provide the Division with a listing of the addresses of all double cut services in the Company's system. VNG shall also provide an inspection plan, acceptable to the Division, to monitor the remaining double cut services. The inspection plan should include procedures to ensure that the double cut services are in good condition, adequate from the standpoint of capacity and reliability, and properly protected from dirt, liquids, or other conditions that might prevent proper operation. On or before October 1, 2003, VNG shall tender to the Clerk of the Commission an affidavit certifying that the Company repaired or replaced all double cut services served by VNG and has submitted its inspection plan to the Division.
- (ii) Upon timely receipt of said affidavit, the Commission may suspend up to \$54,500, of the fine amount specified in paragraph (1) above. Should VNG fail to tender said affidavit or take the actions required by paragraph (2)(A)(i) by October 1, 2003, a payment of \$54,500, shall become due. The Company shall immediately notify the Division of the reasons for its failure to accomplish the actions required by paragraph (2)(A)(i) herein and upon investigation, if the Division determines that the reason for said failure justifies a payment lower than \$54,500, it may recommend to the Commission a reduction in the amount due. The Commission shall determine the amount due. Upon the Commission's determination of the amount due, the Company shall immediately tender to the Commission that amount.

(3) Any fines paid in accordance with this Order shall not be recovered in the Company's rates as part of VNG's cost of service. Any such fines and costs shall be booked in Uniform System of Account No. 426.3. The Company shall verify its booking by filing a copy of the trial balance showing this entry with the Commission's Division of Public Utility Accounting.

The Commission being fully advised in the premises and finding sufficient basis herein for the entry of this Order, and in reliance on the Defendant's representations and undertakings set forth above, is of the opinion and finds that VNG has made a good faith effort to cooperate with the Staff during the investigation of this matter; and that, the offer of compromise and settlement should be accepted. The failure of VNG to comply with the undertakings referenced above may result in the initiation of a Rule to Show Cause proceeding against the Company. Such proceeding may include any action necessary to effect immediate completion of the remedial actions discussed herein.

Accordingly, IT IS ORDERED THAT:

(1) Pursuant to the authority granted the Commission by § 12.1-15 of the Code of Virginia, the offer of compromise and settlement made by VNG be, and it hereby is, accepted.

(2) VNG timely comply with the remedial actions outlined herein. The failure of VNG to so comply with said remedial actions may result in the initiation of a Rule to Show Cause proceeding against VNG. Such proceeding may include any action necessary to effect immediate completion of the remedial actions described herein.

(3) Pursuant to § 56-5.1 of the Code of Virginia, VNG be, and it hereby is, fined in the amount of \$92,000.

- (4) The sum of \$37,500, tendered contemporaneously with the entry of this Order is accepted.
- (5) The remaining \$54,500, is due as outlined herein and may be suspended and subsequently vacated, in whole or in part, provided the Company timely undertakes the actions required in paragraph (2) (A) found on pages 4 and 5 of this Order, and files the timely certification of the remedial actions as outlined herein.
- (6) The Commission shall retain jurisdiction over this matter for all purposes, and the matter is continued, pending further order of the Commission.

**CASE NO. PUE-2002-00417  
NOVEMBER 26, 2002**

PETITION OF  
COURTHOUSE COMMUNITY ESTATES ASSOCIATION, INC.

For injunction against Virginia Electric and Power Company d/b/a Dominion Virginia Power and for Revocation of approval to construct and for Revocation of certificate of public convenience and necessity for the Landstown-West Landing 230 kV transmission line and West Landing substation

**FINAL ORDER**

Before the Commission is the Petition of Courthouse Estates Community Association, Inc., for Injunction Against Virginia Electric and Power Company d/b/a Dominion Virginia Power [sic] and for Revocation of Approval to Construct and Revocation of a Certificate of Public Convenience and Necessity for the Landstown-West Landing 230 kV Transmission Line and West Landing Substation ("Petition") filed on July 16, 2002. Courthouse Estates Community Association, Inc. ("Courthouse Estates"), asked the Commission to enjoin the construction of a transmission line and to revoke the certificate of public convenience and necessity authorizing construction and operation of the line. On August 6, 2002, Virginia Electric and Power Company, d/b/a Dominion Virginia Power ("Dominion Virginia Power" or "Company"), filed its answer to the Petition and a Motion to Dismiss. Courthouse Estates subsequently filed a reply to the motion to dismiss, and Dominion Virginia Power filed a response. In addition, Courthouse Estates moved on September 4, 2002, for leave to amend its petition. Dominion Virginia Power opposed amendment.

The Commission has considered the Petition and the other pleadings. As we discuss in this Final Order, the Commission will grant Courthouse Estates' motion to amend its Petition. The Commission also will grant the Company's motion to dismiss.

According to the Petition, at 2-3, Courthouse Estates is an association of the owners of homes in the Courthouse Estates subdivision in the City of Virginia Beach. Construction of homes in the subdivision began in 1994. As explained by Courthouse Estates, Dominion Virginia Power is authorized to construct and operate the Landstown-West Landing 230 kV Transmission Line, which would cross some lots in the Courthouse Estates subdivision. The right-of-way of the line would be adjacent to at least 105 homes in the subdivision. (Id. at 3 and Attachment C.)

The Commission authorized Dominion Virginia Power to construct and operate the Landstown-West Landing line and granted a certificate of public convenience and necessity by Order Granting Application of January 28, 1992, Virginia Elec. & Power Co., Case No. PUE-1991-00014, 1992 S.C.C. Ann. Rep. 267. We did not require construction by a certain date or provide for revocation of authority if construction had not commenced by a certain date.

In support of its prayer to the Commission to enjoin Dominion Virginia Power from constructing the line, Courthouse Estates contends that residential development along the segment of the approved route crossing and adjacent to the Courthouse Estates subdivision forecloses construction. (Petition at 6-7.) Courthouse Estates argues that § 56-46.1 of the Code of Virginia ("Code") requires the Commission to consider at any time the impact of a proposed transmission line on the environment, and § 56-46.1 E empowers the Commission to consider a different route with reduced adverse impact. (Id. at 8.)

Courthouse Estates also argues that the certificate granted for the Landstown-West Landing line in Case No. PUE-1991-00014 should be revoked as provided by § 56-265.6 of the Code. Dominion Virginia Power, in the view of Courthouse Estates, willfully misrepresented material facts in its application for the certificate: (1) the Company misrepresented the date for putting the line in service -- while Dominion Virginia Power maintained that the line was needed by 1997, the Company had not constructed the line (id. at 8-9.); and (2) Dominion Virginia Power stated in a study supporting the application that the line would not be constructed within 120 feet of a residence. Courthouse Estates implies that construction along the approved route requires the line to pass within 120 feet or less of residences. (Id. at 9.)

Dominion Virginia Power filed an answer to the petition, and substantive arguments are set out in its Motion to Dismiss of August 6, 2002. The Company first relates the history of Case No. PUE-1991-00014 and argues that all requirements of §§ 56-46.1 and 56-265.2 of the Code were satisfied. (Motion to Dismiss at 2-5.) The Company also maintains that Courthouse Estates does not identify any basis for revocation of its certificate as provided by § 56-265.6 of the Code. (Id. at 5-8.)

According to the Company, there is no merit in Courthouse Estates' argument that the need for the line was misrepresented in the application. Dominion Virginia Power's application in Case No. PUE-1991-00014 included projections of growth in demand based on information on development in Virginia Beach available in 1991. Slower growth in actual demand than projected is not a willful misrepresentation to the Commission. (Id. at 7.) With regard to proximity to residences, the Company again states that no fact was misrepresented. The route proposed in 1991 did not come within 120 feet of any residence then in existence. Further, Dominion Virginia Power included in its application for the certificate information on the Courthouse Estates subdivision, which was then only proposed, and the proximity of the proposed line. (Id. and Attachment 3.)

Dominion Virginia Power also argues that § 56-46.1 E, which permits Commission consideration of alternative routings, does not apply beyond the time that the Commission grants the requested certificate. (Id. at 8-9.) Dominion Virginia Power also argues that § 56-247 of the Code, which empowers the Commission to correct practices after an investigation supports a finding of unreasonableness, cannot be invoked in lieu of § 56-265.6 to

suspend or revoke a certificate. (*Id.*) Finally, the Company maintains that Courthouse Estates improperly invoked the Commission's injunctive powers and the doctrine of laches. (*Id.* at 10.)

As noted, the Commission will grant Courthouse Estates' motion to amend its petition. Our Rules of Practice and Procedure, 5 VAC 5-20-130, *Amendment of pleadings*, provide that leave to amend should be liberally granted. In its reply to the motion to amend, Dominion Virginia Power does not establish that it would be prejudiced by its own document. In addition, the Company addresses the substance of the amendment in its response to the motion, and the Commission has a complete record.

The Commission's conclusion that Dominion Virginia Power's motion to dismiss the petition should be granted follows from the statutes cited by the Company and Courthouse Estates. The Commission has discussed at length its responsibilities for the approval of proposed transmission lines pursuant to §§ 56-265.2 and 56-46.1 of the Code. See *Appalachian Power Co.*, Case No. PUE-1997-00766, 2001 S.C.C. Ann. Rep. 366, 367-68. We explained in that order that the two statutes are interrelated, and that the Commission must consider the statutory criteria in both sections as a part of the whole. The approval process leading to the issuance of a certificate of convenience and necessity cannot be divided into approval under one section or the other, as Courthouse Estates urges.

The interrelated nature of the two provisions of the Code extends to the timing and notice requirements for the Commission's proceedings. Various provisions of § 56-46.1 supplement the general requirements for notice and an opportunity for hearing setout in § 56-265.2 A. Among other requirements, § 56-46.1 E provides for additional notice and procedural rights to affected persons if it appears that a different route should be considered. An example of the application of these requirements is found in the decision cited above, *Appalachian Power Co.*, 2001 S.C.C. Ann. Rep. at 366, 372.

Courthouse Estates erroneously argues that this supplemental notice requirement for a different route confers continuing jurisdiction over the routing of a line after the final order and the certificate of convenience and necessity are issued. By its own wording, subsection E of § 56-46.1 provides only for notice and participation on an equal basis if the Commission considers different routes before making a final decision and issuing a certificate of public convenience and necessity. Under Courthouse Estates' argument, it appears that an order permitting construction of a transmission line would never be final.

As Courthouse Estates argues, § 56-265.6 of the Code empowers us to investigate its allegation of willful misrepresentation of a material fact in obtaining the certificate. If such a misrepresentation is established, the Commission may impose sanctions, which may include revocation of the certificate previously issued. Courthouse Estates alleges in its Petition two willful misrepresentations made by Virginia power to obtain the certificate. First, the Company stated that the line was needed by 1997 and would be built by 1997. Next, Dominion Virginia Power represented that the line would not be within 120 feet of a residence.

As discussed previously, Dominion Virginia Power addressed both contentions in its motion to dismiss, and we find these explanations establish that the Company made no misrepresentations. The Company's 1991 application and virtually all other Commission proceedings concerning approval of facilities involve projections of future events. The Commission expects projections to reflect sound assumptions and methodology, but experience teaches that projections may be in error. Courthouse Estates does no more than point to a statement on the projected need and year of construction which did not come to pass. In light of the Commission's experience with utility projections, missing this projected construction date for a transmission project does not raise a factual issue or establish a misrepresentation.

Turning to Courthouse Estates' second allegation, proximity of the line to residences, the Company showed that the quotation referred to proximity to residences existing at the time the application was filed. The Commission sees no factual issue that merits further development.

Courthouse Estates advances an argument based on the powers conferred on the Commission by § 56-247 of the Code to order substitutions and changes in a public utility's "regulations, measurements, practices, service or acts." This power may be exercised upon complaint and after investigation. Courthouse Estates contends that the Company's delay in construction since a certificate of convenience and necessity in 1992 is an "unjust, unreasonable [and] insufficient . . ." practice. (Petition at 9.)

The Commission is bound by the words of the statute. See *Commonwealth ex rel. Northern Va. Elec. Coop. v. Virginia Elec. & Power Co.*, Case No. PUE-2001-00512, Final Order of May 1, 2002, at 18. The Commission cannot exercise the powers conferred by § 56-247 as Courthouse Estates would wish. The Code of Virginia, § 56-235.1, and the decisions of this Commission in numerous cases direct utilities to conserve resources and to construct facilities only when required for efficient and reliable service. Dominion Virginia Power stated in its pleadings that construction was deferred when expected growth did not materialize and future development was uncertain. While we recognize that this delay has caused concern and uncertainty in the Courthouse Estates subdivision, the Commission cannot find that deferral of construction until growth requires is an unjust or unreasonable practice. In the case before us, the Commission finds that § 56-247 is inapplicable.<sup>1</sup>

In its amendment to the petition filed on September 4, 2002, Courthouse Estates adds allegations that Dominion Virginia Power has proposed to the U.S. Army Corps of Engineers a realignment of a segment of the proposed Landstown-West Landing line. The amendment includes as "Exhibit A" a letter of June 28, 2002, with attachments, from Dominion Virginia Power to the Corps of Engineers.

While the Company states in its letter that the realignment is within the bounds of the certificate issued in 1992, Courthouse Estates differs. Courthouse Estates suggests that the proposal to the Corps of Engineers evidences, according to the amendments, that Dominion Virginia Power intends to violate §§ 56-46.1 B and 56-265.2 of the Code. As Dominion Virginia Power noted in its reply to the motion to amend, the letter was part of continuing negotiations over wetlands permits. It is speculation to assume that any change in the routing of a segment of the line some distance away will affect the Courthouse Estates subdivision. To act on the Petition before the Commission, we need not reach the issue of whether a possible realignment discussed in the Company-Corps of Engineers correspondence complies with the 1992 certificate for the Landstown-West Landing line. The Commission does not accept Courthouse Estates' invitation to presume that there is now or will be a violation of law. We have no basis to assume that Dominion Virginia Power will not (1) comply with the 1992 certificate, or (2) seek proper authorization for any altered routing. The Commission has adequate authority to act if the Company does not comply with all of the terms of the certificate.

<sup>1</sup> In addition, we reject Courthouse Estates' claim that the doctrine of laches supports its request herein.

While the Commission will dismiss the Petition, we recognize that the delay in construction has been a cause for concern. The Commission has continued to refine its process for considering applications for approval of transmission lines since 1992. The Commission now routinely includes as conditions of the certificate an expiration date for the authority conferred as well as other obligations. See Virginia Electric & Power Co., Case No. PUE-2002-00180, Final Order of July 16, 2002. The Commission cannot now add conditions to the certificate issued on January 28, 1992, which authorized the Landstown-West Landing line.

There are, however, a number of conditions on the certificate and the authority to construct and operate imposed by operation of law. As required by § 56-46.2 of the Code, Dominion Virginia Power must adhere to the National Electrical Safety Code in constructing the Landstown-West Landing line. The Company is limited by § 56-49(2) of the Code in condemning right-of-way within 60 feet of a dwelling. These provisions of law require spacing between the transmission line and adjacent structures. While § 56-46.1 F of the Code provides that approval of the line satisfies the requirements of the City of Virginia Beach's zoning ordinance, Dominion Virginia Power is not exempt from any other local requirements. Finally, the Commission has long held that approval to construct a line pursuant to §§ 56-46.1 and 56-265.2 of the Code does not exempt the utility from complying with all local, state, and federal environmental requirements. Thus, there are numerous constraints on Dominion Virginia Power in constructing and operating the Landstown-West Landing line.

Accordingly, IT IS ORDERED THAT:

- (1) The motion of Courthouse Estates for leave to amend its petition filed on September 4, 2002, is granted.
- (2) The motion to dismiss the petition filed by Dominion Virginia Power on August 6, 2002, is granted, and this matter is dismissed and removed from the list of pending cases.

**CASE NO. PUE-2002-00419  
OCTOBER 31, 2002**

APPLICATION OF  
RAPPAHANNOCK ELECTRIC COOPERATIVE

For review of tariffs and terms and conditions of service

**FINAL ORDER**

On December 29, 2000, Rappahannock Electric Cooperative ("Rappahannock" or the "Cooperative"), filed an application for State Corporation Commission ("Commission") approval of the Cooperative's plan for functional separation ("Plan") as required by the Virginia Electric Utility Restructuring Act (the "Act"), Chapter 23 of Title 56 of the Code of Virginia (§§ 56-576 et seq.) On December 18, 2001, the Commission issued its Final Order in Case No. PUE-2001-00007 approving Rappahannock's application. Ordering paragraph number three (3) of the above-mentioned Final Order directed Rappahannock to "provide tariffs and terms and conditions of service to the Division of Energy Regulation that conform to this Order and all applicable Commission Rules and Regulations one hundred and fifty (150) days prior to its implementation of retail choice."

On August 2, 2002, Rappahannock filed tariffs and terms and conditions of service with the Division of Energy Regulation in anticipation of commencing retail access in its retail service territory effective January 1, 2003.<sup>1</sup> Rappahannock's filings included: (1) Rappahannock Electric Cooperative – Unbundled Tariffs and Rate Schedules for All Customer Classes, (2) Rappahannock Electric Cooperative – Terms and Conditions for Providing Electric Service, and (3) Rappahannock Electric Cooperative – Competitive Service Provider Coordination Tariff, including: Competitive Service Provider Agreement, Electronic Data Interchange (EDI) Trading Partner Agreement, Transmission Customer Designation Form, CSP Dispute Resolution Procedure and Aggregator Agreement. Also, pursuant to the Commission's Final Order in Case No. PUE-2001-00306, Rappahannock also submitted its Adjusted Market Rate and Competitive Transition Charges Calculation.<sup>2</sup>

In an Order dated August 9, 2002, in this proceeding, the Commission directed the Cooperative to provide notice to the public and established a procedural schedule for the filing of comments and requests for hearing on Rappahannock's application. In that Order, the Commission directed its Staff to investigate the application and file a report detailing its findings and recommendations.

On September 3, 2002, comments on the application were filed by Bear Island Paper Company, L.L.C., ("Bear Island") and Plantation Pipe Line Company ("Plantation"). Bear Island commented on paragraph A of the proposed Schedule LP-2 filed by Rappahannock. Bear Island concludes that treating the wholesale power charges in Schedule LP-2 as a pass-through rate means that there is no generation cap and therefore the competitive transition charge ("CTC") for Schedule LP-2 will always be zero under existing laws and regulations. Bear Island requested a hearing in this proceeding only if Rappahannock and the Commission Staff do not agree that the CTC for Schedule LP-2 will always be zero under existing laws and regulations. Plantation filed comments relating to the Cooperative's Large Power High Diversity Service Schedule HD-1-U. Plantation stated that this rate schedule would result in charges that would be unreasonable because they would be excessive and substantially higher than charges for similar service by other electric suppliers. In its comments, Plantation requested that the Commission and Staff investigate the rates and charges set forth in Rappahannock's application, particularly as they apply to its service to Plantation.

On September 10, 2002, Rappahannock filed proof of notice and proof of publication pursuant to the Commission's August 9, 2002, Order.

<sup>1</sup> On January 25, 2002, Rappahannock, in association with the other electric cooperatives in Virginia, filed a Comprehensive Wires Charge Proposal ("Proposal"), Case No. PUE-2001-00306, Ex Parte: In the matter of considering requirements relating to wires charges pursuant to the Virginia Electric Utility Restructuring Act ("Wires Charge Case"). The Commission rendered a decision in this case on May 24, 2002.

<sup>2</sup> Also, pursuant to 20 VAC 5-312-90 K of the Commission's Retail Access Rules, Rappahannock's *Plan to Provide Price-to-Compare Information and Assistance to Customers* was filed with the Commission on October 3, 2002.



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On September 27, 2002, the Staff filed its Report wherein it recommended that the Commission approve Rappahannock's tariffs and terms and conditions with the adoption of certain modifications recommended by the Staff.

On October 4, 2002, Rappahannock filed its Response to the Staff Report. In its Response, Rappahannock agreed to make certain changes to its Terms and Conditions recommended by Staff. Regarding the issue of proof that the applicant is the owner or *bona fide* lessee of the subject premises, Rappahannock agreed to add language requiring ownership papers or a signed lease agreement or letter from the landlord, and a photo ID of the lessee. The Cooperative also agreed to add language describing the point of attachment and addressing the ownership or provision of an entrance cable, the same as that which is included in its current Terms and Conditions. Further, Rappahannock agreed to delete a new charge for in-depth studies to determine the effect of new apparatus on the Cooperative's system, and language that provided for the calculation of an increased monthly charge in certain situations. Rappahannock, however, objected to the Staff's recommendation that the Cooperative's Dispute Resolution Procedure be amended to allow for informal resolution of the dispute with the Commission's Staff prior to initiating formal proceedings. Rappahannock stated that the Staff's recommendation simply introduces another level and additional parties to the process, and is an unnecessary additional step that may further delay resolution rather than hasten it.

Rappahannock also responded to Bear Island's and Plantation's comments. In response to Bear Island's comments, the Cooperative proposed to revise paragraph A of Schedule LP-2-U-RA to state:

- A. An amount equal to the Competitive Transition Charge as reviewed and approved by the Commission which, under the laws and regulations existing at the time this rate schedule goes into effect, is zero, plus

Regarding Plantation's comments, Rappahannock stated that it agrees with the Staff that this case is not the proper forum for consideration of the issues raised by Plantation since this is not a rate case, but agreed to work with Plantation to explore whatever equitable options may be available.

NOW THE COMMISSION, having considered the Cooperative's application, Staff's Report, the comments filed by Bear Island and Plantation, and applicable law, approves Rappahannock's application, subject to the modifications detailed herein.

We incorporate, by reference, our findings in the Wires Charge Case (Case No. PUE-2001-00306) reflecting the appropriate fuel adjustments and wires charge calculation for Rappahannock. In addition, we find that the wires charges calculated by Rappahannock shall be that established consistent with the methodology approved by the Commission for Virginia Power and AEP-Virginia in our November 19, 2001, Order in Case No. PUE-2001-00306, and updated by our October 11, 2002, Order in that proceeding.

With respect to the issues of proof that the applicant is the owner or *bona fide* lessee of the subject premises, and the description of the point of attachment, we agree with the Staff and accept Rappahannock's proposed changes to its Terms and Conditions. The Cooperative's proposed language describing proof of ownership or lease is similar to language we have approved for other cooperatives. We also agree with Staff and accept the Cooperative's deletion of new charges for in-depth studies to determine the effect of new apparatus on its system, and deletion of increased monthly charges in certain situations.

Regarding the Staff's recommendation to amend Rappahannock's Dispute Resolution Procedure to permit informal resolution of disputes with the Commission's Division of Energy Regulation prior to initiating formal proceedings, we find that the Cooperative need not make this change to its tariff. Rappahannock's Dispute Resolution Procedure does not prohibit either party from, at any time, approaching the Commission's Staff to attempt informal resolution of disputes if such disputes cannot be resolved between the parties. We therefore do not believe that the Staff's proposed amendment is necessary.

Next, we address Bear Island's comments on paragraph A of Rappahannock's proposed Schedule LP-2, and Rappahannock's proposed replacement paragraph. As stated in Rappahannock's proposed paragraph A, the CTC is zero under current laws and regulations. We therefore accept the Cooperative's proposed language regarding the CTC in Rate Schedule LP-2-U-RA.

With respect to Plantation's comments relating to the unreasonableness of the Cooperative's Rate Schedule HD-1-U, we agree with the Staff and Rappahannock that this is not the proper proceeding for consideration of this issue.

Finally, we will accept as part of its filed CSP Coordination Tariff the form of agreements submitted by Rappahannock.

Accordingly, IT IS ORDERED THAT:

- (1) Rappahannock's proposed tariffs and terms and conditions of service amended as recommended by Staff and subject to the modifications discussed herein are hereby approved.
- (2) Rappahannock shall file its amended tariffs no later than 15 days after the date of this Order.
- (3) All terms and conditions and any rate schedules applicable to Rappahannock's Retail Access Pilot Program shall be terminated.
- (4) This case is hereby dismissed, and the papers filed herein shall be placed in the file for ended causes.

**CASE NO. PUE-2002-00423  
AUGUST 29, 2002**

APPLICATION OF  
WASHINGTON GAS LIGHT COMPANY

For authority to issue short-term debt

**ORDER GRANTING AUTHORITY**

On August 6, 2002, Washington Gas Light Company ("WGL" or "Applicant") filed an application under Chapters 3 and 4 of Title 56 of the Code of Virginia requesting authority to issue short-term debt. The aggregate amount of short-term debt requested in the application is in excess of twelve percent (12%) of total capitalization as defined in § 56-65.1 of the Code of Virginia. Applicant paid the requisite fee of \$250.

In its application, WGL requests authority to issue up to \$300 million aggregate principal amount of short-term debt securities during the fiscal year October 1, 2002, through September 30, 2003. According to the Applicant, the short-term debt will be in the form of short-term notes to financial institutions, commercial paper, and borrowings from the WGL System Money Pool ("Money Pool").

Applicant's requirement for the short-term funds is temporary and seasonal in nature. The notes and commercial paper will mature not more than 270 days from the date of issuance. The notes and commercial paper will be issued at then-prevailing rates, terms, and conditions. There will be no underwriting charges or finders fees in connection with the issuance of the notes, commercial paper, or Money Pool borrowings. WGL states that it will pay fees related to associated bank lines of credit and commissions customary for the sale of commercial paper.

Money Pool borrowings will be on the terms as approved by the Commission in Case Nos. PUF-2000-00026 and PUF-2002-00002. Applicant states that these borrowings, together with other short-term borrowings by WGL, will not exceed the \$300 million aggregate amount requested in this application.

THE COMMISSION, upon consideration of the application and having been advised by its Staff, is of the opinion and finds that approval of the application will not be detrimental to the public interest.

Accordingly, IT IS ORDERED THAT:

- 1) Applicant is hereby authorized to incur short-term indebtedness in excess of 12% of capitalization, provided that such debt does not exceed \$300,000,000 aggregate principal amount from October 1, 2002, through September 30, 2003, under the terms and conditions and for the purposes set forth in the application.
- 2) The Commission reserves the right to examine the books and records of any affiliate in connection with the authority granted herein, whether or not such affiliate is regulated by this Commission.
- 3) Approval of the application does not preclude the Commission from applying the provisions of § 56-78 and § 56-80 of the Code of Virginia hereafter.
- 4) The authority granted herein shall have no implications for ratemaking purposes.
- 5) Applicant shall file a report of action on or before December 31, 2003, showing WGL's daily short-term debt activity from October 1, 2002, through September 31, 2003. Such report shall include the type, amount, issuance date, maturity, and interest rate on each borrowing, the average daily balance and maximum outstanding balance for each month, any commissions or bank line of credit fees paid in connection with short-term borrowings, and a balance sheet as of September 30, 2003.
- 6) This matter shall remain under the continued review, audit, and appropriate directive of the Commission.

**CASE NO. PUE-2002-00424  
OCTOBER 25, 2002**

APPLICATION OF  
ATMOS ENERGY CORPORATION  
and  
WOODWARD MARKETING, L.L.C.

For authority to enter into transactions under Chapter 4 of Title 56 of the Code of Virginia

**ORDER GRANTING AUTHORITY**

On August 13, 2002, Atmos Energy Corporation ("Atmos") d/b/a United Cities Gas Company and Woodward Marketing, L.L.C. ("Woodward") (hereafter referred to as the "Applicants"), completed an application filed on August 9, 2002, with the State Corporation Commission ("Commission") pursuant to Chapter 4 of Title 56 of the Code of Virginia ("Code"). The Applicants request authority to enter into and participate in a service agreement ("Woodward Agreement") whereby Woodward will provide firm gas storage services to Atmos.<sup>1</sup>

<sup>1</sup> The original application was filed with Atmos as doing business in Virginia as United Cities Gas Company. On October 16, 2002, a revision to the application and a revised agreement were filed to reflect that Atmos was no longer operating under the name United Cities Gas Company. As noted in the

Under the Woodward Agreement, Woodward will provide Atmos with firm gas storage service at Virginia Gas Pipeline Company's Saltville Storage Facility for a five-year period commencing May 1, 2003. Woodward will charge Atmos a demand rate of \$1.75 per million British Thermal Units ("MMBtu") for 60-days' firm storage service, and a five cents per MMBtu charge for gas injected or withdrawn from storage. After the initial term, Atmos will be able to terminate the Woodward Agreement upon 180 days' written notice.

The proposed Woodward Agreement is intended to replace an existing firm gas storage agreement between Atmos and Virginia Gas Storage Company (the "Virginia Gas Agreement") that provides gas storage service at the Early Grove Storage Facility under similar terms and conditions and expires April 30, 2003.

The Applicants offer several reasons for replacing the Virginia Gas Agreement with the Woodward Agreement. First, the Woodward Agreement charges a lower demand rate than the Virginia Gas Agreement, which the Applicants estimate should yield annual savings to Atmos of \$19,800. Second, the Applicants represent that, whereas the Virginia Gas Agreement restricts gas storage withdrawals to a three-month period (December 1st through February 28th), the Woodward Agreement allows Atmos an unlimited injection and withdrawal period. Finally, the Applicants represent that the Saltville Storage Facility is more directly connected to Atmos' Virginia distribution system than the Early Grove Facility, which will eliminate some transportation fees associated with the withdrawal and redelivery of gas to the city gates.

NOW THE COMMISSION, upon consideration of the application and representations of Applicants and having been advised by its Staff, is of the opinion and finds that the above-described Woodward Agreement is in the public interest and should, therefore, be approved.

Accordingly, IT IS ORDERED THAT:

- 1) Pursuant to § 56-77 of the Code of Virginia, Atmos Energy Corporation is hereby authorized to enter into a new firm gas storage service agreement with Woodward Marketing, L.L.C., under the terms and conditions and for the purposes described herein.
- 2) Commission approval shall be required for any changes in terms and conditions, including "Successors and Assigns" as referenced to in Article IX, of the Woodward Agreement.
- 3) The authority granted herein shall have no ratemaking implications.
- 4) The authority granted herein shall not preclude the Commission from exercising the provisions of §§ 56-78 and 56-80 of the Code of Virginia hereafter.
- 5) The Commission reserves the right to examine the books and records of any affiliate in connection with the authority granted herein whether or not such affiliate is regulated by this Commission.
- 6) The Staff is directed to monitor the arrangement authorized herein to ensure that it continues to be in the public interest.
- 7) Atmos Energy Corporation shall include the Woodward Agreement approved herein in its Annual Report of Affiliate Transactions submitted to the Director of Public Utility Accounting of the Commission.
- 8) If Annual Informational or Rate Case applications are not based on a calendar year, then Atmos shall include the affiliate information contained in the Annual Report of Affiliate Transactions in such filings.
- 9) There appearing nothing further to be done in this matter, it hereby is dismissed.

revised application, this change was effective October 1, 2002. The Applicants filed Amendment No. 1 to the Woodward Agreement reflecting this new business practice.

**CASE NO. PUE-2002-00426  
SEPTEMBER 6, 2002**

APPLICATION OF  
WASHINGTON GAS LIGHT COMPANY

For authority to issue long-term debt and preferred stock

**ORDER GRANTING AUTHORITY**

On August 14, 2002, Washington Gas Light Company ("WGL" or "Applicant") filed an application under Chapter 3 of Title 56 of the Code of Virginia requesting authority to issue long-term debt and preferred stock. Applicant paid the requisite fee of \$250.

In its application, WGL proposes to issue up to \$476.2 million of long-term debt or preferred stock during the three-year period beginning January 1, 2003. Applicant also requests authority to replace up to the amount of any debt securities that are issued and mature during the three-year period. Finally, WGL requests authority to enter into one or more interest rate hedging transactions in association with the issuance of the proposed debt securities.

The proposed long-term debt will be issued in the form of bonds, notes, or other forms of indebtedness. The preferred stock may take the form of fixed-rate, adjustable-rate, auction-rate, perpetual, or other forms of preferred stock. Applicant states that the proposed financings will be used for the

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refunding of maturing long-term debt, for the advance refunding of long-term debt as market conditions permit, for general corporate purposes, and for the reimbursement of funds actually expended for any of those purposes permitted under § 56-58 of the Code of Virginia.

THE COMMISSION, upon consideration of the application and having been advised by its Staff, is of the opinion and finds that approval of the application will not be detrimental to the public interest.

Accordingly, IT IS ORDERED THAT:

- 1) Applicant is hereby authorized to issue up to \$476.2 million of long-term debt securities or preferred stock, and any combination thereof during the three-year period, January 1, 2003, through December 31, 2005, under the terms and conditions and for the purposes set forth in the application, provided that any refinancings result in demonstrated savings.
- 2) Applicant is hereby authorized to enter into interest hedging agreements, under the terms and conditions and for the purposes set forth in the application.
- 3) The authority granted herein shall have no implications for ratemaking purposes.
- 4) Applicant shall file a preliminary report of action within ten (10) days after the issuance of any long-term debt or preferred stock pursuant to this Order. Such report shall include the type of security issued, the date of issuance, the amount of the issuance, the applicable interest or dividend rate, the maturity date, and net proceeds to Applicant.
- 5) Within sixty (60) days of the end of a calendar quarter in which securities are issued, Applicant shall file a more detailed report to include the information required in Ordering Paragraph (4), as well as an itemized list of actual expenses to date associated with the securities issuances, a comparison of the effective rate of securities issued and any refunded securities, use of the proceeds, and a balance sheet reflecting the actions taken.
- 6) Applicant shall file a final report of action on or before February 28, 2006, to include all information required in Ordering Paragraph (5). Such report shall include a summary of interest rate hedging arrangements entered into and related to this authority and a listing of actual expenses and fees paid for the securities issuances over the three-year period.
- 7) This matter shall remain under the continued review, audit, and appropriate directive of the Commission.

**CASE NO. PUE-2002-00427  
SEPTEMBER 6, 2002**

APPLICATION OF  
SOUTH ANNA SERVICE CORPORATION

For cancellation of certificate of public convenience and necessity to provide sewerage service

**ORDER CANCELING CERTIFICATE**

On May 24, 2002, the State Corporation Commission ("Commission") granted approval, pursuant to the Utility Transfers Act, for South Anna Service Corporation ("South Anna" or the "Company") to sell and for the County of Hanover to purchase the operating assets used to provide wastewater utility service to the residents of the Country Club Hills Subdivision in Hanover County, Virginia.<sup>1</sup> In a letter dated June 11, 2002, the president of South Anna advised the Commission's Staff that the above-referenced transaction took place on May 24, 2002.

NOW THE COMMISSION, having considered the above-referenced transfer, is of the opinion that Certificate No. S-42 granted to the Company should be cancelled.

Accordingly, IT IS ORDERED THAT:

- (1) Certificate No. S-42 authorizing South Anna Service Corporation to provide sewerage service to a certain area of Hanover County, Virginia, is hereby cancelled.
- (2) There being nothing further to be done, this matter is hereby closed, and the papers placed in the file for ended causes.

<sup>1</sup> By Order dated November 18, 1965, in Case No. 17475, South Anna was issued Certificate No. S-42 to provide sewerage service to a certain area in Hanover County, Virginia. Such area was detailed on a map attached thereto. Subsequently, pursuant to a Commission Order entered on September 9, 1991, in Case No. PUE-1991-00004, the Company submitted updated service maps for that service territory on November 6, 1991.

**CASE NO. PUE-2002-00457  
NOVEMBER 26, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION

v.

UTILIQUEST, LLC,  
Defendant

**ORDER OF SETTLEMENT**

Pursuant to § 56-265.30 of the Code of Virginia, the Virginia State Corporation Commission ("Commission") is charged with enforcing the provisions of the Underground Utility Damage Prevention Act, § 56-265.14 *et seq.* of the Code of Virginia ("Act"). The Commission's Division of Utility and Railroad Safety ("Division"), charged with the investigation of probable violations of the Act, has completed investigations of certain incidents between February 13, 2002, and June 18, 2002, listed in Attachment A, involving Utiliquest, LLC ("Company"), and alleges that:

- (1) The Company is a contract locator as that term is defined in § 56-265.15 of the Code of Virginia;
- (2) During the aforementioned period the Company has violated the Act by committing the following violations:
  - (a) Failing on certain occasions to mark the approximate horizontal location of the underground utility lines on the ground to within two feet of either side of the underground utility lines, in violation of §§ 56-265.19 A and D of the Code of Virginia.
  - (b) Failing on certain occasions to mark within the time prescribed in the Act, in violation of §§ 56-265.19 A and D of the Code of Virginia.
  - (c) Failing on certain occasions to report to the notification center that lines had been marked or they were not in conflict with the proposed excavation, in violation of §§ 56-265.19 A and D of the Code of Virginia.

As evidenced in the attached Admission and Consent document, the Company neither admits nor denies these allegations but admits the Commission's jurisdiction and authority to enter this Order.

As an offer to settle all matters before the Commission arising from the Division's allegations made herein, which includes all probable violations presented to the Underground Utility Damage Prevention Advisory Committee on August 13, 2002, and set out in Attachment A hereto, the Company represents and undertakes that it will pay a civil penalty to the Commonwealth of Virginia in the amount of \$10,100 to be paid contemporaneously with the entry of this Order. This payment will be made by cashier's check or money order, payable to the Treasurer of Virginia and directed to the attention of the Director of the Division of Utility and Railroad Safety.

The Commission, being advised by the Staff and finding sufficient basis herein for the entry of this Order, hereby accepts this settlement.

Accordingly, IT IS ORDERED THAT:

- (1) Pursuant to the authority granted the Commission by § 12.1-15 of the Code of Virginia, the offer of settlement made by the Company be, and it hereby is, accepted.
- (2) The sum of \$10,100 tendered contemporaneously with the entry of this Order is accepted.
- (3) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. PUE-2002-00463  
DECEMBER 9, 2002**

APPLICATION OF  
WASHINGTON GAS LIGHT COMPANY

For authority to enter into an affiliate service agreement under Chapter 4 of Title 56 of the Code of Virginia

**ORDER GRANTING AUTHORITY**

On September 11, 2002, Washington Gas Light Company ("WGL" or "Applicant") filed an application with the State Corporation Commission ("Commission") pursuant to Chapter 4 of Title 56 of the Code of Virginia ("Code"). WGL requests authority to enter into a service agreement (the "Systems Agreement") whereby WGL will employ an affiliated company, Washington Gas Energy Systems, Inc. ("Systems"), to function as its general contractor and provide project management services for all energy management capital projects performed for the General Services Administration ("GSA") of the United States government under WGL's Areawide Public Utility Contract (the "Areawide Contract").

WGL's Areawide Contract, which was executed in 1996, authorizes WGL to provide gas, gas transportation, and energy management services to the GSA. Energy management services are defined as "any specific service intended to provide energy savings, efficiency improvements and/or demand reductions in [f]ederal facilities." These services include, but are not limited to, energy audits and energy conservation measures such as lighting control and boiler control improvements, cooling tower refits, solar air preheating systems, demand side management initiatives, fuel cell installation, and water conservation device installation. Recently, the GSA broadened the scope of the energy management portion of the Areawide Contract to include the

renovation and replacement of heating and cooling systems in federal government buildings and some of the Smithsonian museums. The GSA has indicated that it wishes to sole source contract with WGL to perform these capital projects. Under federal regulations<sup>1</sup>, only public utilities can enter into Areawide Contracts with the GSA, so WGL must be the contracting party, but WGL's intent is to assign all of the responsibility and rewards for the energy management capital projects to Systems.

Toward that end, the Systems Agreement states that Systems will act as general contractor and project manager for WGL for all energy management projects involving construction under the Areawide Contract. Further, the Systems Agreement states that WGL will receive all moneys due from federal agencies for these construction projects, but shall, upon Systems' request and the consent of the GSA, assign the receipts to Systems. The Systems Agreement also states that, as agent for Systems, WGL will arrange for payments for all subcontractors, consultants, equipment to be installed, and other expenses connected with the construction projects, but that all such expenditures will be charged to Systems. Systems will not receive a fee for its work but will be entitled to all profits and losses stemming from the construction projects.

The Systems Agreement also states that, to the fullest extent permitted by law, Systems will indemnify WGL, its directors, officers, employees, agents and servants for, and hold each of them harmless from, and against any actual or threatened harm caused by or arising out of, or resulting from the energy management services performed under the Areawide Contract by Systems, its directors, officers, employees, agents, servants, or independent contractors, unless such harm is caused entirely by the acts or inaction of WGL. WGL represents that, if the energy management construction projects are assigned to Systems, Systems' insurance (and payment and performance bonds) would cover all claims, including claims made by WGL for indemnification, to the extent that the nature of the claim is within the insurance coverage. Systems' current level of coverage for property damage and personal injury exceeds \$150 million.

WGL represents that all Areawide Contract transactions between WGL and Systems are governed by the affiliate service agreement approved by the Commission in Case No. PUA-1997-00019 (the "Service Agreement Order"). The Service Agreement Order requires WGL to charge Systems at the higher of cost or market for all services provided, and for WGL to receive services from Systems at the lower of cost or market.

NOW THE COMMISSION, upon consideration of the application and representations of Applicant and having been advised by its Staff, is of the opinion and finds that the above-described Systems Agreement is in the public interest, subject to certain conditions. Section 13.1-620 D of the Code limits WGL's activities to those related or incidental to the provision of natural gas service. As presented in the application, it appears that certain energy management services listed in the Areawide Contract, specifically the installation or renovation of solar air preheating systems, fuel cells, and water conservation devices, are not permissible in Virginia per Section 13.1-620 D. We are, therefore, of the opinion that the application should be approved subject to the conditions described below.

Accordingly, IT IS ORDERED THAT:

- 1) Pursuant to § 56-77 of the Code of Virginia, Washington Gas Light Company is hereby authorized to enter into the Systems Agreement with Washington Gas Energy Services, Inc., under the terms and conditions and for the purposes described herein, subject to the following conditions. First, WGL's activities in Virginia under the Areawide Contract are to be limited to those "related or incidental to" its natural gas business per § 13.1-620 D of the Code. Second, WGL, its officers, employees, agents, and shareholders, are to be fully indemnified and held harmless, without recourse, from any (1) claims, suits, or legal proceedings; (2) damages or injuries; (3) interest; (4) costs, expenses, or fees; (5) changes in WGL's financial condition; and (6) all other loss or liability of any kind that occur as a result of the Areawide Contract.
- 2) Commission approval shall be required for any changes in terms and conditions of the Systems Agreement.
- 3) The approval granted herein shall have no ratemaking implications.
- 4) The approval granted herein shall not preclude the Commission from exercising the provisions of §§ 56-78 and 56-80 of the Code of Virginia hereafter.
- 5) The Commission reserves the right to examine the books and records of any affiliate in connection with the authority granted herein whether or not such affiliate is regulated by this Commission.
- 6) The Staff is directed to monitor the arrangement authorized herein to ensure that it continues to be in the public interest.
- 7) WGL shall include the Systems Agreement approved herein in its Annual Report of Affiliate Transactions submitted to the Director of Public Utility Accounting of the Commission.
- 8) If Annual Informational and/or General Rate Case Filings are not based on a calendar year, then WGL shall include the affiliate information contained in the Annual Report of Affiliate Transactions in such filings.
- 9) There appearing nothing further to be done in this matter, it hereby is dismissed.

<sup>1</sup> 48 C.F.R. § 41.100 (2002).

**CASE NO. PUE-2002-00463  
DECEMBER 17, 2002**

APPLICATION OF  
WASHINGTON GAS LIGHT COMPANY

For authority to enter into an affiliate service agreement under Chapter 4 of Title 56 of the Code of Virginia

**CORRECTING ORDER**

On December 9, 2002, the State Corporation Commission ("Commission") issued an Order Granting Authority ("Order") in the above captioned matter. Paragraph (1) of our December 9, 2002, Order includes an error in need of correction. Paragraph (1) incorrectly referred to Washington Gas Energy Services, Inc., as the entity with which Washington Gas Light Company was authorized to enter into an affiliate agreement. The affiliate entity's correct name is Washington Gas Energy Systems, Inc.

Accordingly, IT IS ORDERED THAT:

- (1) Paragraph (1) of our December 9, 2002, Order is amended to read as follows:
  - (1) Pursuant to § 56-77 of the Code of Virginia, Washington Gas Light Company is hereby authorized to enter into the Systems Agreement with Washington Gas Energy Systems, Inc., under the terms and conditions and for the purposes described herein, subject to the following conditions. First, WGL's activities in Virginia under the Areawide Contract are to be limited to those "related or incidental to" its natural gas business per § 13.1-620 D of the Code. Second, WGL, its officers, employees, agents, and shareholders, are to be fully indemnified and held harmless, without recourse, from any (1) claims, suits, or legal proceedings; (2) damages or injuries; (3) interest; (4) costs, expenses, or fees; (5) changes in WGL's financial condition; and (6) all other loss or liability of any kind that occur as a result of the Areawide Contract.
  - (2) All other provisions of our December 9, 2002, Order shall remain in full force and effect.
  - (3) There appearing nothing further to be done in this matter, it hereby is dismissed.

**CASE NO. PUE-2002-00500  
NOVEMBER 26, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION  
v.  
UTILIQUEST, LLC,  
Defendant

**ORDER OF SETTLEMENT**

Pursuant to § 56-265.30 of the Code of Virginia, the Virginia State Corporation Commission ("Commission") is charged with enforcing the provisions of the Underground Utility Damage Prevention Act, § 56-265.14 *et seq.* of the Code of Virginia ("Act"). The Commission's Division of Utility and Railroad Safety ("Division"), charged with the investigation of probable violations of the Act, has completed investigations of certain incidents between April 17, 2002, and July 24, 2002, listed in Attachment A, involving Utiliquest, LLC ("Company"), and alleges that:

- (1) The Company is a contract locator as that term is defined in § 56-265.15 of the Code of Virginia;
- (2) During the aforementioned period the Company has violated the Act by committing the following violations:
  - (a) Failing on certain occasions to mark the approximate horizontal location of the underground utility lines on the ground to within two feet of either side of the underground utility lines, in violation of §§ 56-265.19 A and D of the Code of Virginia.
  - (b) Failing on certain occasions to mark within the time prescribed in the Act, in violation of §§ 56-265.19 A and D of the Code of Virginia.
  - (c) Failing on certain occasions to report to the notification center that lines had been marked or they were not in conflict with the proposed excavation, in violation of §§ 56-265.19 A and D of the Code of Virginia.

As evidenced in the attached Admission and Consent document, the Company neither admits nor denies these allegations but admits the Commission's jurisdiction and authority to enter this Order.

As an offer to settle all matters before the Commission arising from the Division's allegations made herein, which includes all probable violations presented to the Underground Utility Damage Prevention Advisory Committee on September 10, 2002, and set out in Attachment A hereto, the Company represents and undertakes that it will pay a civil penalty to the Commonwealth of Virginia in the amount of \$12,550 to be paid contemporaneously with the entry of this Order. This payment will be made by cashier's check or money order, payable to the Treasurer of Virginia and directed to the attention of the Director of the Division of Utility and Railroad Safety.

The Commission, being advised by the Staff and finding sufficient basis herein for the entry of this Order, hereby accepts this settlement.

Accordingly, IT IS ORDERED THAT:

- (1) Pursuant to the authority granted the Commission by § 12.1-15 of the Code of Virginia, the offer of settlement made by the Company be, and it hereby is, accepted.
- (2) The sum of \$12,550 tendered contemporaneously with the entry of this Order is accepted.
- (3) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

**CASE NO. PUE-2002-00514  
NOVEMBER 4, 2002**

APPLICATION OF  
NEW ERA ENERGY, INC.

For a license to conduct business as an electric aggregator

**ORDER GRANTING LICENSE**

On September 12, 2002, New Era Energy, Inc. ("New Era" or "the Company"), filed an application with the State Corporation Commission ("Commission") for a license to provide competitive electric aggregation services. Pursuant to the Rules Governing Retail Access to Competitive Energy Services ("Retail Access Rules"), 20 VAC 5-312-10 *et seq.*, the Company requested authority to serve residential, commercial and industrial customers in the electric retail access programs throughout the Commonwealth of Virginia as the Commonwealth opens up to retail access and customer choice. The Company attested in its application that it would abide by all applicable regulations of the Commission as required by 20 VAC 5-312-40 B.

On September 23, 2002, the Commission issued its Order For Notice and Comment. That Order docketed the application, directed New Era to provide notice of its application upon appropriate persons, including the utilities identified in Attachment A to the Order, and invited comments to be filed on the application.

The Company filed proof of this notice on October 2, 2002. No comments on New Era's application were filed.

The Staff filed its Report on October 16, 2002, concerning New Era's technical and financial fitness to provide competitive electric aggregation services. In its Report, the Staff summarized New Era's proposal in which it plans to aggregate electric customers. The Staff noted in its report that, under the model of aggregation proposed, New Energy will not receive compensation directly from customers. Rather, customers will purchase electricity from a competitive service provider ("CSP") and will pay the CSP directly.

The Staff evaluated New Era's financial condition and technical fitness, and concluded that New Era possesses the ability to provide electric aggregation services for residential, commercial and industrial customers throughout Virginia. As such, the Staff recommended that a license be granted to New Era for the provision of electric aggregation services. However, the Staff recommended that, if New Era's business plan changes in the future to include direct compensation from consumers, the Company's financial fitness should be reviewed.

Although New Era had no comments on the Staff Report, the Company did provide a clarification of its business plan through a memo sent to the Staff on October 18, 2002. In the memo, the Company stated that, while New Era will not be compensated directly by customers in the customers' purchase of electricity from a CSP, it is possible that the Company may receive compensation for other services such as consulting services or equipment sales.

NOW UPON consideration of New Era's application for a permanent license to conduct competitive electric aggregation services to residential, commercial and industrial retail customers throughout the Commonwealth, the Staff's Report, and the Company's October 18, 2002 memo, the Commission is of the opinion and finds that New Era's request should be granted.

Accordingly, IT IS ORDERED THAT:

- (1) New Era shall be granted License No. A-13 for the provision of competitive electric aggregation services to residential, commercial and industrial retail customers throughout the Commonwealth of Virginia as the Commonwealth opens up to retail access and customer choice.
- (2) This license is not valid authority for the provision of any product or service not identified within the license itself.
- (3) Failure of New Era to comply with the Retail Access Rules, the provisions of this Order, other State Corporation Commission orders and rules, or other applicable state or federal laws may result in an enforcement action by the Commission including, without limitation, the revocation, suspension, or modification of the license granted herein, the refusal to renew such license, the imposition of appropriate fines and penalties, or such other additional actions as may be necessary to protect the public interest.
- (4) This matter shall remain open pending the receipt of any reports required by the Retail Access Rules, as well as any subsequent amendments or modifications to the license granted herein.



**CASE NO. PUE-2002-00515  
SEPTEMBER 27, 2002**

APPLICATION OF  
VIRGINIA NATURAL GAS, INC.,  
AGL RESOURCES INC.,  
and  
AGL SERVICES COMPANY

For authority to issue short-term debt, long-term debt, and common stock to an affiliate

**ORDER GRANTING AUTHORITY**

On September 17, 2002, Virginia Natural Gas, Inc. ("VNG"), AGL Resources, Inc., ("AGLR"), and AGL Services Company ("AGL Services") (collectively, "Applicants"), filed an application under Chapters 3 and 4 of Title 56 of the Code of Virginia requesting authority for VNG to participate in the AGLR Money Pool, to issue long-term debt, and to issue and sell common stock to an affiliate. The amount of short-term debt proposed in the application exceeds twelve percent of capitalization as defined in § 56-65.1 of the Code of Virginia. Applicants have paid the requisite fee of \$250.

Applicants request authorization for VNG to: 1) issue up to an aggregate balance of \$100,000,000 of short-term debt through participation in the AGLR Money Pool administered by AGL Services; 2) issue long-term debt to AGLR in an amount not to exceed \$250,000,000; and 3) issue and sell common stock to AGLR in an amount not to exceed \$300,000,000, all during the period extending from October 1, 2002, through December 31, 2003.

Applicants indicate that the terms and conditions of the AGLR Money Pool Agreement remain unchanged from those approved by the Commission's Order Granting Authority in Case No. PUF-2000-00025. Applicants further note that VNG's proposed short-term borrowing limit of \$100,000,000 in this case is identical to the limit previously authorized in Case No. PUF-2001-00019.

The terms of the various issuances are as follows. First, Money Pool loans to participants will be made in the form of open account advances for periods of less than 12 months. Interest will be paid monthly at the same effective rate of interest as AGLR's weighted average effective rate of interest on commercial paper and/or revolving credit borrowings. If no such borrowings are outstanding, interest will be paid at the daily composite federal funds rate. The AGLR Money Pool will be administered by AGL Services on behalf of AGLR and certain of its subsidiaries.

Second, the terms and conditions of VNG's long-term debt will mirror those of AGLR debt issued within the past 12 months. If AGLR has not issued long-term debt within one year of the date of the proposed financing, VNG's rate of interest will be determined utilizing Lehman Brothers Long Treasury Bond rate, as quoted in The Wall Street Journal dated nearest to the time of the loan drawn under this application, plus the appropriate credit spread for AGLR's existing long term debt rating. However, such rate will be adjusted to match AGLR's cost of borrowing if AGLR subsequently issues long-term debt within one year after the loan is drawn pursuant to this application.

Finally, up to 4,727 shares of VNG common stock without par will be issued to AGLR. Applicant states that if all additional shares of common stock are issued pursuant to its request the total number of common shares outstanding will be 10,000 shares. This is equal to the number of shares authorized.

Proceeds from the proposed issuance of long-term debt and common stock will be used to recapitalize VNG's balance sheet; to reduce borrowings under the AGLR Money Pool; to permanently fund capital projects; to refinance maturing long-term debt; and for other proper purposes consistent with its public utility obligations.

THE COMMISSION, upon consideration of the application and having been advised by its Staff, is of the opinion and finds that approval of the application will not be detrimental to the public interest. Accordingly,

IT IS ORDERED THAT:

- 1) VNG is authorized to participate in the AGLR Money Pool and to incur short-term indebtedness in excess of twelve percent of capitalization not to exceed \$100,000,000, for the period extending from October 1, 2002, through December 31, 2003, under the terms and conditions and for the purposes set forth in the application.
- 2) VNG is authorized to issue long-term debt to AGLR in an amount not to exceed \$250,000,000 and to issue and sell common stock to AGLR in an amount not to exceed \$300,000,000, for the period extending from October 1, 2002, through December 31, 2003, under the terms and conditions and for the purposes set forth in the application.
- 3) Approval of this application shall have no implications for ratemaking purposes.
- 4) Approval of this application does not preclude the Commission from applying the provisions of § 56-78 and § 56-80 of the Code of Virginia hereafter.
- 5) The Commission reserves the right pursuant to § 56-79 of the Code of Virginia to examine the books and records of any affiliate in connection with the authority granted herein, whether or not such affiliate is regulated by this Commission.
- 6) Applicants shall file quarterly reports of action within 60 days of the end of each calendar quarter following the date of this order, to include:
  - a) a monthly schedule of Money Pool borrowings, segmented by borrower (whether VNG or affiliate); and
  - b) monthly schedules that separately reflect interest expenses, each type of allocated fee, and an explanation of how both the interest rate and allocated fee have been calculated.

7) Applicants shall within ten (10) days after the issuance of any common stock or long-term debt pursuant to the authority granted herein submit a preliminary report. Such report shall include the date of issuance, type of security, amount issued, and the respective interest rate, date of maturity, and other terms and conditions of any issuance.

8) Applicants shall within sixty (60) days of the end of each calendar quarter in which common stock or long-term debt securities are issued pursuant to the authority granted herein submit a more detailed report. Such report shall include a summary of the information noted in Ordering Paragraph (7); the cumulative amount of securities issued to date for each type of security and the amount of authority remaining; a general statement concerning the purposes for which the securities were issued; and a balance sheet reflecting the actions taken.

9) Applicants shall file their final report of action on or before March 31, 2004, to summarize all of the information outlined in Ordering Paragraph (8). for all securities issued pursuant to Ordering Paragraph (2).

10) This matter shall be continued subject to the continuing review, audit, and appropriate directive of the Commission.

**CASE NO. PUE-2002-00517  
OCTOBER 11, 2002**

APPLICATION OF  
SOUTHWESTERN VIRGINIA GAS COMPANY

For an expedited increase in rates

**ORDER FOR NOTICE AND HEARING**

On September 23, 2002, Southwestern Virginia Gas Company ("SVGC" or the "Company") filed a rate application, supporting testimony and exhibits with the State Corporation Commission ("Commission") for an expedited increase in rates. SVGC seeks to increase its annual revenues by \$433,435, an increase of approximately 5%. The Company also proposes to increase its reconnection fee from \$30 to \$50, and requests that the increase in rates and the reconnection fee be allowed to go into effect for bills rendered on and after October 31, 2002.

Section B of the Commission's Rules Governing Utility Rate Increase Applications and Annual Informational Filings, 20 VAC 5-200-30, ("the rules") permits the rates of a public utility to take effect within 30 days after the application is filed, subject to refund, pending investigation, so long as the rate application complies with the rules and the utility has not experienced a substantial change in circumstances since its last rate case. On October 10, 2002, the Commission's Staff filed an interim report, in which it concluded that there is a reasonable probability that the proposed increase will be justified following a full investigation and hearing.

In its application, SVGC also requests a waiver pursuant to 20 VAC 5-200-30.A.11 for reporting information for Southwestern Virginia Energy Industries, Ltd. (the "Parent"), and consolidated information of the Parent and the Company as required in Schedules 1, 2 6, and 7. In support of its request, SVGC states that: (1) the Parent has historically never contributed to the raising of capital for the Company; (2) the Parent has historically never assisted the Company in raising capital either by guaranteeing debt or in any other manner securing the Company's obligations; (3) the Parent is a closely held corporation and not traded publicly; and (4) the Parent does not have financial statements prepared for public distribution.

The Company further requests a waiver of the requirement to prepare a jurisdictional cost of service study – Schedule 30. SVGC states that it serves very few governmental non-jurisdictional customers; in fact, the Company states that the only non-jurisdictional customers – governmental offices and schools – represent less than 1.1% of the Company's customers and 2.8% of its gas throughput. According to SVGC, these non-jurisdictional customers pay for service on the basis of Commission-approved rates; thus, there is virtually no impact on the per customer cost of service and no economic justification to expend the money, time and effort to create a non-jurisdictional cost study.

NOW UPON CONSIDERATION of the Company's application, the Commission is of the opinion and finds that this matter should be docketed, that a Hearing Examiner should be assigned to conduct all further proceedings on this matter on behalf of the Commission, and that a procedural schedule should be established as prescribed herein. Interested parties will also have the opportunity to comment on the Company's waiver requests.

Accordingly, IT IS ORDERED THAT:

- (1) SVGC's application for approval of an expedited increase in rates is docketed and assigned Case No. PUE-2002-000517.
- (2) SVGC may put its rates into effect on an interim basis subject to refund on October 31, 2002.
- (3) A public hearing shall be convened on February 11, 2003, at 10:00 a.m., in the Commission's Courtroom, Second Floor, Tyler Building, 1300 East Main Street, Richmond, Virginia, to receive comments from members of the public and to receive evidence on the captioned application. Any person not participating as a respondent as provided in ordering paragraph (11) below, may give oral testimony concerning the application as a public witness at the February 11, 2003, public hearing. Public witnesses desiring to make statements at the public hearing concerning this application need only appear in the Commission's second floor courtroom in the Tyler Building at the address set forth above prior to 9:45 a.m. on the day of the hearing and register a request to speak with the Commission's bailiff.
- (4) As provided by § 12.1-31 of the Code of Virginia and Rule 5 VAC 5-20-120 of the Commission's Rules of Practice and Procedure, a Hearing Examiner is appointed to conduct all further proceedings in this matter on behalf of the Commission and to issue a final report herein.
- (5) Upon written request received by its counsel, the Company shall provide a copy of the application to the requesting party at no cost. If acceptable to the requesting individual, the Company may provide the application, with or without attachments, by electronic means. Written requests shall

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

be made to Richard D. Gary, Esquire, Hunton & Williams, River Plaza, East Tower, 951 East Byrd Street, Richmond, Virginia 23219-4074. Interested persons may also review a copy of the application and the Commission's Order for Notice and Hearing in the Commission's Document Control Center, located on the First Floor of the Tyler Building, 1300 East Main Street, Richmond, Virginia between the hours of 8:15 a.m. and 5:00 p.m., Monday through Friday.

(6) On or before November 8, 2002, SVGC shall complete publication of the following notice as display advertising (not classified) on one occasion in newspapers of general circulation throughout the Company's service territories within the Commonwealth of Virginia:

NOTICE TO THE PUBLIC OF AN APPLICATION  
BY SOUTHWESTERN VIRGINIA GAS COMPANY, FOR  
APPROVAL OF AN EXPEDITED INCREASE IN RATES  
CASE NO. PUE-2002-000517

On September 23, 2002, Southwestern Virginia Gas Company ("SVGC" or the "Company") filed a rate application, supporting testimony and exhibits with the State Corporation Commission ("Commission") for an expedited increase in rates. SVGC seeks to increase its annual revenues by \$433,435, an increase of approximately 5%. The Company also proposes an increase in its reconnection fee from \$30 to \$50.

The rates are proposed to go into effect for service rendered on and after October 31, 2002. SVGC may put its rates into effect on an interim basis subject to refund on October 31, 2002.

The Company also requests a waiver pursuant to 20 VAC 5-200-30.A.11 for reporting information for Southwestern Virginia Energy Industries, Ltd. (the "Parent"), and consolidated information of the Parent and the Company as required in Schedules 1, 2, 6, and 7. SVGC further requests a waiver of the requirement to prepare a jurisdictional cost of service study – Schedule 30, since the Company serves very few governmental non-jurisdictional customers.

On or before November 15, 2002, any interested person may file comments on the Company's waiver requests with the Clerk of the Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118.

Copies of the application are available through written request to counsel for the Company, Richard D. Gary, Esquire, Hunton & Williams, Riverfront Plaza, East Tower, 951 East Byrd Street, Richmond, Virginia 23219-4074. Interested persons may also review a copy of the application and the Commission's Order for Notice and Hearing in the Commission's Document Control Center, located on the First Floor of the Tyler Building, 1300 East Main Street, Richmond, Virginia between the hours of 8:15 a.m. and 5:00 p.m., Monday through Friday. A copy of the Commission's Order may also be obtained on the Commission's website: [www.state.va.us/scc/caseinfo/orders.htm](http://www.state.va.us/scc/caseinfo/orders.htm).

A public hearing on the application will be held on February 11, 2003, at 10:00 a.m., in the Commission's Courtroom, Second Street, Richmond, Virginia.

Any interested person may participate as a respondent in the proceeding by filing, on or before December 10, 2002, an original and fifteen (15) copies of a notice of participation with the Clerk of the Commission at the address set forth above. Interested parties should obtain a copy of the Commission's Order for further details on participation as a respondent.

Interested persons not participating as a respondent may give oral testimony concerning the application as a public witness at the February 11, 2003, public hearing. Public witnesses desiring to make statements at the public hearing concerning this application need only appear in the Commission's second floor courtroom in the Tyler Building at the address set forth above prior to 9:45 a.m. on the day of the hearing and register a request to speak with the Commission's bailiff.

Any interested person may file comments on the application with the Clerk of the Commission at the address set forth above on or before January 7, 2003.

All filings with the Clerk of the Commission shall refer to Case No. PUE-2002-00517 and shall simultaneously be served on counsel to the Company at the address set forth above.

SOUTHWESTERN VIRGINIA GAS COMPANY

(7) On or before November 8, 2002, the Company shall mail a copy of its application and this Order by personal delivery or by first-class mail, postage prepaid, to the chairman of the board of supervisors and county attorney of each county and upon the mayor or manager of every city and town (or upon equivalent officials in counties, towns and cities having alternate forms of government) in which the Company provides service. Service shall be made by first-class mail to the customary place of business or residence of the person served.

(8) On or before November 27, 2002, SVGC shall file with the Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118, proof of the publication and service required in ordering paragraphs (6) and (7).

(9) On or before December 3, 2002, SVGC shall file with the Clerk at the address set forth in ordering paragraph (8) above an original and fifteen (15) copies of any additional direct testimony, exhibits and other materials supporting its application.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

(10) On or before November 15, 2002, any interested person may file comments on the Company's waiver requests in the application.

(11) Any interested person may participate as a respondent in this proceeding by filing, on or before December 10, 2002, an original and fifteen (15) copies of a notice of participation with the Clerk at the address set forth in ordering paragraph (8) above, and shall simultaneously serve a copy of the notice of participation on counsel to the Company, Richard D. Gary, at the address set forth in ordering paragraph (5) above. Pursuant to Rule 5 VAC 5-20-80 of the Commission's Rules of Practice and Procedure, any notice of participation shall set forth (i) a precise statement of the interest of the respondent; (ii) a statement of the specific action sought to the extent then known; and (iii) the factual and legal basis for the action. Interested parties shall refer in all of their filed papers to Case No. PUE-2002-00517.

(12) Within five (5) business days of receipt of a notice of participation as a respondent, the Company shall serve upon each respondent a copy of this Order, a copy of the application, and all materials filed with the Commission, unless these materials have already been provided to the respondent.

(13) On or before January 7, 2003, each respondent may file with the Clerk at the address set forth in ordering paragraph (8) above an original and fifteen (15) copies of any testimony and exhibits by which it expects to establish its case and shall serve copies of the testimony and exhibits on counsel to the Company and on all other respondents. The respondent shall comply with Rules 5 VAC 5-20-140, 5 VAC 5-20-150, and 5 VAC 5-20-240 of the Commission's Rules of Practice and Procedure.

(14) On or before January 7, 2003, any interested person may file any comments on the captioned application with the Clerk at the address in paragraph (8) above and shall mail a copy to counsel for the Company, Richard D. Gary, at the address set forth in paragraph (5) above.

(15) The Commission Staff shall investigate the Company's application for an expedited increase in rates. On or before January 27, 2003, the Staff shall file with the Clerk of the Commission an original and fifteen (15) copies of the Staff's testimony and exhibits regarding the captioned application and shall promptly serve a copy on counsel to the Company and all respondents.

(16) On or before February 4, 2003, the Company shall file with the Clerk of the Commission an original and fifteen (15) copies of any rebuttal testimony that it expects to offer in rebuttal to the testimony and exhibits of the respondents and the Commission Staff and shall on the same day serve one copy on Staff and all respondents.

(17) SVGC and respondents shall respond to written interrogatories within seven (7) calendar days after receipt of the same. Except as modified above, discovery shall be in accordance with the Commission's Rules of Practice and Procedure.

**CASE NO. PUE-2002-00518  
OCTOBER 8, 2002**

PETITION OF  
VIRGINIA ELECTRIC AND POWER COMPANY  
and  
DOMINION LANDS, INC.

For approval to transfer real property under Chapter 4, Title 56 of the Code of Virginia

**ORDER GRANTING APPROVAL**

On September 24, 2002, Virginia Electric and Power Company ("Dominion Virginia Power," "Company") filed a petition with the State Corporation Commission ("Commission") under Chapter 4 of Title 56 of the Code of Virginia ("Code") requesting approval to transfer property from Dominion Virginia Power to its affiliate, Dominion Lands, Inc. ("Dominion Lands"). Dominion Virginia Power and Dominion Lands are referenced herein as the "Applicants."

Dominion Virginia Power is a Virginia public service corporation providing electric service to customers in Virginia and North Carolina. The Company is a wholly owned direct subsidiary of Dominion Resources, Inc. ("Dominion").

Dominion Lands is a corporation organized under the laws of Virginia whose business purpose is to develop real estate. Dominion Lands is a direct subsidiary of Dominion Capital, Inc., and an indirect subsidiary of Dominion. Dominion Virginia Power and Dominion Lands are, therefore, affiliates pursuant to § 56-76 of the Code.

In the application, the Applicants request approval to transfer from Dominion Virginia Power to Dominion Lands real property consisting of .40 acre of land located on Brown's Island at 12th Street in Richmond, Virginia (the "Property"). The Company will transfer the Property to Dominion Lands at \$348,000, its estimated fair market value. Applicants expect that Dominion Lands will lease the Property, in combination with other real property owned by Dominion Lands, to the Cordish Company for a commercial development project on Brown's Island.

THE COMMISSION, upon consideration of the petition and representations of the Applicants and having been advised by its Staff, is of the opinion and finds that the above-described transfer of property is in the public interest and should, therefore, be approved.

Accordingly, IT IS ORDERED THAT:

(1) Pursuant to § 56-77 of the Code, Dominion Virginia Power and Dominion Lands are hereby granted approval of the transfer of Property from Dominion Virginia Power to Dominion Lands at the price of \$348,000 as described herein.

(2) The approval granted herein shall have no ratemaking implications.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

- (3) The approval granted herein shall not preclude the Commission from exercising the provisions of §§ 56-78 and 56-80 of the Code hereafter.
- (4) The Commission reserves the authority to examine the books and records of any affiliate in connection with the approval granted herein whether or not the Commission regulates such affiliate.
- (5) Within 30 days of the transfer taking place, subject to extension by the Commission's Director of Public Utility Accounting, the Applicants shall file with the Commission a report of the action taken pursuant to the approval granted herein, such report to include the date of the transfer, the actual sales price, and the accounting entries reflecting the transaction.
- (6) Dominion Virginia Power shall include such transfer in its Annual Report of Affiliate Transactions submitted to the Commission's Director of Public Utility Accounting.
- (7) If Annual Informational and/or General Rate Case Filings are not based on a calendar year, then Dominion Virginia Power shall include the affiliate information contained in the Annual Report of Affiliate Transactions in such filings.
- (8) There appearing nothing further to be done in this matter, it hereby is dismissed.

**CASE NO. PUE-2002-00519  
OCTOBER 28, 2002**

COMMONWEALTH OF VIRGINIA  
At the relation of the  
STATE CORPORATION COMMISSION

Ex Parte: In the matter of considering requests for approval to delay the provision of consolidated billing services pursuant to § 56-581.1 of the Virginia Code

**ORDER GRANTING REQUESTS**

On September 16, 2002, Virginia Electric and Power Company ("Dominion Virginia Power") filed a motion with the State Corporation Commission ("Commission") requesting a delay to implement consolidated billing services in its service territory, pursuant to § 56-581.1 of the Virginia Code. Dominion Virginia Power stated that the approach taken by the rules adopted by the Commission for competitive service provider ("CSP") consolidated billing services will require a significant commitment of time and resources to develop, implement, and test the necessary changes to its billing system. Further, Dominion Virginia Power stated that its work on the internal systems and processes necessary to implement CSP consolidated billing cannot begin in earnest until the underlying policies and business rules have been coordinated with the VAEDT. Dominion Virginia Power stated that it would be prepared to offer the CSP consolidated billing option to interested CSPs no later than 180 days after the Revised Version of the VAEDT Plan is filed with the Commission.

By Order dated September 27, 2002, the Commission docketed the matter, assigned a case number, and permitted other local distribution companies ("LDCs") wishing to request similar delays to file their applications with the Commission on or before October 11, 2002. By October 11, 2002, Allegheny Power ("AP"), Delmarva Power & Light Company ("Delmarva"), and Appalachian Power Company ("AEP-VA") had filed applications pursuant to the Commission's September 27, 2002, Order.

In its request, AP stated that it cannot prudently begin to develop the changes to its billing system required by the VAEDT protocols until they have become finalized. AP stated that it anticipates that changes to its billing system to accommodate the VAEDT's protocol for CSP consolidated billing can be accomplished approximately four months after the date those regulations are finalized.

Delmarva stated that given the work that remains to be done by the VAEDT, the infrastructure necessary to provide the CSP consolidated billing option cannot be in place and tested by January 1, 2003. Therefore, implementing a CSP consolidated billing option in Delmarva's service territory on January 1, 2003 would not be in the public interest. Delmarva stated that it will be prepared to offer the CSP consolidated billing option to interested CSPs no later than 180 days after the Revised Version of the VAEDT Plan and associated EDI Implementation standards are submitted to the Commission.

AEP-VA requested that the Commission confirm that its adoption of an interim manual process would meet the requirements of the new rules and workaround plan. In the alternative, however, AEP-VA requests that if the Commission concludes that the new rules or the workaround plan do not permit a manual workaround process, its application be treated as a request for a delay in implementing CSP consolidated billing for the same reasons stated in the applications of Dominion Virginia Power and AP.

On October 18, 2002, the Staff of the Commission and the Association of Electric Cooperatives (the "Cooperatives") filed comments on the requests filed by Dominion Virginia Power, AP, Delmarva and AEP-VA. In its comments, the Staff stated that it does not object to delaying implementation of CSP consolidated billing for any of the LDCs, and agrees with AEP-VA's interpretation that it may provide such service manually until it can complete its system modifications to implement the VAEDT business solution. The Staff further stated that given the current uncertainty and lack of supplier activity in the marketplace, a delay to provide CSP consolidated billing services will not harm any market participant or customer. The Staff also stated that it is working closely with the VAEDT to develop a business solution that will be supported by all market participants, and that revisions to its plan will be presented to the VAEDT prior to its next meeting on November 7, 2002. The Staff expects the approved revisions to be incorporated into final documentation of the VAEDT Plan and Implementation Standards and submitted to the Commission by December 13, 2002.

In its comments, the Cooperatives state that given the current lack of retail activity in the Commonwealth, they believe that the Commission's approval of Dominion Virginia Power's motion will not have an adverse effect on the development of retail competition in the Commonwealth. The Cooperatives also state that the Commission should carefully consider the cost to modify existing LDC systems to properly implement any changes before enacting any future amendments to the Retail Access Rules.

NOW THE COMMISSION, having considered these requests, the comments filed by the Staff and the Cooperatives, and the applicable rules and laws, finds that the requests submitted by Dominion Virginia Power, AP, and Delmarva should be granted. We also find that AEP-VA may provide CSP consolidated billing service manually on January 1, 2003, and convert to the VAEDT-supported solution later in 2003.

Accordingly, IT IS ORDERED THAT:

(1) Dominion Virginia Power, Allegheny Power, and Delmarva Power & Light Company may defer the provision of CSP consolidated billing services until they can modify their respective billing systems to use the VAEDT-supported solution, but shall implement CSP consolidated billing services using such solution no later than July 1, 2003.

(2) Appalachian Power Company may provide CSP consolidated billing service manually on January 1, 2003, and convert to the VAEDT-supported solution no later than July 1, 2003.

(3) There being nothing further to come before the Commission in this proceeding, this case shall be removed from the docket and the papers transferred to the file for ended causes.

**CASE NO. PUE-2002-00524  
NOVEMBER 22, 2002**

APPLICATION OF  
UGI ENERGY SERVICES, INC.

For a license to conduct business as a natural gas competitive service provider

**ORDER GRANTING LICENSE**

On October 11, 2002, UGI Energy Services, Inc. ("UGI" or "the Company"), filed an application with the State Corporation Commission ("Commission") for a license to provide competitive natural gas services. Pursuant to the Rules Governing Retail Access to Competitive Energy Services ("Retail Access Rules"), 20 VAC 5-312-10 et seq., the Company requested authority to serve commercial and industrial customers in the natural gas retail access programs of Washington Gas Light Company ("WGL"), Columbia Gas of Virginia, Inc. ("CGV") and throughout the Commonwealth of Virginia as the Commonwealth opens up to retail access and customer choice. The Company attested in its application that it would abide by all applicable regulations of the Commission as required by 20 VAC 5-312-40 B.

On October 22, 2002, the Commission issued its Order For Notice and Comment. That Order docketed the application, directed UGI to provide notice of its application upon appropriate persons, and invited comments to be filed on the application.

The Company filed proof of this notice on November 4, 2002. No comments on UGI's application were filed.

The Staff filed its Report on November 18, 2002, addressing UGI's technical and financial fitness to provide competitive natural gas services. Staff concluded that UGI possessed the technical competence to perform the services it proposed. Staff did, however, based on the Company's financial statements as of September 30, 2001, question its financial fitness in light of the absence of audited financial statements, a valid surety bond,<sup>1</sup> or some additional evidence of financial fitness. In its report, Staff also indicated that during discussions with the Company, the Company had indicated a preference for using parental guarantees, in lieu of surety bonds whenever possible. Therefore, Staff recommended the Company be granted a license to provide competitive natural gas service subject to the Company providing the Commission evidence that its surety bond is still effective or a parental guarantee satisfactory to the Commission.

UGI filed comments to Staff's report on November 21, 2002. The Company's response noted that its financial condition had significantly improved since September 30, 2001, the period of time Staff used in its analysis. The response also indicated that UGI prefers to provide a Guarantee of Performance from its corporate parent, UGI Corporation, as further evidence of its financial fitness. The Company noted that it believed it had reached an agreement with our Staff on the terms of a parental guarantee, and was moving forward to provide an executed parental guarantee to the Commission. In the interim the Company provided a "Continuation Certificate for the Bond" as evidence that the surety bond is in effect through January 31, 2003.

NOW UPON consideration of UGI's application for a license to conduct competitive natural gas services to commercial and industrial retail customers throughout the Commonwealth, the Staff's Report, and the Company's November 21, 2002 comments, including the Continuation Certificate for the surety bond, the Commission is of the opinion and finds that UGI's application should be granted.

Accordingly, IT IS ORDERED THAT:

(1) UGI shall be granted License No. G-16 for the provision of competitive natural gas services to commercial and industrial retail customers in the retail access programs of WGL and CGV and throughout the Commonwealth of Virginia as the Commonwealth opens up to retail access and customer choice subject to the conditions specified in the Staff's November 18, 2002, report.

(2) On or before January 31, 2003, the date the current surety bond expires, the Company shall provide either a corporate guarantee from its parent satisfactory to the Commission or a surety bond acceptable to the Commission. In the event the Company fails to provide a corporate guarantee or a surety bond acceptable to the Commission, License No. G-16 shall expire.

<sup>1</sup> In its November 18<sup>th</sup> report, Staff noted that UGI had provided, in its application, a surety bond payable to the Commission. However, Staff noted that the language in the bond seemed to indicate that the bond had expired.

(3) This license is not valid authority for the provision of any product or service not identified within the license itself.

(4) Failure of UGI to comply with the Retail Access Rules, the provisions of this Order, other State Corporation Commission orders and rules, or other applicable state or federal laws may result in an enforcement action by the Commission including, without limitation, the revocation, suspension, or modification of the license granted herein, the refusal to renew such license, the imposition of appropriate fines and penalties, or such other additional actions as may be necessary to protect the public interest.

(5) This matter shall remain open pending the receipt of the document required by Ordering Paragraph (2) herein, any reports required by the Retail Access Rules, as well as any subsequent amendments or modifications to the license granted herein.

**CASE NO. PUE-2002-00569  
NOVEMBER 12, 2002**

APPLICATION OF  
ROANOKE GAS COMPANY

For authority to issue long-term debt

**ORDER GRANTING AUTHORITY**

On October 22, 2002, Roanoke Gas Company, ("Roanoke" or "the Company") filed an application with the State Corporation Commission ("Commission") under Chapter 3 of Title 56 of the Code of Virginia ("Code") requesting authority to issue long-term debt. The Company has paid the requisite fee of \$250.

Roanoke requests authority to incur up to \$8,000,000 in debt in the form of unsecured negotiable notes ("Notes"). The Company expects to issue the Notes in November of 2002. The Notes will have a thirty-six month maturity. The interest rate on the Notes will be established at the time of issuance and is expected to have a variable rate equal to the 30-day London InterBank Offered Rate ("LIBOR") plus 100 basis points. The proceeds will be used to retire short-term debt.

In its application, Roanoke has also indicated that it will enter into an interest rate swap agreement to fix the interest rate on the Notes.<sup>1</sup> In a letter dated November 1, 2002, to our Staff, the Company indicated that the specifics of the swap agreement will not be known until execution.

THE COMMISSION, upon consideration of the application and having been advised by its Staff, is of the opinion and finds that approval of the application will not be detrimental to the public interest. Additionally, the Commission will treat the Company's application as a request to enter into an interest rate swap agreement. We are, however, troubled by the lack of detail concerning the interest rate swap agreement, so we will grant approval to enter into the interest rate swap agreement under the following conditions. First, the notional principal of the interest rate swap agreement must equal the principal amount of the Notes. Secondly, the tenor of the interest rate swap agreement must equal the maturity of the Notes. Third, the index used to determine the interest rate on the Notes must be the same index used to determine the floating rate embedded in the interest rate swap agreement. Lastly, the fixed rate portion of the interest rate swap agreement must not exceed 200 basis points over a Treasury note with a maturity comparable to the tenor of the interest rate swap agreement at the time the swap is executed. Accordingly,

IT IS ORDERED THAT:

1) Roanoke is hereby authorized to incur up to \$8,000,000 in long-term indebtedness in the form of unsecured notes, under the terms and conditions and for the purposes set forth in the application.

2) Roanoke is authorized to enter into an interest rate swap agreement for the purposes of establishing a fixed interest rate on the Notes authorized herein, under the terms and conditions set forth herein.

3) That on or before December 31, 2002, Roanoke shall file a report of action to include the type of debt issued, the date of issuance, the amount of issuance, the applicable interest rate at the time of issuance and the index used to determine such rate, the maturity date, the interest payment cycle, and net proceeds to the Company.

4) Within 10 days of execution of the interest rate swap agreement, Roanoke shall file a report of action to include details concerning the swap agreement including the notional principal amount, the execution date, the tenor, the fixed and floating interest rates for the first payment period, the index used to determine the floating rate, and the frequency of payments.

5) The authority granted herein shall have no implications for ratemaking purposes.

6) This matter shall remain under the continued review, audit and appropriate directive of the Commission.

<sup>1</sup> By Order dated November 24, 1997, in Case No. PUF-1997-00019, the Commission found that interest rate swap agreements constitute securities, as defined by § 56-55 of the Code, and are subject to Commission regulation.

**CASE NO. PUE-2002-00574  
NOVEMBER 6, 2002**

PETITION OF  
VIRGINIA ELECTRIC AND POWER COMPANY  
and  
DRESDEN ENERGY, LLC

For an exemption from the filing and prior approval requirements of § 56-77 of the Code of Virginia or, in the alternative, for interim authority and final approval of transfer among affiliates under Chapter 4 of Title 56 of the Code of Virginia and for expedited consideration

**ORDER GRANTING APPROVAL**

On October 31, 2002, Virginia Electric and Power Company ("Dominion Virginia Power" or the "Company") and Dresden Energy, LLC ("Dresden") (collectively, the "Petitioners"), filed a petition with the State Corporation Commission ("Commission") requesting an exemption from the filing and prior approval requirements of § 56-77 of the Code of Virginia (the "Code") or, in the alternative, for approval of Dresden's transfer of control system circuit boards to Dominion Virginia Power for use at the Company's Unit 6 under construction at its Possum Point Power Station ("Possum Point").

Dominion Virginia Power is a Virginia public service company providing electric service to customers in its service territory in Virginia and North Carolina. The Company is the sublessee and operator of Unit 6 at Possum Point in Dumfries, Virginia. The Company is a wholly owned direct subsidiary of Dominion Resources, Inc. ("Dominion"). Dominion is a holding company subject to regulation by the Securities and Exchange Commission pursuant to the Public Utility Holding Company Act of 1935 ("1935 Act").

Dresden is a Delaware limited liability company that subleases the Dresden Generation Facility, an approximately 669 MW facility located in the Dresden Township in Ohio. Dresden is an indirect subsidiary of Dominion and is an exempt wholesale generator for purposes of the 1935 Act.

On June 16, 2000, Dominion Virginia Power filed an application with the Commission for approval to reconfigure existing power plants and construct a new generating facility at Possum Point (the "Project"). The Commission approved the Project in its Final Order dated March 12, 2001. The Project is currently under construction and is approximately 80% complete.

Vandalism that destroyed the Mark VI control system on Gas Turbine 6A occurred at the Possum Point Unit 6 between October 22 and October 23, 2002. Liquid was poured on the circuit boards; the unit was energized; and as a result, the circuit boards short-circuited.

Dominion Virginia Power has scheduled the initial operation of the gas turbines for the Project for mid-January 2003. At the time of the vandalism, the Company was in its final checks and hot loop tests of the now destroyed Mark VI control system. The Company states that the control system is necessary to support the operation of the gas turbines. Based on Dominion Virginia Power's detailed project schedule, the Company's commercial operation date of May 1, 2003, may be delayed if the Mark VI control system is not replaced in the next several days.

Dominion Virginia Power, therefore, requests approval to procure the control system circuit boards from its affiliate, Dresden, and to transport that control system to Possum Point. Dominion Virginia Power will not pay Dresden for that part, but it will replace such part after it receives delivery of the order from an outside vendor. The Company ordered a Mark VI panel (including the required 61 circuit boards) from an outside vendor with a delivery date of January 1, 2003, and will pay such vendor the quoted price of \$375,000.

Dominion Virginia Power states that it considered the following options:

- (1) Dominion Virginia Power could buy the replacement control system circuit boards from an outside vendor. The vendor provided the Company with a quotation of \$375,000 with a 21-week lead-time for delivery. This option would cause the Company to incur significant Project delay costs. Dominion Virginia Power also consulted the RAPID (Readily Accessible Parts Information Directory) system to determine availability of the equipment from other utilities, but the equipment was not available.
- (2) The Company could use spare circuit boards from its warehouse; however, the Company only has three circuit boards in stock. The Project requires 61 circuit boards for replacement.
- (3) Dominion Virginia Power could procure 61 circuit boards from Dresden and transport them to Possum Point. Dominion Virginia Power would then replace those parts with the Mark VI panel ordered from an outside vendor.

After considering such options, the Company determined that the request detailed herein was its most viable option.

THE COMMISSION, upon consideration of the petition and representations of the Petitioners and having been advised by its Staff, is of the opinion and finds that the requested exemption from the filing and prior approval requirements of § 56-77 of the Code would not be in the public interest and should be denied. We believe, however, based on representations made by the Petitioners, that the proposed procurement of the control system circuit boards by Dominion Virginia Power from Dresden is in the public interest and should, therefore, be approved. The issue of interim authority is, therefore, moot.

Accordingly, IT IS ORDERED THAT

- (1) Pursuant to § 56-77 of the Code, the requested exemption is hereby denied.
- (2) Pursuant to § 56-77 of the Code, Dominion Virginia Power is hereby granted approval to procure the control system circuit boards from Dresden under the terms and conditions and for the purposes as described herein.
- (3) The approval granted herein shall not preclude the Commission from exercising the provisions of §§ 56-78 and 56-80 of the Code hereafter.



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- (4) The Commission reserves the authority to examine the books and records of any affiliate in connection with the approval granted herein whether or not the Commission regulates such affiliate.
- (5) The approval granted herein shall have no ratemaking implications.
- (6) Company shall include the transaction approved herein in its Annual Report of Affiliate Transactions to be submitted to the Director of Public Utility Accounting of the Commission by no later than May 1 of each year for the preceding calendar year, subject to extension by the Director of Public Utility Accounting of the Commission.
- (7) If Annual Informational and/or General Rate Case Filings are not based on a calendar year, then Dominion Virginia Power shall include the affiliate information contained in the Annual Report of Affiliate Transactions in such filings.
- (8) There appearing nothing further to be done in this matter, it hereby is dismissed.

**CASE NO. PUE-2002-00576  
NOVEMBER 6, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION  
HARRY M. LANTZ  
v.  
MONTVALE WATER, INC.

**PRELIMINARY ORDER**

By notice dated August 20, 2002, pursuant to the Small Water or Sewer Public Utility Act (§ 56-265.13:1 *et seq.* of the Code of Virginia ("Code")), Montvale Water, Inc. ("Montvale" or the "Company"), notified its customers and the Commission's Division of Energy Regulation (the "Division") of its intent to increase its rates and fees effective for service rendered on and after November 1, 2002.

By November 1, 2002, the Division had received objections to the proposed rate increase from 77 customers, or approximately thirty-two percent (32%) of Montvale customers.

NOW THE COMMISSION, having considered the matter, is of the opinion, pursuant to § 56-265.13:6 of the Code, that a hearing should be scheduled on Montvale's proposed rate increase and that the Company's proposed rates and fees should be declared interim and subject to refund. We find that Montvale should file certain financial documents for its operations on or before December 2, 2002. A procedural schedule establishing, among other things, the date of the hearing will be by separate order of the Commission.

Accordingly, IT IS ORDERED THAT:

- (1) This matter shall be docketed and assigned Case No. PUE-2002-00576.
- (2) Pursuant to § 56-265.13:6 of the Code, Montvale may implement its proposed rates and fees on an interim basis, subject to refund with interest, until such time as the Commission has made a final determination in this proceeding.
- (3) On or before December 2, 2002, Montvale shall submit certain financial information to the Commission's Division of Public Utility Accounting. Such information shall include an income statement, balance sheet, customer consumption by month, cash flow statement based on utility operations for the calendar year ending December 31, 2001, the Company's most recent federal income tax return, and a rate of return statement, with work papers supporting all proposed adjustments to book amounts, which support the Company's proposed rate increase as required by the Commission's Rules Implementing the Small Water and Sewer Public Utility Act (20 VAC 5-200-40 *et seq.*).
- (4) This matter shall be continued subject to further order of the Commission.

**CASE NO. PUE-2002-00645  
DECEMBER 23, 2002**

At the relation of the  
STATE CORPORATION COMMISSION

Ex Parte: In the matter concerning the provision of default service to retail customers under the provisions of the Virginia Electric Utility Restructuring Act

**ORDER ESTABLISHING INVESTIGATION**

Section 56-585 of the Virginia Electric Utility Restructuring Act ("Restructuring Act" or "Act"), (§ 56-576 *et seq.* of Title 56 of the Code of Virginia), directs the State Corporation Commission ("Commission") to determine the components of default service and establish one or more programs

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

making such services available to retail customers, effective upon commencement of customer choice for all retail customers.<sup>1</sup> Default service, as defined in the Act, means service made available to retail customers who (i) do not affirmatively select a supplier, (ii) are unable to obtain service from an alternative supplier, or (iii) have contracted with an alternative supplier who fails to perform.

The Commission is of the opinion that the Staff of the Commission ("Staff") should invite representatives of incumbent electric utilities, competitive service providers, retail customers and other interested parties to participate in a work group that will assist the Staff in developing recommendations to the Commission regarding the components of default service and the establishment of one or more programs making such services available to retail customers in furtherance of our statutory obligations under § 56-585 of the Act.

While the Staff and work group members may identify a number of issues for consideration, we particularly seek input and recommendations on the following in order to frame the work group discussion:

- (1) What should be the specific components of default service;
- (2) Whether, given the virtual absence of competition in Virginia's retail generation market, incumbent electric utilities should continue to provide default service at capped rates at the present time; if so, what changes in statute, policy, infrastructure, market conditions, and/or other circumstances are necessary to allow for the practical provision of default service by an entity other than the incumbent?
- (3) What should be the geographic scope of a default service provider's territory, i.e. statewide, incumbent utility service territory, regions served by specific regional transmission entities; divisions with an incumbent utility's service territory; major metropolitan and surrounding areas, etc.;
- (4) Whether default service, as contemplated by § 56-585 of the Act, should be limited to unregulated services, i.e. is it necessary to designate distribution service as a default service;
- (5) For generation-related default service, whether the separate components of generation service to retail customers (capacity or resource reservation, energy, transmission, and ancillary services) should be treated as separate default services or bundled into a single service;
- (6) For generation-related default service, whether the service should be delivered to the retail customer or to the incumbent utility;
- (7) Whether the language of the statute prohibits the provision of default service to an incumbent utility on behalf of a group of customers, i.e. could a third party provide service to an incumbent utility for indirect service to retail customers (service to satisfy load growth, specific localities, or to customer subgroups);
- (8) Whether the provision of default services should differ by customer class;
- (9) Whether different components of default service can be provided by different suppliers;
- (10) Whether default service has the same meaning for different classes of customers, i.e., those who do not affirmatively select a supplier, those who are unable to obtain service from an alternative supplier, or those who have contracted with an alternative supplier who fails to perform;
- (11) How should charges for default service be collected;
- (12) Whether metering, billing and collecting services should be deemed components of default service; and
- (13) What implications would the alternative provision of default service have for the determination of wires charges?

We recognize that the issues enumerated above predominantly address the determination of the components of default service pursuant to § 56-585 A of the Restructuring Act. Once these components have been established, we will solicit input from interested parties on the designation of providers of default service pursuant to § 56-585 B of the Act.

Accordingly, IT IS ORDERED THAT:

- (1) This matter is docketed and assigned Case No. PUE-2002-00645.
- (2) The Commission Staff shall forthwith invite representatives of incumbent electric utilities, competitive suppliers, retail customers and other interested parties to participate in a work group to assist the Staff in determining the components of default service in furtherance of the Commission's obligations under § 56-585 of the Restructuring Act. The first work group session shall be held in the Commission's third floor training room on March 4, 2003, at 9:30 a.m. The Staff may schedule further work group meetings as necessary and appropriate.
- (3) On or before January 21, 2003, persons with an interest in this proceeding, including those already on the service list for this Order, who desire to remain on or be added to the service list for future filings and orders in this docket shall file with the Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218, a statement of such interest.
- (4) On or before February 7, 2003, interested parties may file with the Clerk of the Commission in this docket an original and fifteen (15) copies of any comments on the Commission's determination of the components of default service. Comments shall, at a minimum, address the questions enumerated in this Order.

<sup>1</sup> Pursuant to the provisions of § 56-577 A 4, retail customer choice of generation provider must be available in the service territories of all Virginia electric utilities by January 1, 2004. It should also be noted that pursuant to § 56-585 C 1, when default service is provided by incumbent utilities, rates for that service will be such incumbents' capped rates under § 56-582 of the Act until the expiration or termination of such capped rates.

- (5) On or before May 1, 2003, the Staff shall file a report including recommendations on the determination of the components of default service and for establishing appropriate programs for making such services available to retail customers.
- (6) On or before May 16, 2003, interested parties may file any comments or requests for hearing on the Staff's Report.
- (7) This matter is continued for further orders of the Commission.

**CASE NO. PUE-2002-00650  
DECEMBER 19, 2002**

APPLICATION OF  
ATMOS ENERGY CORPORATION

For authority to incur short-term indebtedness and to lend short-term funds to affiliates

**ORDER GRANTING AUTHORITY**

On November 25, 2002, Atmos Energy Corporation ("Atmos" or "Applicant") filed with the State Corporation Commission ("Commission") an application under Chapters 3 and 4 of Title 56 of the Code of Virginia, Va. Code §§ 56-55 et seq. and 56-76 et seq., requesting authority to incur short-term indebtedness up to a maximum of \$500,000,000 at any time between January 1, 2003, and December 31, 2003. The amount of short-term debt requested in the application is in excess of twelve percent ("12%") of total capitalization as defined in § 56-65.1 of the Code of Virginia. Atmos also requests authority to lend short-term funds to affiliates in an amount not to exceed \$100,000,000 at any one time. Applicant paid the requisite fee of \$250.

Atmos proposes to borrow short-term indebtedness by making drawdowns under existing credit facilities or through the use of its commercial paper program. Under the credit facilities, the interest rate may be negotiated at the time of drawdown or based on the then prevailing London InterBank Offered Rate ("LIBOR"). Under the commercial paper program, the interest rate is set daily based on market conditions. The interest rate on the proposed affiliate transactions will be based on Atmos' borrowing rate plus a mark-up. The affiliate that may borrow funds as a first tier company at Atmos' cost plus 25 basis points is Atmos Energy Holdings, Inc. Second tier borrowers will pay Atmos' cost plus 50 basis points, and those affiliates are primarily composed of the non-regulated entities of Atmos Pipeline and Storage, LLC., Atmos Power Systems, Inc., Atmos Energy Services, LLC., Atmos Energy Marketing, LLC., and Woodward Marketing LLC., a wholly owned subsidiary of Atmos Energy Marketing, LLC. No single unregulated affiliate will borrow more than \$100,000,000 at any one time. Collectively, the requested amount to be borrowed by all unregulated affiliates of Atmos at any one time will not exceed \$100,000,000 during the authorization period. Applicant states that in no event will the rate be less than Atmos' then effective borrowing rate.

Applicant states that the funds will be used to provide working capital for the extension, improvement, construction, and/or acquisition of facilities until market conditions are appropriate for entering into a long-term financing arrangement.

THE COMMISSION, upon consideration of the application and having been advised by its Staff, is of the opinion and finds that approval of the application will not be detrimental to the public interest. Accordingly,

IT IS ORDERED THAT:

- 1) Applicant is hereby authorized to incur short-term indebtedness in excess of twelve percent (12%) of total capitalization, provided that such debt does not exceed \$500,000,000 at any one time between January 1, 2003, and December 31, 2003. Such authority is granted subject to the terms and conditions and for the purposes set forth in the application.
- 2) Applicant is hereby authorized to lend and borrow short-term debt between it and its subsidiaries up to an aggregate amount of \$100,000,000 between January 1, 2003, and December 31, 2003, under the terms and conditions and for the purposes set forth in the application.
- 3) Applicant shall file with the Commission quarterly reports of action regarding its short-term debt within 45 days of the end of each calendar quarter. Such reports shall include a monthly schedule of daily short-term borrowings, average monthly I balance, average monthly interest rate, and the monthly maximum amount of short-term debt outstanding. Such reports shall also describe the source, amount, date, interest rate, and the schedule of repayment for each affiliate loan or borrowing.
- 4) Applicant shall submit to the Commission a final report of action on or before February 28, 2004, providing the information from ordering paragraph (3) above for the fourth calendar quarter of 2003. The Final Report of Action shall also include a summary schedule of fees paid by Atmos in 2003 for each line of credit, credit facility, or bank facility or loan, with dates of origination and maturity for each facility in effect during 2003.
- 5) The authority granted herein shall not preclude the Commission from applying the provisions of §§ 56-78 and 56-79 of the Code of Virginia hereafter.
- 6) The Commission reserves the right pursuant to § 56-80 of the Code of Virginia to examine the books and records of any affiliate in connection with the authority granted herein, whether or not such affiliate is regulated by this Commission.
- 7) Approval of this application shall have no implications for ratemaking purposes.
- 8) Should Applicant wish to obtain authority beyond calendar year 2003, it shall file an application requesting such authority no later than November 18, 2003. Such application shall also include a detailed discussion of the interest rate pricing mechanism used to determine the basis point mark-up of the first and second tier affiliates.
- 9) This matter shall remain under the continued review, audit, and appropriate directive of the Commission.

**CASE NO. PUE-2002-00655  
DECEMBER 23, 2002**

APPLICATION OF  
VIRGINIA ELECTRIC AND POWER COMPANY

For authority to issue common stock

**ORDER GRANTING AUTHORITY**

On December 11, 2002, Virginia Electric and Power Company, ("Virginia Power" or "the Company") filed an application with the State Corporation Commission ("Commission") under Chapters 3 and 4 of Title 56 of the Code of Virginia ("Code") requesting authority to issue common stock. The Company has paid the requisite fee of \$250.

Virginia Power requests authority to issue and sell up to \$200,000,000 in common stock to its parent, Dominion Resources, Inc. ("DRI") on or before December 31, 2004. The Company expects an initial issuance of shares to occur on or before December 31, 2002. Virginia Power states that the issuance and sale of the common stock will enable it to meet its target capitalization ratios and further notes that Virginia Power has not issued common stock since 1994. The proceeds will be used to retire short-term debt, including outstanding commercial paper and to otherwise fund its capital requirements.

THE COMMISSION, upon consideration of the application and having been advised by its Staff, is of the opinion and finds that approval of the application will not be detrimental to the public interest. Accordingly,

**IT IS ORDERED THAT:**

- 1) Virginia Power is authorized to issue and sell up to \$200,000,000 in common stock to DRI through December 31, 2004, under the terms and conditions and for the purposes set forth in the application.
- 2) That within 10 days of the issuance of common stock, Virginia Power shall file a report of action to include the amount of common stock issued, the date of such issuance and the use of the proceeds from the issuance.
- 3) On or before February 28, 2005, Virginia Power shall file a final report of action to include a summary of the information contained in order paragraph 2.
- 4) The authority granted herein shall have no implications for ratemaking purposes.
- 5) This matter shall remain under the continued review, audit and appropriate directive of the Commission.

**DIVISION OF ECONOMICS AND FINANCE****CASE NO. PUF990033  
FEBRUARY 14, 2002**

APPLICATION OF  
VIRGINIA ELECTRIC AND POWER COMPANY

For authority to issue Extendible Commercial Notes

**ORDER EXTENDING AUTHORITY GRANTED**

On December 9, 1999, the Virginia State Corporation Commission ("Commission") issued an Order Granting Authority that authorized Virginia Electric and Power Company ("Virginia Power" or "Applicant") to issue and sell up to \$200,000,000 in senior unsecured notes designated as Extendible Commercial Notes ("ECNs") through December 31, 2001. By letter dated December 28, 2001 ("Letter"), Applicant requested that the time period of the authority in this case be extended for another two-year period, to December 31, 2003. Virginia Power noted in the Letter that it had not issued any ECNs under the existing authority.

As described in Applicant's original application, the ECNs will be issued in denominations of \$250,000 and integral multiples of \$1,000 in excess of \$250,000. Each ECN will have a set maturity of 390 days and an initial redemption date set at not more than 90 days from the date of issuance. Each ECN will be sold at a discount rate based on market conditions at the time of the sale. If Virginia Power does not redeem the ECN at the initial redemption date, the ECN will accrue interest during the extended period at a pre-determined spread over the London Interbank Offering Rate (LIBOR). Each ECN would be redeemable at any time during the extended period upon written notice.

THE COMMISSION, upon consideration of the matter and having been advised by its Staff, is of the opinion and finds that extending the time period of authority in this case will not be detrimental to the public interest. We will also require the Applicant to file further reports of action.

Accordingly, IT IS ORDERED THAT:

- 1) The authority granted in the case shall be extended to December 31, 2003.
- 2) Ordering paragraph (3) in our December 9, 1999, Order shall be modified to read, "On or before January 31, 2003, and January 31, 2004, Applicant shall file a report of action for the ECN program for the previous calendar year. Such report shall contain, for each month, the monthly average outstanding balance of ECNs, the monthly average discount rate and interest rate beyond the initial redemption date, and Applicant's comparable commercial paper rate.
- 3) All other provisions of the December 9, 1999, Order shall remain in full force.

**CASE NO. PUF000027  
MARCH 15, 2002**

APPLICATION OF  
APPALACHIAN POWER COMPANY d/b/a AMERICAN ELECTRIC POWER

For authority to factor its accounts receivables to an affiliate

**ORDER EXTENDING THE AUTHORITY GRANTED**

On August 30, 2000, Appalachian Power Company d/b/a American Electric Power Company ("AEP-VA" or "Company") filed an application with the Virginia State Corporation Commission ("Commission") under Chapter 4 of Title 56 of the Code of Virginia. In its application, AEP-VA proposed to factor its accounts receivables to its affiliate, CSW Credit, Inc. ("Credit").

By Order dated October 20, 2000, AEP-VA was authorized to sell its accounts receivables to Credit, or a successor company, under the terms and conditions and for the purposes as set forth in its application. The authority was granted through March 29, 2002, unless extended by the Commission. The Commission's October 18, 2000 Order also directed AEP-VA to file a report of action on or before February 28, 2002.

AEP-VA filed its report of action as directed in the Commission's October 20, 2000 Order. According to the report of action, AEP-VA was able to realize financing savings as a result of the factoring program with Credit. As such, the Company requests that the authority to factor its accounts receivables be continued until March 31, 2007.

THE COMMISSION, upon consideration of the report of action and having been advised by its Staff, is of the opinion and finds that extending the period in which the Company is authorized to factor its accounts receivables to March 31, 2007, will not be detrimental to the public interest.

Accordingly, IT IS ORDERED THAT:

- 1) AEP-VA is authorized to factor its accounts receivables to Credit, or a successor company, under the terms and conditions and for the purposes as detailed in its August 20, 2000 application.

- 2) The authority granted herein shall expire on March 31, 2007.
- 3) The authority granted herein shall have no implications for ratemaking purposes.
- 4) Approval of the application shall not preclude the Commission from applying the provisions of § 56-78 and § 56-80 of the Code of Virginia hereafter.
- 5) The Commission reserves the right to examine the books and records of any affiliate in connection with the authority granted herein, whether or not such affiliate is regulated by this Commission.
- 6) AEP-VA shall include in its Annual Affiliate Report filed with the Division of Public Utility Accounting details concerning its accounts receivables program. Such details shall include, on a monthly basis, the amount of accounts receivables it factored to Credit, the average discount factor, and its average cost of short-term debt for the prior calendar year.
- 7) This matter is hereby dismissed.

**CASE NO. PUF-2001-00023  
AUGUST 16, 2002**

APPLICATION OF  
KENTUCKY UTILITIES COMPANY D/B/A OLD DOMINION POWER COMPANY,  
LOUISVILLE GAS & ELECTRIC COMPANY,  
LG&E ENERGY SERVICES, INC.,  
LG&E ENERGY CORP., E.ON AG,  
E.ON NORTH AMERICA INC.,  
and  
FIDELIA, INC.

For authority to incur short-term indebtedness and participate in a Money Pool

**ORDER AMENDING AUTHORITY GRANTED**

By Commission Order dated November 9, 2001, Kentucky Utilities Company d/b/a Old Dominion Power Company ("KU") was granted authority to incur short-term indebtedness ("Borrowings") and to participate in a system money pool ("Utility Money Pool") with Louisville Gas and Electric Company ("LG&E"), LG&E Energy Services, Inc. ("LG&E Services"), and LG&E Energy Corp. ("LG&E Energy") (collectively, including KU, "Original Applicants") More specifically, the Commission authorized KU to incur Borrowings not to exceed the aggregate principal amount of \$250,000,000, through the period ending December 31, 2002, all under the terms and conditions and for the purposes set forth in its application.

By letter filed July 26, 2002, Original Applicants in conjunction with E.ON Aktiengesellschaft ("E.ON AG"), E.ON North America ("E.ON NA"), and Fidelity, inc. ("Fidelity") (collectively, "Applicants"), requested two amendments to the authority granted in this case. The first proposed amendment is to authorize E.ON AG, E.ON NA, and Fidelity to participate in the Money Pool as lender-only members. The second proposed amendment is to revise the current interest rate calculation approved for money pool transactions.

Presently, the interest rate for money pool transactions is calculated for the daily outstanding balance of all loans based on whether the funds are provided from internal funds only, external funds only, or a combination of the two. The rate for internal funds is the interest rate for high-grade unsecured 30-day commercial paper of major corporations sold through dealers quoted in The Wall Street Journal ("Internal Rate"). The external funds rate is the weighted average cost of the external funds incurred by the Money Pool lenders ("External Rate"). A weighted average of the Internal Rate and the External Rate is used when both sources of funds are employed.

Applicants request that the Money Pool rate calculation be amended as follows:

The daily outstanding balance of all loans to any Utility Subsidiary during a calendar month shall accrue interest at the rates for high-grade unsecured 30-day commercial paper of major corporations sold through dealers as quoted in The Wall Street Journal (the "Average Composite") on the last business day of the prior calendar month, plus an at-cost allocation of LG&E Services' cost of managing the Utility Money Pool.

THE COMMISSION, upon consideration of the application and having been advised by Staff, is of the opinion and finds that approval of the application will not be detrimental to the public interest. Accordingly,

IT IS ORDERED THAT:

- 1) E.ON AG, E.ON NA, and Fidelity are hereby granted authority to participate as lender-only members in the Utility Money Pool.
- 2) The interest rate calculation for the Utility Money Pool is hereby revised to be the rate for high-grade unsecured 30-day commercial paper of major corporations sold through dealers as quoted in The Wall Street Journal on the last business day of the prior month, plus an at-cost allocation of LG&E Services' cost of managing the Utility Money Pool.

- 3) All other provisions of the Commission's Order dated November 9, 2001, shall remain in full force and effect.
- 4) This matter shall be continued, subject to the continued review, audit, and appropriate directive of the Commission.

**CASE NO. PUF-2001-00033  
AUGUST 20, 2002**

APPLICATION OF  
APPALACHIAN POWER COMPANY

For authority to issue long-term debt

**ORDER AMENDING AUTHORITY GRANTED**

On December 20, 2001, the Virginia State Corporation Commission ("Commission") issued an Order Granting Authority that authorized Appalachian Power Company ("Appalachian" or "Applicant") to issue: 1) up to \$450,000,000 in secured or unsecured promissory notes from time to time through December 31, 2002; 2) \$10,000,000 in Mason County Series L pollution control bonds on or before January 1, 2003; 3) \$40,000,000 in Mason County Series M pollution control bonds on or before January 1, 2003; 4) \$50,000,000 in Mason County Series N pollution control bonds on or before January 1, 2003; 5) \$17,500,000 in Russell County Series I pollution control bonds on or before January 1, 2003; and 6) \$30,000,000 in Putnam County Series E pollution control bonds on or before January 1, 2003. Applicant was also authorized to enter into interest hedging agreements associated with the proposed financings.

By letter dated August 8, 2002 ("Letter"), Appalachian stated that it issued \$450,000,000 of unsecured debt on June 18, 2002, but that it had additional capital requirements of \$200,000,000. In the Letter, Applicant requests that the Commission amend the authority granted in the December 20, 2001, Order Granting Authority to permit the issuance of an additional \$200,000,000. According to the Applicant, these funds would be used for capital expenditures and other general corporate purposes including construction and the repayment of short-term debt.

THE COMMISSION, upon consideration of the application and the advice of its Staff, is of the opinion and finds that authorizing an additional \$200,000,000 in long-term debt in this case will not be detrimental to the public interest.

Accordingly, IT IS ORDERED THAT:

- 1) The authority granted in this case shall be amended to allow an additional \$200,000,000 in long-term borrowings in the form of secured or unsecured promissory notes, under the terms and conditions as stated in the original application, provided that the maximum amount of notes issued pursuant to this authority does not exceed \$650,000,000.
- 2) All other provisions of the December 20, 2001, Order shall remain in full force and effect.

**CASE NO. PUF010034  
JANUARY 11, 2002**

APPLICATION OF  
ATMOS ENERGY CORPORATION

For authority to issue common equity, long-term debt, and short-term debt

**ORDER GRANTING AUTHORITY**

On December 19, 2001, Atmos Energy Corporation ("Atmos" or "Applicant") filed with the State Corporation Commission ("Commission") an application under Chapter 3 of Title 56 of the Code of Virginia requesting authority to issue common stock, long-term debt, and short-term debt. The amount of short-term debt requested in the application is in excess of twelve percent ("12%") of total capitalization as defined in § 56-65.1 of the Code of Virginia. Applicant paid the requisite fee of \$250.

On September 21, 2001, Atmos entered into a merger agreement with Mississippi Valley Gas Company ("MVGC") whereby MVGC will cease to exist, and Atmos will continue as the surviving entity. Pursuant to the terms of the agreement, Atmos will pay to the shareholders of MVGC \$150,000,000 for 100% of the issued and outstanding stock of MVGC. This amount is payable 50% in cash and 50% in Atmos common stock to be issued to the existing shareholders of MVGC.

In the current application, Atmos requests authority to issue up to \$75,000,000 in common stock to facilitate the purchase of MVGC, to assume up to \$55,000,000 in long-term debt of MVGC, and to incur short-term indebtedness totaling no more than \$520,000,000 during the period January 1, 2002, through December 31, 2002.

The actual number of shares of Atmos common stock to be issued cannot be precisely determined until at or around closing. The number of shares will be determined by dividing 50% of the purchase price by the average of the closing prices per share of Atmos for the 20 trading days ending on the date that is five trading days prior to the closing date, subject to a minimum price of \$17.65 per share.

The total amount of MVGC long-term debt to be assumed by Atmos reflects the current outstanding level of \$45,000,000, plus approximately \$10,000,000 of short-term debt that MVGC intends to refinance with long-term debt. The rates on the outstanding debt range from 6.41% to 8.14%. If

Atmos is unable to secure lender consent for the assumptions, or if Atmos otherwise elects to refinance the MVGC debt by issuing its own long-term debt, the Company asserts that the terms of such financing would be equal to or more favorable than the terms of the existing debt of MVGC. The assumption of debt and the issuance of stock would be at or around the closing date of the merger transaction, which is expected to occur within 6 to 12 months after the signing of the merger agreement on September 21, 2001.

The Company's proposal with respect to short-term debt reflects a \$100,000,000 increase over its currently authorized limit. According to the Company, the increase would be used to fund the cash portion of the purchase price of approximately \$75,000,000 and/or to retire the MVGC long-term debt or portions thereof.

In Case No. PUF010014, Atmos was authorized to issue short-term debt in excess of 12% of capitalization in an aggregate amount not to exceed \$420,000,000 through June 30, 2002. In that case, Atmos was also authorized to lend and borrow short-term debt between it and its subsidiaries up to an aggregate amount of \$100,000,000 through June 30, 2002.

THE COMMISSION, upon consideration of the application and having been advised by its Staff, is of the opinion and finds that approval of the application will not be detrimental to the public interest. In the current case, Atmos requested a change in its total outstanding short-term debt authority, but it did not request any change with respect to the affiliate loans and/or borrowings authorized in Case No. PUF010014. However, such authority will cease after June 30, 2002, while the increased total short-term debt authority will continue until December 31, 2002. To make the dates of short-term debt authority consistent, it is prudent to extend the expiration date for the authority granted in Case No. PUF010014 to December 31, 2002. Accordingly,

IT IS ORDERED THAT:

1) Applicant is hereby authorized to issue up to \$75,000,000 in common stock to facilitate the purchase of MVGC, to assume up to \$55,000,000 in long-term debt of MVGC, and to incur short-term indebtedness in excess of 12% of capitalization, provided that such debt does not exceed \$520,000,000 at any one time from the date of this Order through December 31, 2002. Such authority is granted subject to the terms and conditions and for the purposes set forth in the application and the provision that issuance of any long-term debt for the purpose of refunding outstanding securities of MVGC does not result in additional interest costs to Applicant.

2) Applicant is hereby authorized to lend and borrow short-term debt between it and its subsidiaries up to an aggregate amount of \$100,000,000 between the date of this Order and December 31, 2002, under the terms and conditions and for the purposes set forth in the application. Such authority shall supersede the authority granted in Case No. PUF010014.

3) Applicant shall file quarterly reports of action regarding its short-term debt within 45 days of the end of each calendar quarter. Such reports shall include a monthly schedule of daily short-term borrowings, average monthly balance, average monthly interest rate, and the monthly maximum amount of short-term debt outstanding. Such reports shall also describe the source, amount, date, interest rate, and the schedule of repayment for each affiliate loan or borrowing.

4) Applicant shall submit a final report of action on or before February 28, 2003, to include the types of securities issued pursuant to this authority, the date(s) issued, the amount of the issues, and a balance sheet reflecting the actions taken. Such report shall also include a cost-benefit analysis for any securities issued for the purpose of refunding outstanding securities prior to maturity.

5) The authority granted herein shall not preclude the Commission from applying the provisions of §§ 56-78 and 56-80 of the Code of Virginia hereafter.

6) The Commission reserves the right pursuant to § 56-79 of the Code of Virginia to examine the books and records of any affiliate in connection with the authority granted herein, whether or not such affiliate is regulated by this Commission.

7) Approval of this application shall have no implications for ratemaking purposes.

8) This matter shall remain under the continued review, audit, and appropriate directive of the Commission.

**CASE NO. PUF020001  
JANUARY 24, 2002**

APPLICATION OF  
SOUTHSIDE ELECTRIC COOPERATIVE

For authority to borrow short-term debt through two lines of credit

**ORDER GRANTING AUTHORITY**

On January 7, 2002, Southside Electric Cooperative ("Southside" or "Applicant") filed an application with the Virginia State Corporation Commission ("Commission") under Chapter 3 of Title 56 of the Code of Virginia ("Code") for authority to borrow up to \$21,000,000 in short-term funds through two lines of credit. The amount of short-term debt authority requested in the application is in excess of 12% of total capitalization as defined in § 56-65.1 of the Code of Virginia. Applicant has paid the requisite fee of \$250.



Applicant represents that the short-term borrowing is needed to provide funds for Southside's construction work plan while it waits permanent financing from the Rural Utilities Service ("RUS"). Applicant states that it has received long-term funding approval for its 2001-2002 work plan from RUS, but RUS is experiencing delays in releasing the proceeds of such financing.<sup>1</sup>

Applicant anticipates executing a \$16,000,000, five-year line of credit with the National Rural Utilities Cooperative Finance Corporation ("CFC"). CFC will determine the interest rate, but the rate will not exceed the prevailing bank prime rate plus one percent. The line of credit will automatically renew for subsequent periods of twelve months for a term of no more than five years. Applicant's existing line of credit with CFC expires on January 24, 2002.

The other line of credit is with First Citizens Bank and Trust Company ("FCB"). Applicant signed a \$5,000,000 line of credit on October 30, 2001. Interest will be determined by the rate of the one-month London InterBank Offered Rate ("LIBOR") plus 1.20%. The FCB line of credit may be renewed annually at FCB's discretion. Applicant states that no borrowing has occurred on the FCB line of credit.

THE COMMISSION, upon consideration of the application and having been advised by its Staff, is of the opinion and finds that approval of the application will not be detrimental to the public interest.

Accordingly, IT IS ORDERED THAT:

1) Applicant is hereby authorized to enter into financial transactions to execute two lines of credit and to borrow up to \$21,000,000 in short-term debt all in the manner, under the terms and conditions, and for the purposes as set forth in the application.

2) Should Applicant seek to modify any terms or conditions or seek to increase or decrease the limit amounts of either line of credit approved herein, Applicant shall submit an application with the Commission at least 25 days prior to the effective date of the proposed change.

3) On or before March 1 of each year from 2003 through 2006, Applicant shall file an interim report of action concerning all short-term borrowings during the preceding calendar year. Such report shall include a schedule of all advances and repayments with the corresponding interest rates on advances, a schedule separately showing all commitment fees and prepayments fees, and a balance sheet as of December 31 for the respective calendar year.

4) On or before December 15, 2006, Applicant shall file a final report of action concerning all short-term borrowings from January 1, 2006, through November 30, 2006, and such report shall include a schedule of all advances and repayments with corresponding interest rates on advances, a schedule separately showing all commitment fees and prepayments fees, and the most recent monthly balance sheet.

5) Should Applicant wish to obtain authority under § 56-65.1 of the Code of Virginia beyond January 24, 2007, it shall file an application requesting such authority no later than December 20, 2006.

6) This matter shall remain subject to the continuing review, audit, and appropriate directive of the Commission.

<sup>1</sup> In Case No. PUF010012, pursuant to a Final Order dated June 20, 2001, Southside was authorized by the Commission to borrow up to \$20,000,000 in long-term debt from the RUS to provide permanent financing for its 2001-2002 work plan.

**CASE NO. PUF020002  
MARCH 15, 2002**

APPLICATION OF  
WASHINGTON GAS LIGHT COMPANY

For authority to amend its Money Pool Agreement

**ORDER GRANTING AUTHORITY**

On January 14, 2002, Washington Gas Light Company ("WGL" or "Applicant") filed an application with the Virginia State Corporation Commission ("Commission") pursuant to Chapter 4 of Title 56 of the Code of Virginia for authority to make certain amendments to the terms and conditions of a System Money Pool Agreement ("Agreement") to which WGL is a party.

Applicant's participation in the System Money Pool ("Money Pool") was approved by Commission Order dated October 23, 2000, in Case No. PUF000026. In that Order, WGL's participation in the Money Pool was limited to the terms and conditions and for the purposes set out in the application that included a copy of the Agreement as an attached exhibit. Ordering paragraph 3 of the Commission's Order dated October 23, 2000, further specified that WGL should file for amended authority prior to any changes in the terms and conditions of the Money Pool Agreement.

Applicant now requests authority to make two changes to the Agreement that WGL claims will ease the administration of Money Pool transactions and streamline the recording of Money Pool transactions. Applicant also proposes to amend the form of the money pool Note. WGL claims that the proposed changes to the form of the note will reduce Applicant's administrative burden and conform the Agreement to current business practice. Applicant represents that the proposed changes are consistent with the public interest because they will have no impact on Virginia ratepayers and they will simplify administration of the Money Pool.

THE COMMISSION, upon consideration of the application and having been advised by Staff, is of the opinion and finds that approval of the application will not be detrimental to the public interest.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

Accordingly, IT IS ORDERED THAT:

- 1) Applicant is authorized to participate in the Money Pool under the amended terms for Section 1.5(c) and Section 1.9 of the Agreement as set forth in the application.
- 2) Applicant is further authorized to amend the form of the Money Pool Note as set out in the application.
- 3) Prior to any subsequent changes in terms and conditions of the Agreement not authorized herein, Applicant shall file for amended authority to participate in the Money Pool.
- 4) Pursuant to § 56-65.1 of the Code of Virginia, Applicant shall file for separate authority for aggregate short-term debt from money pool and non-money pool borrowings to exceed twelve percent of total capitalization.
- 5) The approval granted herein for participation in the Money Pool shall not preclude the Commission from exercising its authority under the provisions of §§ 56-78 through 56-80 of the Code of Virginia hereafter.
- 6) The Commission reserves the right to examine the books and records of any affiliate, whether or not such affiliate is regulated by this Commission, in connection with the authority granted herein.
- 7) There being nothing further to consider in this matter, it hereby is dismissed.

**CASE NO. PUF020003  
FEBRUARY 26, 2002**

APPLICATION OF  
DELMARVA POWER AND LIGHT COMPANY

For authority to borrow up to \$275 million in short-term indebtedness through a money pool

**ORDER GRANTING AUTHORITY**

On February 1, 2002, Delmarva Power and Light Company ("Delmarva", or "Applicant") filed an application with the Virginia State Corporation Commission ("Commission") under Chapters 3 and 4 of Title 56 of the Code of Virginia requesting authority to incur short-term indebtedness from the capital markets or through a system money pool agreement with its parent, Conectiv ("Conectiv System Money Pool"). The amount of short-term debt proposed in this application is in excess of twelve percent of total capitalization as defined in § 56-65.1 of the Code of Virginia. Applicant has paid the requisite fee of \$250.

Applicant requests ongoing authority to borrow short-term debt up to \$275,000,000 through March 31, 2004. Applicant requests authority to borrow either directly from the capital markets or through Conectiv's System Money Pool which is currently being administered by Conectiv Resource Partners Inc., also a wholly owned subsidiary of Conectiv. The proposed short-term indebtedness will be in the form of demand notes to the Conectiv System Money Pool and/or bank notes or commercial paper issued directly by Delmarva. Conectiv may issue commercial paper on behalf of the Conectiv System Money Pool, and Conectiv Resource Partners, Inc., will provide cash management services on behalf of the Applicant and various Conectiv subsidiaries. Applicant states that such affiliate borrowings were most recently authorized in Case No. PUF990032 by Commission orders dated December 15, 1999, January 27, 2000, and October 10, 2000. Interest rates will vary depending on market conditions.

By Order dated November 1, 2001, in Case No. PUA010021, the Commission approved the merger between the Applicant, Potomac Electric Power Company ("Pepco"), and New RC, Inc. ("New RC"). Applicant states that once the merger becomes effective, New RC intends as soon as practical to establish a new system money pool ("Successor System Money Pool"). The Conectiv System Money Pool will then be terminated. Applicant states that the Successor System Money Pool will be administered by a New RC subsidiary (Conectiv Resource Partners Inc., or a successor) in substantially the same manner as the Conectiv System Money Pool. Applicant wishes to be able to transition from the Delmarva System Money Pool to the Successor System Money Pool without interruption.

Applicant states that the short-term borrowings will be used to meet temporary working capital requirements and as interim or bridge financings to meet long-term capital requirements as well as other proper corporate purposes.

THE COMMISSION, upon consideration of the application and having been advised by its Staff, is of the opinion and finds that approval of the application will not be detrimental to the public interest. However, the authority granted herein should be limited for the Successor System Money Pool as detailed below.

We are aware that on January 11, 2002, New RC filed with the Securities and Exchange Commission ("SEC") Form U-1/A Post-Effective Amendment No. 1 in File No. 70-9947 wherein it requested changes to the Conectiv System Money Pool and the Successor System Money Pool. These changes may be materially different from the terms and conditions in the Conectiv System Money Pool. We, therefore, believe that the authority granted herein should be conditioned on Delmarva filing an application seeking authority to continue participation in the Successor System Money Pool within 30 days of any SEC Order in File No. 70-9947 approving the Successor System Money Pool. We also find that the authority granted in Case No. PUF990032 should be terminated and superceded by the approval granted herein.

Accordingly, IT IS ORDERED THAT:

- 1) The authority granted in Case No. PUF990032 is hereby terminated and superceded by the authority granted herein.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

- 2) Applicant is hereby authorized to incur total short-term indebtedness in excess of twelve percent of total capitalization in an aggregate amount not to exceed \$275,000,000 at any one time through March 31, 2004, for the purposes and under the terms and conditions set forth in the application, and subject to the condition detailed herein. Such indebtedness may be incurred either through the Conectiv System Money Pool (or its successor) or directly through the capital or credit markets.
- 3) Applicant shall file an application with this Commission for continued participation in the Successor System Money Pool within 30 days of an entry of a SEC Order in File No. 70-9947 approving the Successor System Money Pool.
- 4) Applicant shall seek subsequent approval from the Commission if the terms and conditions or list of participants eligible to participate in the Successor System Money Pool Agreement approved herein should change.
- 5) Approval of this application does not preclude the Commission from exercising the provision of §§ 56-78 and 56-80 of the Code of Virginia hereafter.
- 6) The Commission reserves the authority to examine the books and records of any affiliate in connection with the approval granted herein whether or not the Commission regulates such affiliate.
- 7) Approval of this application shall have no implications for ratemaking purposes.
- 8) Applicant shall file semi-annual reports of action on or before August 30, 2002, March 3, 2003, August 29, 2003, and March 2, 2004, for the preceding semi-annual period to include:
  - a) schedules showing (1) monthly Conectiv System Money Pool (or its successor) balances for each participant including beginning balance for the month, ending balance for the month, and net activity for the month; (2) the Conectiv System Money Pool (or its successor) interest rate for each month and an explanation of how the rate is calculated; (3) an average comparable external borrowing or lending rate for each month; and (4) each type of allocated fee, and an explanation of how the allocated fees have been calculated; and
  - b) monthly schedules of the participating companies' average borrowings (balances and rates) through any short-term debt instrument other than the Conectiv System Money Pool (or its successor).
- 9) This matter shall be continued, subject to the continuing review, audit, and appropriate directive of the Commission.

**CASE NO. PUF-2002-00003  
SEPTEMBER 6, 2002**

APPLICATION OF  
DELMARVA POWER & LIGHT COMPANY

For authority to borrow up to \$275 million in short-term indebtedness through a money pool

**ORDER AMENDING AUTHORITY GRANTED**

On February 26, 2002, the Virginia State Corporation Commission ("Commission") issued an Order granting Delmarva Power & Light Company ("Delmarva", or "Applicant") authority under Chapters 3 and 4 of Title 56 of the Code of Virginia to (a) incur short-term indebtedness up to \$275,000,000 and (b) participate in the Conectiv System Money Pool ("Conectiv Money Pool") or its successor ("Successor System Money Pool"), as appropriate, for the period ending March 31, 2004. In that Order, the Company was directed to file an application with the Commission for continued participation in the Successor System Money Pool within 30 days of the entry of a Securities and Exchange Commission ("SEC") Order authorizing the establishment of the Successor System Money Pool<sup>1</sup>.

On July 31, 2002, the SEC issued its order authorizing the Pepco Holding System Money Pool. Applicant filed the required application in this matter on August 13, 2002. The Company represents that the Pepco Holdings System Money Pool will be materially the same in all aspects as the original Conectiv Money Pool.

THE COMMISSION, upon consideration of the application is of the opinion and finds that approval of the application will not be detrimental to the public interest.

Accordingly, IT IS ORDERED THAT:

1) The authority granted to incur total short-term indebtedness up to \$275,000,000 at any one time through March 31, 2004, through the Conectiv System Money Pool is hereby terminated and superceded by the authority granted herein.

2) Applicant is hereby authorized to incur total short-term indebtedness in excess of 12% of total capitalization in an aggregate amount not to exceed \$275,000,000 at any one time through March 31, 2004. Such indebtedness may be incurred either directly through the capital markets or through the Pepco Holdings System Money Pool, under the terms and conditions set forth in our February 26, 2002, Order.

<sup>1</sup> The Successor System Money Pool was established as result of the merger of Conectiv (Delmarva's parent), Potomac Electric Power Company, and New RC, Inc. ("New RC"). Following the merger, Pepco Holdings, Inc., formerly New RC, became the administrator of the Successor System Money Pool and designated the new system money pool as the Pepco Holdings System Money Pool.

- 3) All other provisions of our February 26, 2002, Order shall remain in full force and effect.
- 4) This matter shall be continued, subject to the continuing review, audit, and appropriate directive of the Commission.

**CASE NO. PUF020004  
MARCH 7, 2002**

APPLICATION OF  
COMMUNITY ELECTRIC COOPERATIVE

For authority to extend a line of credit to an affiliate

**ORDER GRANTING AUTHORITY**

On January 25, 2002, Community Electric Cooperative ("Community" or "Cooperative") filed an application with the Virginia State Corporation Commission ("Commission") under Chapter 4 of Title 56 of the Code of Virginia for authority to lend monies to its affiliate, Tidewater Energy Services, LLC ("Tidewater").

Community proposes to extend a line of credit to Tidewater of up to \$1,000,000. The line of credit has a term of one-year which will automatically renew for subsequent one year periods unless either party gives 30-day notice of intent to cancel prior to the renewal date. The rate charged by the Cooperative will be the bank prime plus 2%.

The Cooperative represents that the purpose of the line of credit is to support the operations of Tidewater and to purchase assets. The line of credit was approved by Community's Board of Directors on January 17, 2002.

THE COMMISSION, upon consideration of the application, Community's Board Resolution adopted in support of the line of credit, and having been advised by its Staff, is of the opinion and finds that approval of the application will not be detrimental to the public interest.

Accordingly, IT IS ORDERED THAT:

- 1) Community is authorized to extend a \$1,000,000 line of credit to its affiliate, Tidewater, under the terms and conditions and for the purposes stated in its application.
- 2) The approval granted herein shall not preclude the Commission from exercising the provisions of §§ 56-78 and 56-80 of the Code of Virginia hereafter.
- 3) The Commission reserves the right to examine the books and records of any affiliate of Community in connection with the authority granted herein whether or not the Commission regulates such affiliate.
- 4) The transactions authorized herein shall be included in Community's Annual Report of Affiliate Transactions due to the Director of Public Utility Accounting by no later than May 1 of each year. Such report shall provide the amount of each loan, the repayment history for each loan, and the interest rate on each loan.
- 5) There appearing nothing further to be done in this matter, it hereby is dismissed.

**CASE NO. PUF020006  
MARCH 27, 2002**

APPLICATION OF  
SHENANDOAH TELEPHONE COMPANY  
and  
SHENANDOAH TELECOMMUNICATIONS COMPANY

For authority to lend funds to an affiliate

**ORDER GRANTING AUTHORITY**

On February 5, 2002, Shenandoah Telephone Company ("Shenandoah" or "Applicant"), filed an application with the State Corporation Commission ("Commission") under Chapter 4 of Title 56 of the Code of Virginia requesting authority to lend funds to an affiliate, Shenandoah Telecommunications Company ("Shentel"), Shenandoah's parent.

Shenandoah proposes to lend short-term or long-term funds to Shentel as necessary up to a maximum outstanding amount of \$2,000,000 through December 31, 2004. Shenandoah represents that the proposed transactions may occur when Shenandoah has excess funds and Shentel has the need for funds. Promissory notes issued by Shentel to Shenandoah with maturities of more than twelve months will bear an interest rate no less than the yield on a comparable maturity United States Treasury security at the time of issuance. Promissory notes issued by Shentel to Shenandoah with maturities of less than twelve months will bear an interest rate no less than the New York prime rate as quoted in the Wall Street Journal.

THE COMMISSION, upon consideration of the application and having been advised by its Staff, is of the opinion and finds that approval of the application is in the public interest.

Accordingly, IT IS ORDERED THAT:

- 1) Shenandoah is hereby authorized to make short-term or long-term loans to Shentel up to a maximum outstanding amount of \$2,000,000 from the date of this order through December 31, 2004, under the terms and conditions and for the purposes set forth in the application.
- 2) Approval of this application shall have no implications for ratemaking purposes.
- 3) The authority granted herein shall not preclude the Commission from applying the provisions of §§ 56-78 and 56-80 of the Code of Virginia hereafter.
- 4) The Commission reserves the right, pursuant to § 56-80 of the Code of Virginia, to examine the books and records of any affiliate in conjunction with the approval granted herein, whether or not such affiliate is regulated by this Commission.
- 5) On or before March 1, 2003, and March 1, 2004, Shenandoah shall file with the Commission a report pursuant to this Order to include: a schedule of each loan made between itself and Shentel during the previous calendar year with the date of the note, amount, maturity, actual interest rate, comparable prime rate and the use of loan proceeds.
- 6) On or before March 1, 2005, Shenandoah shall file with the Commission a final Report of Action containing the information in ordering paragraph (5) above for the calendar year 2004.
- 7) This matter shall be continued, subject to the continuing review, audit, and appropriate directive of the Commission.

**CASE NO. PUF020007  
MARCH 11, 2002**

APPLICATION OF  
ATMOS ENERGY CORPORATION

For authority to issue common equity and long-term debt

**ORDER GRANTING AUTHORITY**

On February 14, 2002, Atmos Energy Corporation ("Atmos" or "Company") filed with the State Corporation Commission ("Commission") an application under Chapter 3 of Title 56 of the Code of Virginia requesting authority to issue common equity and long-term debt. Applicant paid the requisite fee of \$250.

Atmos proposes to implement a Universal Shelf Registration for debt and equity financing up to \$600,000,000 over the next two years. The Company indicates that a universal shelf registration would allow it to offer from time to time debt securities and shares of common stock at prices and terms to be determined at the time of sale. The debt securities may be issued in one or more series of securities issuances. Atmos notes that it may sell the securities to or through underwriters, dealers or agents, or directly to one or more purchasers.

Net proceeds from the proposed securities issuances will be used for the following purposes: for the repayment of all or a portion of the Company's outstanding short-term debt; for the purchase, acquisition and/or construction of additional properties and facilities as well as improvements to the Company's existing utility plant; for the refunding of higher coupon long-term debt as market conditions permit; and for general corporate purposes.

Atmos states that it cannot currently state how the \$600,000,000 will be divided between equity and debt financing. The Company represents that its goal is to maintain its debt to capitalization ratio at or below a range of 50-60%. Atmos further states that the implementation of the Universal Shelf Registration will not materially change its target debt to capitalization range.

THE COMMISSION, upon consideration of the application and having been advised by its Staff, is of the opinion and finds that approval of the application will not be detrimental to the public interest.

Accordingly, IT IS ORDERED THAT:

- 1) Atmos is hereby authorized to implement a Universal Shelf Registration for debt and equity financing up to \$600,000,000 through March 31, 2004, subject to the terms and conditions and for the purposes set forth in the application and the provision that issuance of any long-term debt for the purpose of refunding outstanding securities does not result in higher interest costs.
- 2) Atmos shall submit an annual report of action on or before May 31, 2003, and May 31, 2004, for the prior twelve month period, to include the types of securities issued, the date(s) issued, the amount of the issuances, the applicable interest rate, maturity date, net proceeds to Applicant, an itemized list of actual expenses, and a balance sheet reflecting the actions taken. Such report shall also include a prospectus for any publicly issued equity and a cost-benefit analysis for any securities issued for the purpose of refunding outstanding securities prior to maturity.
- 3) Approval of this application shall have no implications for ratemaking purposes.
- 4) This matter shall remain under the continued review, audit, and appropriate directive of the Commission.

**CASE NO. PUF020008  
MARCH 18, 2002**

APPLICATION OF  
DALE SERVICE CORPORATION

For authority to enter into an interest rate swap agreement

**ORDER GRANTING AUTHORITY**

On February 22, 2002, Dale Service Corporation ("Dale Service" or "Company") filed with the State Corporation Commission ("Commission") an application under Chapter 3 of Title 56 of the Code of Virginia requesting authority to enter into an interest rate swap agreement. Applicant paid the requisite fee of \$250.

Dale Service proposes to enter into a interest rate swap agreement by which the payment obligations on \$13 million of outstanding private activity bonds would be fixed for a ten-year period to eliminate the risk of market fluctuations. The effective interest rate on the bonds, after execution of the new swap agreement, will be between 6.0% and 7.5% per year. This rate includes interest, letter of credit fees, and remarketing fees. Dale Service asserts that by swapping its floating interest rate on the private activity bonds for a fixed rate, it protects itself from increases in interest rates over the ten-year period of the proposed swap.

In the Order in Case No. PUF010002, the Commission granted Dale Service authority to obtain the \$13 million of tax-exempt private activity bonds in connection with its capital improvement project. These bonds were issued on March 15, 2001, with a floating interest rate determined on a weekly basis. In Case PUF010002, the Company was also authorized to enter into a one-year interest rate swap agreement for the bonds. This original swap expired March 1, 2002.

THE COMMISSION, upon consideration of the application and having been advised by its Staff, is of the opinion and finds that approval of the application will not be detrimental to the public interest.

Accordingly, IT IS ORDERED THAT:

- 1) Applicant is hereby authorized to enter into an interest rate swap agreement, subject to the terms and conditions and for the purposes set forth in the application.
- 2) The authority granted herein shall have no implications for ratemaking purposes.
- 3) There being nothing further to be done, this matter is hereby dismissed.

**CASE NO. PUF020009  
MARCH 27, 2002**

APPLICATION OF  
DELMARVA POWER & LIGHT COMPANY

For authority to issue up to \$46 million of tax-exempt refunding bonds

**ORDER GRANTING AUTHORITY**

On March 4, 2002, Delmarva Power & Light Company, ("Delmarva" or "Applicant") filed an application with the State Corporation Commission ("Commission") for authority under Chapter 3 of Title 56 of the Code of Virginia to assume certain obligations in connection with the proposed issuance of up to \$46,000,000 of Exempt Facilities Refunding Revenue Bonds and Pollution Control Refunding Revenue Bonds ("Refunding Bonds"). Applicant paid the requisite fee of \$250.

Delmarva requests authority to borrow the proceeds of up to \$46,000,000 of the Refunding Bonds. The proceeds will be used to refinance \$15,000,000 of 6.85% Gas Facilities Revenue Bonds Series 1992 A, due May 1, 2022, and \$31,000,000 of 6.75% Pollution Control Refunding Revenue Bonds Series 1992 B, due May 1, 2019 (collectively, the "Outstanding Series").

Applicant requests broad authority to assume obligations of the Refunding Bonds in order to obtain the most favorable terms and conditions at the time of issuance. Applicant, therefore, proposes that the Refunding bonds be sold in one or more underwritten public offerings, negotiated sales, or private placement transactions. Applicant also proposes that the maturity date(s), interest rate(s), redemption provisions, and other terms and provisions of the Refunding Bonds be determined under prevailing market conditions at the time of issuance based on negotiations among Applicant, Delaware Economic Development Authority, and the purchasers of the bonds.

Delmarva's obligations to the Delaware Economic Development Authority for the Refunding Bonds will be set forth in one or more loan agreements. In conjunction with the loan agreement(s), the Applicant may enter into one or more guarantee agreements to guarantee repayment of all or any part of the obligations associated with the Refunding Bonds. Alternatively, Delmarva may issue a like amount of secured or unsecured notes or bonds to further secure its payment obligations for the Refunding Bonds. The Applicant may purchase insurance to provide credit enhancement to lower its effective interest cost.

THE COMMISSION, upon consideration of the application and having been advised by Staff, is of the opinion and finds that approval of the application will not be detrimental to the public interest.

Accordingly, IT IS ORDERED THAT:

1) Applicant is hereby authorized to do the following under the terms and conditions and for the purposes set forth in the application through the period ending December 31, 2003:

- (a) enter into one or more loan agreements with the Delaware Economic Development Authority to assume obligations for the payment of principal, interest, and other costs associated with the issuance of up to \$46,000,000 of tax-exempt Refunding Bonds at a fixed or variable rate;
- (b) use the proceeds of the Refunding Bonds to redeem the outstanding principal of the Existing Bonds and pay related costs to accomplish such redemption;
- (c) issue one or more guarantees for the repayment of all obligations under the Refunding Bonds or issue a like amount of Delmarva notes or bonds to secure Applicant's payment obligations under the Refunding Bonds; and
- (d) enter into one or more liquidity and/or credit support facilities for Refunding Bonds.

2) Applicant shall submit a preliminary Report of Action within ten (10) days after the issuance of any securities pursuant to Ordering Paragraph (1), to include the type of security, the issuance date, amount of the issue, the interest rate, the maturity date, a brief explanation for the maturity and issuance date chosen.

3) Within sixty (60) days after the end of each calendar quarter in which any Refunding Bonds are issued pursuant to Ordering Paragraph (1), Delmarva shall file with the Commission a detailed Report of Action with respect to all Refunding Bonds issued and sold during the calendar quarter to include:

- (a) the issuance date, type of security, amount issued, interest rate, date of maturity, underwriters' names, underwriters' fees, other issuance expenses realized to date, and net proceeds to Applicant;
- (b) a copy of any terms or conditions not previously provided (e.g., Credit Facility agreements, remarketing agreements, indenture amendments, charter amendments, etc.) which were executed for the purpose of issuing the Refunding Bonds pursuant to Ordering Paragraph (1);
- (c) the cumulative principal amount of Refunding Bonds issued under the authority granted herein and the amount remaining to be issued;
- (d) a schedule showing any associated losses incurred to reacquire the Outstanding Series, along with a calculation of the effective cost rate on the Refunding Bonds after inclusion of any related losses on reacquired debt, and overall cost savings from the refunding; and
- (e) a balance sheet that reflects the capital structure following the issuance of the Refunding Bonds.

4) Applicant shall file a final Report of Action on or before February 28, 2004, to include all information required in Ordering Paragraph (3) and a detailed account of all the actual expenses and fees paid to date for the Refunding Bonds, with an explanation of any variances from the estimated expenses contained in the Financing Summary attached to the application.

5) Approval of the application shall have no implications for ratemaking purposes.

6) This matter shall be continued, subject to the continuing review, audit, and appropriate directive of the Commission.

**CASE NO. PUF020010  
APRIL 3, 2002**

APPLICATION OF  
KENTUCKY UTILITIES COMPANY

For authority to continue an affiliate agreement with KU Receivables Corp.

**ORDER EXTENDING THE AUTHORITY GRANTED**

On October 11, 2000, Kentucky Utilities Company ("Kentucky Utilities" or "Company") filed an application with the Virginia State Corporation Commission ("Commission") under Chapter 4 of Title 56 of the Code of Virginia. The application was docketed as Case No. PUF000034. In its application, Kentucky Utilities proposed to factor its accounts receivables to its affiliate, KU Receivables Corp. ("KUR").

By Order dated December 12, 2000, Kentucky Utilities was authorized to sell its accounts receivables to KUR, under the terms and conditions and for the purposes as set forth in its application. The authority was granted through March 29, 2002. The Commission's December 12, 2000, Order also directed Kentucky Utilities to file a report of action on or before February 28, 2002.

The Company filed its report of action as directed in the Commission's December 12, 2000, Order. According to the report of action, Kentucky Utilities was able to realize financing savings as a result of the factoring program with KUR.

By letter filed March 28, 2002, the Company requested that the authority to factor its accounts receivables be continued through February 2004.

*ANNUAL REPORT OF THE STATE CORPORATION COMMISSION*

THE COMMISSION, upon consideration of the report of action and having been advised by its Staff, is of the opinion and finds that extending the period in which the Company is authorized to factor its accounts receivables to February 28, 2004, will not be detrimental to the public interest.

Accordingly, IT IS ORDERED THAT:

- 1) Kentucky Utilities is authorized to factor its accounts receivables to KUR, under the terms and conditions and for the purposes authorized in the Commission's Order dated December 12, 2000, in Case No. PUF000034, as modified herein.
- 2) The authority granted herein shall extend through February 28, 2004.
- 3) The authority granted herein shall have no implications for ratemaking purposes.
- 4) Approval of the application shall not preclude the Commission from applying the provisions of § 56-78 and § 56-80 of the Code of Virginia hereafter.
- 5) The Commission reserves the right to examine the books and records of any affiliate in connection with the authority granted herein, whether or not such affiliate is regulated by this Commission.
- 6) Kentucky Utilities shall include in its Annual Affiliate Report filed with the Division of Public Utility Accounting details concerning its accounts receivables program. Such details shall include, on a monthly basis, the amount of accounts receivables it factored to Credit, the average discount factor, and its average cost of short-term debt for the prior calendar year.
- 7) This matter is hereby dismissed.



## DIVISION OF SECURITIES AND RETAIL FRANCHISING

**CASE NO. SEC960101  
MARCH 22, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION  
v.  
GEORGE G. O'NEAL,  
Defendant

### ORDER OF DISMISSAL

This matter is before the Commission on the Motion to the Division of Securities and Retail Franchising ("Division"). The Commission's Hearing Examiner has advised the Commission that the Division requested the dismissal of the Rule to Show Cause issued in this case without prejudice. It is the Hearing Examiner's recommendation to the Commission that the Rule to Show Cause be dismissed without prejudice.

The Commission, upon consideration of this matter, is of the opinion and finds that the request should be granted. It is therefore,

ORDERED that this case is dismissed without prejudice and that this matter be removed from the Commission's docket of active cases.

**CASE NOS. SEC-1999-00018 and SEC-1999-00019  
MAY 2, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION  
v.  
GOLD ASSET MANAGEMENT, INC.,  
and  
MARC LEWIS GOLD,  
Defendants

### FINAL ORDER

On March 30, 1999, the Commission entered a Judgment and Continuance Order in this case. That order, among other things, required that:

(1) Gold Asset Management, Inc. ("Company") and Marc Lewis Gold ("Gold") agreed to employ an independent certified public accountant, acceptable to the Commission, to audit the defendant's records to determine how much defendants had charged its clients in excess of the fee schedule described in the ADV that was submitted to the Commission in January 1997;

(2) Pursuant to §§ 13.1-521 and 13.1-522 of the Act, Company and Gold agreed to make restitution of the advisory fees, plus six percent interest, which were collected in excess of the fee schedule submitted to the Commission in January 1997;

(3) Company and Gold would submit a payment plan to, and for, the Commission's approval by May 1, 1999;

(4) Company and Gold would include in the payment plan the quarterly repayments, the amount owed each client, and the amount to be paid to each client per quarter by May 1, 2001;

(5) Company and Gold's accountant would certify in writing to the Commission fifteen (15) days after the end of each calendar quarter that defendants had made all necessary restitution payments for the previous quarter;

(6) Company and Gold agreed to employ the same accountant for three (3) consecutive years from the date of the Order who would:

(a) Examine Company and Gold's records in order to determine whether the assets under management qualify the Company as a federal covered advisor;

(b) Submit a statement to the Commission at the end of each calendar quarter during the 3-year period certifying the amount of assets Company and Gold had under management per specification of the United States Securities and Exchange Commission;

(c) Examine Company's records to determine whether or not Company was charging all clients the proper fees based on the latest written fee agreements with the clients; and

(d) Submit a statement to the Commission within twenty-one (21) days after the end of each calendar quarter certifying whether or not the fees charged by Company were in excess of the amount calculated in accordance with the latest written fee agreements with the clients;

(7) Company and Gold agreed that restitution would not be discharged, in whole or in part, in bankruptcy;

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

- (8) Company and Gold would attach no conditions to making restitution;
- (9) Company and Gold agreed that if they failed to make any restitution payments to clients, the full amount of all restitution owed would become immediately due and payable;
- (10) Company and Gold agreed to enter into a written agreement with each current and future client, containing such matters as required by law;
- (11) Company and Gold agreed to furnish a copy of the Order to each and every client they had since January 1, 1995, and would disclose the facts and substance of the Order to future clients as required by applicable federal and state law or regulation;
- (12) Company would not transact the business of an investment advisor without properly being registered with the Commission, unless it qualified as a federal covered advisor;
- (13) Gold would not transact the business of an investment advisor representative in or from Virginia unless properly registered with the Commission;
- (14) Neither Company nor Gold would provide investment advisory services except under a written investment advisory contract with each client;
- (15) Company would keep a record of when and to whom all material disclosures were made;
- (16) Company would employ only registered investment advisor representatives to the extent covered by statute;
- (17) Company would only charge fees that were disclosed to the client in the current ADV;
- (18) Company and Gold refrain from violating § 13.1-503 of the Act;
- (19) Company and Gold refrain from making a misleading filing with the Commission;
- (20) Pursuant to § 13.1-518 of the Act, Company and Gold pay to the Commission the sum of five thousand nine hundred eighty-four dollars (\$5,984) to defray the costs of investigation;
- (21) Pursuant to § 13.1-521 of the Act, Company and Gold pay a penalty of one million six hundred and one thousand dollars (\$1,601,000), with interest thereon at a rate of nine percent annum, provided said penalty and interest would be suspended and remitted upon the condition that Company and Gold would make the restitution payments undertaken in the Settlement Order;

The Division of Securities and Retail Franchising staff has now reported to the Commission that the Defendant has fulfilled the requirements of the Settlement Order. Accordingly,

## IT IS ORDERED THAT:

- (1) All undertakings and provisions of a continuing nature set forth in the prior order remain in full force and effect.
- (2) Entry of this order shall not affect any duty or obligation to disclose the existence or nature of this matter or of any order entered herein.
- (3) This case is dismissed.
- (4) The papers herein shall be filed among the ended cases.

**CASE NO. SEC-2000-00060**  
**APRIL 29, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
 STATE CORPORATION COMMISSION  
 v.  
 ADVISORY FINANCIAL GROUP, INC.,  
 and  
 RICK LOOKER,  
 Defendants

**JUDGMENT ORDER**

On September 26, 2000, the State Corporation Commission ("Commission") issued a Rule to Show Cause against Advisory Financial Group, Inc. ("AFG") and Rick Looker (collectively referred to as "Defendants"), alleging that the Defendants violated the Virginia Securities Act ("Act"), § 13.1-501 *et seq.* of the Code of Virginia, by offering and selling securities in violation of § 13.1-507 of the Act and that the Defendants made untrue statements of material fact in the offer and sale of said securities in violation of § 13.1-502 (2) of the Act.

Further, the Rule alleged that Defendant AFG offered and sold the securities as an unregistered broker-dealer in violation of § 13.1-504 A of the Act and that Mr. Looker offered and sold said securities as an unregistered agent of AFG in violation of § 13.1-504 B of the Act.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

The Defendants appeared before the Commission's Hearing Examiner on November 7, 2002, to show cause why they should not be penalized pursuant to § 13.1-521 of the Act; permanently enjoined pursuant to § 13.1-519 of the Act; and assessed the costs of investigation pursuant of § 13.1-518 of the Act. The Defendants were to file a responsive pleading on October 20, 2000.

On October 25, 2000, by Hearing Examiner ruling, Defendants were provided additional time to file an answer. Said answer was filed on November 6, 2000.

The hearing scheduled for November 7, 2000, was conducted and concluded on November 20, 2000. Transcripts of this hearing were filed and the Division and the Defendants filed simultaneous briefs on January 18, 2001.

On January 25, 2002, the Hearing Examiner issued her Report setting forth her recommendation that the Commission:

1. Adopts the findings and recommendations contained in the Hearing Examiner's Report;
2. Penalizes Defendant AFG, pursuant to § 13.1-521 of the Act, the sum of \$35,000 for 33 violations of § 13.1-507 of the Act for selling unregistered securities, for violation of § 13.1-504 B of the Act for employing an unregistered agent selling those securities, and for violation of § 13.1-502(2) of the Act for making untrue statements of material facts and omissions of material facts in the offer and sale of those securities;
3. Penalizes Defendant Looker, pursuant to § 13.1-521 of the Act, the sum of \$35,000 for 33 violations of § 13.1-507 of the Act for selling unregistered securities, for violation of § 13.1-504 A of the Act for selling securities as an unregistered agent, and for violation of § 13.1-502 (2) of the Act for making untrue statements of material facts and omissions of material facts in the offer and sale of those securities;
4. Permanently enjoins Defendants, pursuant to § 13.1-519 of the Act from transacting the business of offering and selling securities in the Commonwealth of Virginia; and
5. Dismisses this matter from the docket of active cases.

On February 15, 2002, Defendants filed a Motion for Extension of Time to file comments to the Hearing Examiner's Report. The Commission granted said request for extension on February 26, 2002. The time was extended to March 22, 2002. The Defendants filed no comments.

Upon consideration of the Hearing Examiner's Report and the record in this case, the Commission is of the opinion and finds as follows:

1. Defendant AFG violated §§ 13.1-507, 13.1-504 B, and 13.1-502 (2) of the Act.
2. Defendant Looker violated §§ 13.1-507, 13.1-504 A, and 13.1-502 (2) of the Act.

Accordingly, IT IS ADJUDGED AND ORDERED THAT:

- (1) Defendant AFG is penalized \$35,000 for 33 violations of § 13.1-507 of the Act for selling unregistered securities, violation of § 13.1-504 B of the Act for employing and unregistered agent selling those securities, and violation of § 13.1-502 (2) of the Act for making untrue statements of material facts and omissions of material facts in the offer and sale of those securities.
- (2) Defendant Looker is penalized \$35,000 for 33 violations of § 13.1-507 of the Act for selling unregistered securities, for violation of § 13.1-504 A of the Act for selling securities as an unregistered agent, and for violation of § 13.1-502 (2) of the Act of making untrue statements of material facts and omissions of material facts in the offer and sale of those securities.
- (3) Defendants are permanently enjoined, pursuant to § 13.1-519 of the Act from transacting the business of offering and selling securities in the Commonwealth of Virginia.
- (4) This case is dismissed from the docket of active cases.

**CASE NOS. SEC000069 and SEC000072  
FEBRUARY 11, 2002**

STATE CORPORATION COMMISSION  
v.  
AIRCABLE OF ROANOKE, LLC,  
DIGITAL BROADCAST CORPORATION  
Defendants

**SETTLEMENT ORDER**

On October 27, 2000, the Commission issued a Rule to Show Cause in which the Division of Securities and Retail Franchising ("Division") alleged that Defendant AirCable of Roanoke, LLC ("AirCable") violated the Virginia Securities Act ("Act"), § 13.1-501 *et seq.* of the Code of Virginia by failing to submit documents to the Division pursuant to a validly issued Commission subpoena dated August 17, 2000. The hearing date for the subpoena enforcement hearing was set for November 29, 2000.

On November 9, 2000, the Division filed a motion styled "Motion for Temporary Injunction" which requested that the Commission immediately issue a temporary injunction against Defendants AirCable and its affiliate company, Digital Broadcast Corporation ("Digital"). Attached to the motion for temporary injunction was a staff affidavit listing the violations of the Act allegedly committed by the Defendants AirCable and Digital.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

Commission's Hearing Examiner heard testimony and received evidence at the hearing with regard to the Rule to Show Cause and the Motion for Temporary Injunction on November 29, 2000.

On December 19, 2000, the Commission's Hearing Examiner issued his recommendations with regard to the pending matter:

- (1) Adopting the Hearing Examiner's findings, including that AirCable failed to show justification for violating the Commission's subpoena;
- (2) Imposition of a fine of \$5,000 for violation of the Commission's subpoena and a continuing fine of \$5,000 for each day AirCable failed to comply with said order. The fine was to begin one day after the Commission's ruling; and
- (3) The Division provided a sufficient basis to establish that AirCable and Digital violated provisions of the Act and to maintain the status quo and prevent further violations of the Act that a temporary injunction was appropriate.

On January 25, 2001, the Commission issued an order granting the Motion for Temporary Injunction against AirCable and Digital and penalizing AirCable as recommended by the Hearing Examiner.

On February 21, 2001, AirCable and Digital, by counsel, filed a Notice of Appeal pursuant to Rule 5:21 (d) and (e) of the Rules of the Virginia Supreme Court.

On June 14, 2001, the Commission received its copy of the Petition for Appeal and request for Suspension of the Commission's Order filed with the Virginia Supreme Court on May 23, 2001.

On August 21, 2001, the Commission received notice from the Virginia Supreme Court that AirCable's and Digital's oral argument for its Petition for Appeal would be heard on August 30, 2001.

On August 27, 2001, the Commission received notice from counsel for AirCable and Digital that the Defendants had filed a motion with the Virginia Supreme Court withdrawing the appeal.

Beginning in late August 2001, Defendants, through counsel, have been conducting discussions with the Division in an effort to settle the cases ruled upon by the Commission and all matters pending against both AirCable and Digital. The Division agreed that the Defendants had substantially complied with the terms of the Commission's subpoena on November 13, 2001, owing the Commission a \$5,000 penalty and \$1,460,000 in continuing penalties for failure to comply with Commission's subpoena.

AirCable and Digital neither admit nor deny the allegations made against them in the Commission's Rule to Show Cause and Temporary Injunction, but admit the Commission's jurisdiction and authority to enter this Order.

As a proposal to settle all matters arising from the allegations made against them, including all matters surrounding the offer and sale of securities to the date of the entry of this Order, AirCable and Digital have proposed and agree to comply with the following terms and undertakings:

- (1) AirCable and Digital will refrain from any conduct that constitutes a violation of the Act or the Rules promulgated thereunder;
- (2) AirCable and Digital will pay a penalty in the amount of one hundred thousand dollars (\$100,000) to the Commission pursuant to § 13.1-521 of the Act. Ten thousand dollars (\$10,000) will be submitted contemporaneously with the entry of this Order and the remaining ninety thousand dollars (\$90,000) will be paid within two years of the date of the entry of this Order; and
- (3) AirCable and Digital will pay the Commission the sum of twenty-five hundred dollars (\$2,500) as reimbursement for the costs of the Division's investigation pursuant to § 13.1-518.

The Division has recommended that AirCable's and Digital's offer of settlement be accepted pursuant to the authority granted to the Commission in § 12.1-15 of the Code of Virginia.

NOW, THEREFORE, IT IS ORDERED THAT:

- (1) Pursuant to the authority granted to the Commission in § 12.1-15 of the Code of Virginia, AirCable's and Digital's offer of settlement is accepted;
- (2) AirCable and Digital fully comply with the aforesaid terms and undertakings of the settlement;
- (3) Pursuant to § 13.1-521 of the Act, AirCable and Digital will pay a penalty in the amount of one hundred thousand dollars (\$100,000), of which ten thousand dollars (\$10,000) will be filed contemporaneously with the entry of this Order and ninety thousand dollars (\$90,000) will be paid within two years of entry of this Order;
- (4) Pursuant to § 13.1-518 of the Act, AirCable and Digital will pay to the Commission the amount of twenty-five hundred dollars (\$2,500) for the cost of the Division's investigation;
- (5) The sum of twelve thousand five hundred dollars (\$12,500) tendered by AirCable and Digital is accepted; and
- (6) The Commission shall retain jurisdiction in this matter for all purposes including, if necessary, the institution of a show cause proceeding or taking such other action it deems appropriate in the event that AirCable and Digital fail to comply with the terms and undertakings of the settlement.

**CASE NO. SEC000094  
JUNE 27, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION  
v.  
CAPITAL BROKERAGE CORPORATION,  
Defendant

**SETTLEMENT ORDER**

The Commission's Division of Securities and Retail Franchising ("Division") has instituted an investigation of the Defendant, Capital Brokerage Corporation ("Company"), pursuant to § 13.1-518 of the Virginia Securities Act ("Act"), § 13.1-501 *et seq.* of the Code of Virginia.

As a result of its investigation, the Division alleges that the Defendant, a broker-dealer registered under the Act, was, according to Rule 21 VAC 5-20-260 A as promulgated under the Act, responsible for the actions of its registered agents, William James Guy ("Guy"), Candace Ann Bloodsworth ("Bloodsworth"), and James Glenn Halsey Jr. ("Halsey"). The Division alleges that Guy, in the offer and sale of (i) a promissory note issued by AmeriTech Petroleum, Inc. ("ATP"), (ii) an investment contract issued by Driving Force 1, RLLP ("DFLP"), and (iii) an investment contract issued by SafeStor Orlando 1, LLP ("SSLP"):

- (a) Omitted material facts violating § 13.1-502(2) of the Act;
- (b) Misrepresented material facts violating § 13.1-502(2) of the Act;
- (c) Sold unregistered securities violating § 13.1-507 of the Act; and
- (d) Sold unsuitable investments violating Rule 21 VAC 5-20-280 A 3.

The Division further alleges that Bloodsworth, in the offer and sale of a promissory note issued by ATP:

- (a) Omitted material facts violating § 13.1-502(2) of the Act;
- (b) Misrepresented material facts violating § 13.1-502(2) of the Act;
- (c) Sold unregistered securities violating § 13.1-507 of the Act; and
- (d) Sold unsuitable investments violating Rule 21 VAC 5-20-280 A 3.

The Division further alleges that Halsey, in the offer and sale of an investment contract issued by DFLP:

- (a) Omitted material facts violating § 13.1-502(2) of the Act;
- (b) Sold an unregistered security violating § 13.1-507 of the Act; and
- (c) Sold an unsuitable investment violating Rule 21 VAC 5-20-280 A 3.

The Division further alleges that Company failed to exercise diligent supervision over the securities activities of Guy, Bloodsworth, and Halsey violating Rule 21 VAC 5-20-260 B.

As a proposal to settle all matters arising from the allegations made against it, the Defendant, without admitting nor denying the allegations made herein, has offered and agreed to comply with the following terms and undertakings:

- (1) Company will submit any releases, agreements, and assignments to the Commission for prior approval before it requires *the* Virginia residents to endorse them;
- (2) Within thirty (30) days of the date of this Settlement Order, Company will offer to reimburse four (4) Virginia residents and the estate of a fifth Virginia resident, for losses on the sales which resulted in the purchase of a note issued by ATP, an investment contract issued by DFLP, and an investment contract issued by SSLP. The reimbursement offer shall be in amounts equal to sixty five percent (65%) of the principal amount of each Virginia resident's initial investment, conditioned upon their executing the releases, agreements and assignments referred to in paragraph (1) above;
- (3) Evidence of compliance with the provisions of paragraph (2) above will be filed with the Division by Company within thirty (30) days from the date the final payment is remitted to the clients or from the date the final outstanding offer is rejected, whichever occurs last. Such evidence will be in the form of an affidavit, executed by the president of Company and which will contain the following information: (i) the date on which payment was remitted to each client; (ii) the amount of payment remitted to each client; (iii) and, if applicable, a statement identifying any client who refuses the offer of reimbursement;
- (4) Contemporaneously with the refund, Company will provide each investor with a copy of this Settlement Order;
- (5) Concurrently with the refund, Company will furnish the Commission with a copy of all correspondence which is sent to the investors by the Defendant;
- (6) Company will exercise diligent supervision of its agents in accordance with the Rules of the Commission;

(7) Company will comply with all of the provisions of the Act and the Rules promulgated thereunder;

(8) Pursuant to § 13.1-518 A of the Act, Company shall pay to the Commission seven thousand six hundred forty-four dollars (\$7,644) to defray the cost of the investigation; and

(9) It is recognized and understood that if the Defendant fails to comply with any of the foregoing terms and undertakings, then the Commission reserves the right, the exercise of which right will not be contested by the Defendant, to take whatever action it deems appropriate, including, but not limited to, instituting a show cause proceeding under the Act or other applicable statutes based on such failure to comply, on the allegations contained herein, and/or such other allegations as are warranted.

The Division has recommended that the Defendant's offer of settlement be accepted pursuant to the authority granted to the Commission in § 12.1-15 of the Code of Virginia.

THEREFORE, IT IS ORDERED THAT:

(A) Pursuant to the authority granted to the Commission in § 12.1-15 of the Code of Virginia, the Defendant's offer of settlement is accepted;

(B) The Defendant shall fully comply with the aforesaid terms and undertakings of the settlement;

(C) Pursuant to § 13.1-518 A of the Act, Company shall pay to the Commission seven thousand six hundred forty-four dollars (\$7,644) to defray the cost of the investigation;

(D) The sum of seven thousand six hundred forty-four dollars (\$7,644), representing the costs set forth in paragraph (C) above, tendered by Company contemporaneously with the entry of this Order is accepted; and

(E) The Commission shall retain jurisdiction in this matter for all purposes, including the institution of a show cause proceeding as described above, or taking such other action it deems appropriate, on account of the Defendant's failure to comply with the terms and undertakings of the settlement.

**CASE NOS. SEC-2001-00027, SEC-2001-00028, SEC-2001-00029,  
SEC-2001-00030, SEC-2001-00031, and SEC-2001-00040  
MAY 17, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION

v.

WASHINGTON GLOBAL CENTER, L.L.C., CHILDREN'S MAGICAL CITIES, INC.,  
CMC GLOBAL ENTERTAINMENT, L.L.C., CHILDREN'S MAGICAL CITIES, L.L.C.,  
CMC GLOBAL EDUTAINMENT, INC.,

and

THOMAS LEE K. CHRISTIANSON,  
Defendants

**JUDGMENT ORDER**

By Rule to Show Cause ("Rule") dated April 9, 2001, the Commission, among other things, assigned this case to a hearing Examiner to conduct further proceedings in this matter, including a hearing on behalf of the Commission. The Rule alleged that the companies listed above and Thomas Lee K. Christianson (collectively, "Defendants") had failed to substantially comply with the Commission's subpoena at the time the Rule was issued; that the Defendants offered and sold securities to Virginia investors in violation of § 13.1-502 (2) of the Virginia Securities Act ("Act"), § 13.1-501 *et seq.* of the Code of Virginia; that the Defendants offered and sold securities to Virginia investors while engaging in a course of business that operated as a fraud or deceit upon the purchaser in violation of § 13.1-502 (3) of the Act; that Defendant Christianson ("Christianson") acted as an unregistered agent in the offer and sale of securities in violation of § 13.1-504 of the Act; and that the Defendant companies employed an unregistered agent, Christianson, to offer and sell securities in violation of § 13.1-504 B of the Act.

The Hearing Examiner conducted a hearing on February 26, 2002. Defendants did not enter an appearance. On April 11, 2002, the Hearing Examiner filed her report and made findings and recommendations. Upon consideration of the Report and the findings and recommendations of the Hearing Examiner, the Commission is of the opinion and finds:

1. Christianson, a/k/a Carney Kinnamon ("Kinnamon"), sold securities as an unregistered agent on twelve occasions in violation of § 13.1-504 A of the Act;
2. Defendants CMC Global Entertainment, L.L.C. and Children's Magical Cities, L.L.C., through their unregistered agent, Christianson, a/k/a Kinnamon, each sold securities on twelve occasions in violation of § 13.1-504 B of the Act;
3. There is no evidence that any other company Defendant offered or sold securities;
4. Christianson, a/k/a Kinnamon, CMC Global Entertainment, L.L.C., and Children's Magical Cities, L.L.C., offered and sold securities in violation of § 13.1-502 (2) by misrepresenting material facts, and omitting other material facts about investments on two occasions;

5. Christianson, a/k/a Kinnamon, CMC Global Entertainment, L.L.C., and Children's Magical Cities, L.L.C., offered and sold securities in violation of § 13.1-502 (3) of the Act by engaging in a course of business which operated as a fraud or deceit upon the investors on at least two occasions; and

6. All company Defendants failed to timely comply with a Commission subpoena in violation of § 12.1-33 of the Code of Virginia. Accordingly,

IT IS HEREBY ORDERED THAT:

(1) Pursuant to § 13.1-519 of the Act, Defendants Christianson, a/k/a Kinnamon, CMC Global Entertainment, L.L.C., and Children's Magical Cities, L.L.C., are permanently enjoined from further violations of the Act.

(2) Pursuant to § 13.1-521 of the Act, Christianson, a/k/a Kinnamon, is penalized eighty thousand dollars (\$80,000) for sixteen (16) violations of the Act.

(3) Pursuant to § 13.1-521 of the Act, Children's Magical Cities, L.L.C., is penalized eighty thousand dollars (\$80,000) for sixteen (16) violations of the Act.

(4) Pursuant to § 13.1-521 of the Act, CMC Global Entertainment, L.L.C. is penalized eighty thousand dollars (\$80,000) for sixteen (16) violations of the Act.

(5) Pursuant to § 12.1-33 of the Code of Virginia, all Company Defendants, Children's Magical Cities, L.L.C., CMC Global Entertainment, Washington Global Center, L.L.C., Children's Magical Cities, Inc., and CMC Global Edutainment, Inc., are penalized five hundred dollars (\$500), each, for failure to timely comply with the Commission's subpoena.

(6) This case is dismissed from the docket of active matters.

**CASE NOS. SEC-2001-00107, SEC-2002-00004, SEC-2002-00005,  
SEC-2002-00006, SEC-2002-00007, and SEC-2002-00008  
JUNE 28, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION

v.

TIRE RECYCLERS, INC., GARY F. EDWARDS, JOSEPH R. DUNN,  
THOMAS G. JARRELL, M. CHARLES WHITE,  
and  
CHARLES E. AYERS, JR.  
Defendants

**SETTLEMENT ORDER**

The Commission's Division of Securities and Retail Franchising ("Division") has instituted an investigation of Tire Recyclers, Inc. ("TRI"), Gary F. Edwards ("Edwards"), Joseph R. Dunn ("Dunn"), Thomas G. Jarrell ("Jarrell"), M. Charles White ("White"), and Charles E. Ayers, Jr. ("Ayers"), pursuant to § 13.1-518 of the Virginia Securities Act ("Act"), § 13.1-501 *et seq.* of the Code of Virginia.

As a result of its investigation, the Division alleges that:

1) TRI offered and sold unregistered securities, to wit: shares of common stock of TRI, in and from Virginia from May 1993 through July 2001, to approximately five hundred sixty (560) investors, eighty seven (87) located in Virginia, one hundred fifty five (155) located in Kentucky, one hundred forty (140) located in South Carolina, one hundred four (104) located in North Carolina, twenty (20) located in Georgia, sixteen (16) located in Florida, and over forty (40) located in various other jurisdictions, in violation of § 13.1-507 of the Act.

2) TRI offered and sold unregistered securities, to wit: debentures of TRI, to fifty four (54) investors, twenty two (22) located in Virginia, sixteen (16) located in South Carolina, six (6) located in North Carolina, five (5) located in Florida, two (2) located in Texas, and three (3) located in various other jurisdictions, from May 1993 through July 1994, in violation of § 13.1-507 of the Act.

3) Principals of TRI formed RCM LTD, LLC ("RCM"), B & B Investments, Ltd ("B&B Ltd") and B & B Investments, LLC ("B&B LLC") for the express purpose of circumventing the registration requirements of § 13.1-507 of the Act.

4) RCM offered and sold unregistered securities, to wit: shares in RCM, in and from Virginia from August 1999 through May 2001, to approximately 180 investors, eighty one (81) located in Virginia, twenty six (26) located in Kentucky, twenty six (26) located in Michigan, sixteen (16) located in North Carolina, eight (8) located in South Carolina, and twenty two (22) located in other jurisdictions, in violation of § 13.1-507 of the Act.

5) B&B Ltd offered and sold unregistered securities, to wit: shares of stock in B&B Ltd, from September 1994 to July 1997, to approximately five to six hundred (500 -600) investors in Virginia and other jurisdictions, in violation of § 13.1-507 of the Act.

6) B&B LLC, offered and sold unregistered securities, to wit: units in B&B LLC, from March 1997 to March 2000, to approximately seven hundred fifty (750) investors in Virginia and other jurisdictions, in violation of § 13.1-507 of the Act.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

- 7) TRI, RCM, B&B Ltd, and B&B LLC employed unregistered agents, in violation of § 13.1-504B of the Act.
- 8) TRI, RCM, B&B Ltd and B&B LLC made material omissions and misrepresentations in the offer and sale of securities in violation of § 13.1-502(2) of the Act.
- 9) TRI, RCM, B&B Ltd and B&B LLC employed a scheme to defraud investors in the offer and sale of securities in violation of § 13.1-502(1) of the Act.
- 10) Edwards, Dunn, Jarrell, and White offered and sold unregistered securities, to wit interests in TRI, RCM, B&B Ltd and B&B LLC, to residents of Virginia and other jurisdictions in violation of § 13.1-507 of the Act.
- 11) Edwards, Dunn, Jarrell, and White acted as unregistered agents when they offered and sold securities, to wit interests in TRI, RCM, B&B Ltd, and B&B LLC to residents of Virginia and other jurisdictions in violation of § 13.1-504(A) of the Act.
- 12) Edwards, Dunn, Jarrell, and White made material omissions and misrepresentations in the offer and sale of securities of TRI, RCM, B&B Ltd and B&B LLC in violation of § 13.1-502(2) of the Act.
- 13) Edwards, Dunn, Jarrell, White and Ayers employed a scheme to defraud in the offer and sale of securities of TRI, RCM, B&B Ltd and B&B LLC in violation of § 13.1-502(1) of the Act.

TRI admits to the allegation that it employed unregistered agents and sold unregistered securities, including RCM, B&B Ltd, and B&B LLC, and Edwards, Dunn, Jarrell, White and Ayers admit to the allegation that they offered and sold unregistered securities. The Defendants neither admit nor deny the remaining allegations, but admit the Commission's jurisdiction and authority to enter this Settlement Order. As a proposal to settle all matters arising from the allegations made against them, the Defendants have offered, and agreed to comply with, the following terms and undertakings:

- 1) TRI will pay to each investor of TRI, RCM and B&B LLC, interest on their investment at the rate of six percent (6%) simple interest from the date of the investment up to and including December 31, 2002, with the payment to be made in two annual installments on June 30, 2003 and June 30, 2004.
- 2) The following individuals will not be included in the interest payment:
  - a. Officers, directors, managers of TRI, RCM, B&B Ltd, and B&B LLC.
  - b. Parents, children or spouses of those persons listed in subparagraph (a) above.
  - c. Any company or individual that had a contractual relationship with TRI on or before the date of the purchase by that company or individual of any securities mentioned in this settlement.
- 3) TRI will issue certificates in Tire Recyclers, Inc. to the investors of RCM, B&B Ltd and B&B LLC on or before June 30, 2003.
- 4) TRI will provide copies of an audited financial statement to the Division no later than July 1, 2002.
- 5) Pursuant to § 13.1-518 of the Code of Virginia, TRI will pay to the Commission the sum of (\$10,000) to defray the cost of this investigation.
- 6) Pursuant to § 13.1-521 of the Act, TRI will pay to the Commonwealth a penalty in the amount of five thousand dollars (\$5,000), Edwards will pay to the Commonwealth a penalty in the amount of two thousand dollars (\$2,000), Dunn will pay to the Commonwealth a penalty in the amount of two thousand dollars (\$2,000), Jarrell will pay to the Commonwealth a penalty in the amount of two thousand dollars (\$2,000), White will pay to the Commonwealth a penalty in the amount of two thousand dollars (\$2,000), and Ayers will pay to the Commonwealth a penalty in the amount of two thousand dollars (\$2,000).
- 7) Pursuant to § 13.1-519 of the Act the Defendants will be permanently enjoined from future violations of the Act; and,
- 8) It is recognized and understood that if the Defendant fails to comply with any of the foregoing terms and undertakings, the Commission reserves the right to take whatever action it deems appropriate, including but not limited to, instituting a show cause proceeding under the Act or other applicable statutes based on such failure to comply, on the allegations contained herein and/or on such other allegations as are warranted and the Defendant will not contest the exercise of the right reserved, but may otherwise defend against any action taken by the Commission.

The Division has recommended that the Defendant's offer of settlement be accepted pursuant to the authority granted to the Commission in § 12.1-15 of the Code of Virginia.

## NOW, THEREFORE, IT IS ORDERED THAT:

- (1) Pursuant to the authority granted to the Commission in § 12.1-15 of the Code of Virginia, the Defendant's offer of settlement is accepted;
- (2) The Defendant's fully comply with the aforesaid terms and undertakings of the settlement;
- (3) Pursuant to § 13.1-519 of the Act, the Defendants be, and hereby are, permanently enjoined from violating the provisions of the Act;
- (4) Pursuant to § 13.1-518 of the Act, TRI will pay to the Commission the sum of ten thousand dollars (\$10,000) to defray the costs of this investigation;



(5) Pursuant to § 13.1-521 of the Act, TRI will pay to this Commonwealth a penalty in the amount of five thousand dollars (\$5,000), Edwards will pay to this Commonwealth a penalty in the amount of two thousand dollars (\$2,000), Dunn will pay to this Commonwealth a penalty in the amount of two thousand dollars (\$2,000), Jarrell will pay to this Commonwealth a penalty in the amount of two thousand dollars (\$2,000), White will pay to this Commonwealth a penalty in the amount of two thousand dollars (\$2,000), and Ayers will pay to this Commonwealth a penalty in the amount of two thousand dollars (\$2,000),

(6) The sum of twenty five thousand dollars (\$25,000) tendered by the Defendants contemporaneously with the entry of this Settlement Order is accepted; and

(7) The Commission shall retain jurisdiction in this matter for all purposes, including the institution of a show cause proceeding as described above, or taking such other action it deems appropriate, on account of the Defendant's failure to comply with the terms and undertakings of the settlement.

**CASE NO. SEC-2001-00109  
JULY 10, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION  
v.  
GLOBALINK SECURITIES, INC.  
Defendant

**SETTLEMENT ORDER**

The State Corporation Commission's ("Commission") Division of Securities and Retail Franchising ("Division") has conducted an investigation of Defendant, Globalink Securities, Inc., pursuant to § 13.1-518 of the Virginia Securities Act ("Act"), § 13.1-501 *et seq.* of the Code of Virginia.

As a result of its investigation, the Division alleges that Defendant, a broker-dealer so registered under the Act, has:

- (A) In violation of § 13.1-504 B of the Act, employed an unregistered agent, Yanshi R. Jin, from February 3, 1999, to May 18, 1999.
- (B) In violation of Securities Rule 21 VAC 5-20-260 D, failed to enforce its written procedures by allowing an unregistered individual, Yanshi R. Jin, to open new accounts and solicit the investments of Virginia residents.
- (C) In violation of Securities Rule 21 VAC 5-20-260 D, failed to establish adequate written procedures that set forth the qualifications for those individuals acting as a Registered Options Principal or a Senior Options Principal.
- (D) In violation of Securities Rule 21 VAC 5-20-280 A 4, through one of its agents, Yanshi R. Jin, executed one thousand two hundred five (1,205) transactions for thirty (30) Virginia customers without written discretionary authority to do so.
- (E) In violation of Securities Rule 21 VAC 5-20-280 A 18, used misleading advertising to solicit Virginia clients.

Defendant admits the Commission's jurisdiction and authority to enter this Order and admits that from February 3, 1999, through May 18, 1999, it employed an unregistered agent in Virginia, in violation of § 13.1-504 B of the Act.

As a proposal to settle all matters arising from the allegations made against it, Defendant has proposed and agrees to pay a penalty to the Commonwealth in the amount of twenty thousand dollars (\$20,000.00), pursuant to § 13.1-521 of the Act, and will pay the Commission the sum of ten thousand (\$10,000.00) as reimbursement for the costs of the Division's investigation, pursuant to § 13.1-518 of the Act.

The Division has recommended that Defendant's offer of settlement be accepted pursuant to the authority granted to the Commission in § 12.1-15 of the Code of Virginia.

NOW, THEREFORE, IT IS ORDERED THAT:

- (1) Pursuant to the authority granted to the Commission in § 12.1-15 of the Code of Virginia, Defendant's offer of settlement is accepted;
- (2) Pursuant to § 13.1-521 of the Act, Defendant shall pay a penalty to the Commonwealth in the amount of twenty thousand dollars (\$20,000.00), and the Commonwealth shall recover of and from Defendant said amount;
- (3) Pursuant to § 13.1-518 of the Act, Defendant shall pay to the Commission the amount of ten thousand dollars (\$10,000.00) for the cost of the Division's investigation;
- (4) The sum of thirty thousand dollars (\$30,000.00) tendered by Defendant contemporaneously with the entry of this Order is accepted; and
- (5) This matter is dismissed and the papers herein be placed in the file for ended causes.

**CASE NO. SEC010128  
JANUARY 8, 2002**

COMMONWEALTH OF VIRGINIA, ex rel.  
STATE CORPORATION COMMISSION

v.  
ALL-CAP EQUITY FUND, LP,  
Defendant

**SETTLEMENT ORDER**

The Commission's Division of Securities and Retail Franchising ("Division") has instituted an investigation of the Defendant, All-Cap Equity Fund, LP ("Defendant"), pursuant to § 13.1-518 of the Virginia Securities Act ("Act"), § 13.1-501 et seq. of the Code of Virginia.

As a result of its investigation, the Division alleges Defendant offered for sale and sold an unregistered security in the form of an investment contract in violation of § 13.1-507 of the Act.

The Defendant, without admitting or denying the allegation, admits to the Commission's jurisdiction and authority to enter this Settlement Order. As a proposal to settle all matters arising from the allegation made against it, Defendant has offered, and agreed to comply with, the following terms and undertakings:

- (1) Defendant, pursuant to § 13.1-521 of the Act will pay a settlement penalty to the Commonwealth in the amount of five thousand dollars (\$5,000).
- (2) Defendant will refrain from any conduct which constitutes a violation of the Act or the Rules promulgated thereunder.

The Division has recommended that the Defendant's offer of settlement be accepted pursuant to the authority granted to the Commission in § 12.1-15 of the Code of Virginia.

THEREFORE, IT IS ORDERED THAT:

- (A) Pursuant to the authority granted to the Commission in § 12.1-15 of the Code of Virginia, the Defendant's offer of settlement is accepted;
- (B) The Defendant shall fully comply with the aforesaid terms and undertakings of the settlement;
- (C) Pursuant to § 13.1-521 of the Act, Defendant will pay a settlement penalty to the Commonwealth in the amount of five thousand dollars (\$5,000) and the Commonwealth shall recover of and from Defendant said amount;
- (D) The sum of five thousand dollars (\$5,000) tendered by Defendant contemporaneously with the entry of this Order is accepted; and
- (E) This matter is dismissed and the papers herein be placed in the file for ended causes.

**CASE NO. SEC020009  
FEBRUARY 11, 2002**

APPLICATION OF  
BRITISH COMMONWEALTH WORLD SECTOR CORPORATION  
9677 Main Street, Suite B  
Fairfax, Virginia 22031

For an Order of Exemption under § 13.1-514.1 B of the Code of Virginia, as amended

**ORDER OF EXEMPTION**

THIS MATTER came for consideration upon written application dated January 3, 2002, with exhibits attached thereto, as subsequently amended, of British Commonwealth World Sector Corporation ("BCS") requesting that certain General Obligation Bonds be exempted from the securities registration requirements of the Virginia Securities Act ("Act"), § 13.1-501 et seq. of the Code of Virginia and that certain employees of BCS be exempted from the agent registration requirements of said Act.

BASED UPON THE INFORMATION submitted, the following facts, in addition to others not enumerated herein, appear to exist: BCS is a District of Columbia Non-Profit Corporation operating exclusively for charitable, educational and scientific purposes; BCS intends to offer and sell General Obligation Bonds in an approximate aggregate amount of \$1,034,000 to members of the International Churches of Christ on terms and conditions as more fully described in the Prospectus filed as a part of the application; said securities are to be offered and sold by a bond sales committee composed of employees of BCS who will not be compensated for their sales efforts.

THE COMMISSION, based on the facts asserted by BCS in the written application and exhibits, is of the opinion and finds, and does hereby ADJUDGE AND ORDER that, pursuant to the provisions of §13.1-514.1 B of the Act, the securities described above be, and they hereby are, exempted from the securities registration requirements of the Act and the BCS employees on the bond sales committee be, and they hereby are, exempted from the agent registration requirements of the Act.

**CASE NO. SEC020010  
MARCH 14, 2002**

APPLICATION OF  
NATIONAL COVENANT PROPERTIES  
5101 N. Francisco Avenue  
Chicago, Illinois 60625

For an Order of Exemption under § 13.1-514.1 B of the Code of Virginia, as amended

**ORDER OF EXEMPTION**

THIS MATTER came for consideration upon written application dated February 27, 2002, with exhibits attached thereto, of National Covenant Properties ("NCP") requesting that certain Certificates be exempted from the securities registration requirements of the Virginia Securities Act ("Act"), § 13.1-501 *et seq.* of the Code of Virginia and that certain individuals be exempted from the agent registration requirements of said Act.

BASED UPON THE INFORMATION submitted, the following facts, in addition to others not enumerated herein, appear to exist: NCP is a not for profit Illinois corporation organized exclusively for religious, charitable, educational, and scientific purposes; NCP intends to offer and sell up to \$30,000,000 in aggregate principal amount of 5-Year Fixed Rate Renewable Certificates (Series A), Variable Rate Certificates (Series G), and Individual Retirement Account Certificates (together, the "Certificates") on terms and conditions as more fully described in the Offering Circular filed as a part of the application; upon exemption of the above-captioned Certificates, NCP will discontinue issuer transactions for all Certificates previously exempted from the securities registration requirements of the Act; the Certificates will be offered and sold by the officers of NCP who will not be compensated for their sales efforts.

THE COMMISSION, based on the facts asserted by NCP in the written application and exhibits, is of the opinion and finds, and does hereby ADJUDGE AND ORDER that, pursuant to the provisions of §13.1-514.1 B of the Act, the securities described above be, and they hereby are, exempted from the securities registration requirements of the Act and the officers of NCP who offer and sell the Certificates be, and they hereby are, exempt from the agent registration requirements of said Act.

**CASE NO. SEC-2002-00014  
MAY 23, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION  
v.  
BASIN OIL & GAS CORPORATION,  
Defendant

**SETTLEMENT ORDER**

The Commission's Division of Securities and Retail Franchising ("Division") has instituted an investigation of Defendant, Basin Oil & Gas Corporation ("Basin") pursuant to 5 13.1-518 of the Virginia Securities Act ("Act"), l*j* 13.1-501- *et seq.* of the Code of Virginia.

As a result of its investigation, the Division alleges that (i) Basin employed unregistered agents in violation of § 13.1-504B of the Act and (ii) Basin offered for sale and sold unregistered securities, to wit: an investment contract in the form of a joint venture, in violation of § 13.1-507 of the Act.

The Defendant neither admits nor denies the allegations, but admits to the Commission's jurisdiction and authority to enter this order.

As a proposal to settle all matters arising from the allegations made against it, the Defendant has offered, and agreed to comply with, the following terms and undertakings:

(1) Pursuant to § 13.1-518 of the Act, Basin agrees to pay to the Commission the sum of five hundred dollars (\$500) to defray the costs of the investigation.

(2) Pursuant to § 13.1-521 of the Act, Basin agrees to pay a penalty of five thousand dollars (\$5,000).

(3) Basin will mail a copy of this Settlement Order to each Virginia investor.

(4) Basin will employ, for purposes of offering or selling securities in the Commonwealth, only agents who are registered under the Act or exempted therefrom.

(5) Basin will offer and sell in the Commonwealth, whether directly or indirectly, only securities that are either registered under the Act or exempted therefrom.

(6) Evidence of compliance with the provisions of paragraph (3) will be filed with the Division by the Defendant no later than 90 days from the date of this order. Such evidence will be in the form of an affidavit executed by Thomas R. Watkins containing a statement affirming that a copy of this order was sent to all Virginia investors.

(7) It is recognized and understood that if the Defendant's fail to comply with any of the foregoing terms and undertakings, then the Commission reserves the right to take whatever action it deems appropriate, including but not limited to instituting a show cause proceeding under the Act or other

applicable statutes based on such failure to comply, on the allegations contained herein and/or on such other allegations as are warranted, and the Defendants will not contest the exercise of the right reserved.

The Division has recommended that the Defendant's offer of settlement be accepted pursuant to the authority granted to the Commission in § 12.1-15 of the Code of Virginia. Accordingly,

IT IS ORDERED THAT:

- (1) Pursuant to the authority granted to the Commission in § 12.1-15 of the Code of Virginia, the Defendant's offer of settlement is accepted;
- (2) The Defendant shall fully comply with the aforesaid terms and undertakings of the settlement;
- (3) Basin, pursuant to Section 13.1-521 of the Act, shall pay to the Commission the sum of five thousand dollars (\$5,000) as a penalty and, pursuant to § 13.1-518 of the Act, pay to the Commission the sum of five hundred dollars (\$500) to defray the costs of investigation, and that the Commission recover from Basin said amounts;
- (4) The sum total of five thousand five hundred dollars (\$5,500) tendered by Basin contemporaneously with the entry of this Settlement Order is accepted; and
- (5) The Commission shall retain jurisdiction in this matter for all purposes, including the institution of a show cause proceeding *as* described above, or taking such other action it deems appropriate, on account of the Defendant's failure to comply with the terms and undertakings of the settlement.

**CASE NO. SEC-2002-00015  
JUNE 20, 2002**

APPLICATION OF  
MISSION INVESTMENT FUND OF THE EVANGELICAL LUTHERAN CHURCH IN AMERICA  
8765 West Higgins Road  
Chicago, Illinois 60631

For an Order of Exemption under § 13.1-514.1 B of the Code of Virginia, as amended

**ORDER OF EXEMPTION**

THIS MATTER came for consideration upon written application dated April 4, 2002, with exhibits attached thereto, as subsequently amended, of Mission Investment Fund of the Evangelical Lutheran Church in America ("Mission") requesting that certain Mission Investments be exempted from the securities registration requirements of the Virginia Securities Act ("Act"), § 13.1-501 *et seq.* of the Code of Virginia and that certain employees of Mission be exempted from the agent registration requirements of said Act.

BASED UPON THE INFORMATION submitted, the following facts, in addition to others not enumerated herein, appear to exist: Mission is a not for profit Minnesota corporation organized exclusively for religious purposes; Mission intends to offer and sell to certain investors up to \$1 60,000,000 in an aggregate principal of MissionTerm-adjustable rate Investments, MissionTerm-fixed rate Investments, MissionFuture (custodian for minor only) Investments, and MissionPlus Investments on terms and conditions as more fully described in the Offering Circular filed as a part of the application; and said securities are to be offered and sold by certain Mission employees who will not be compensated for their sales efforts.

THE COMMISSION, based on the facts asserted by Mission in the written application and exhibits, is of the opinion and finds, and does hereby ADJUDGE AND ORDER that, pursuant to the provisions of § 13.1-514.1 B of the Act, the securities described above be, and they hereby are, exempted from the securities registration requirements of the Act and certain employees of Mission be, and they hereby are, exempted from the agent registration requirements of said Act.

**CASE NO. SEC-2002-00016  
JUNE 6, 2002**

APPLICATION OF  
CHRISTIAN CHURCH EXTENSION FOUNDATION  
7655 West Mississippi Avenue, Suite 305  
P. O. Box 260758  
Lakewood, Colorado 80226-0758

For an Order of Exemption under § 13.1-514.1 B of the Code of Virginia, as amended

**ORDER OF EXEMPTION**

THIS MATTER came for consideration upon written application dated February 8, 2002, with exhibits attached thereto, as subsequently amended, of Christian Church Extension Foundation ("CCEF") requesting that certain securities be exempted from the securities registration requirements of the Virginia Securities Act ("Act"), § 13.1-501 *et seq.* of the Code of Virginia and that certain officers and authorized employees of CCEF be exempted from the agent registration requirements of said Act.

BASED UPON THE INFORMATION submitted, the following facts, in addition to others not enumerated herein, appear to exist: CCEF is a Colorado nonprofit corporation operating not for private profit but exclusively for religious and charitable purposes: CCEF intends to offer and sell to a limited class of persons nontransferable unsecured promissory notes in an approximate aggregate amount of \$30,000,000 on terms and conditions as more fully described in the Offering Circular filed as a part of the application; and said securities are to be offered and sold by officers and authorized employees of CCEF who will not be compensated for their sales efforts.

THE COMMISSION, based on the facts asserted by CCEF in the written application and exhibits, is of the opinion and finds, and does hereby ADJUDGE AND ORDER that, pursuant to the provisions of § 13.1-514.1 B of the Act, the securities described above be, and they hereby are, exempted from the securities registration requirements of the Act and officers and authorized employees of CCEF be, and they hereby are, exempted from the agent registration requirements of said Act.

**CASE NO. SEC-2002-00017**  
**MAY 21, 2002**

APPLICATION OF  
LOUISA COUNTY FARM BUREAU, INC.  
P. O. Box 36  
Louisa, Virginia 23093

For an Order of Exemption under § 13.1-514.1 B of the Code of Virginia, as amended

**ORDER OF EXEMPTION**

THIS MATTER came for consideration upon written application dated April 11, 2002, with exhibits attached thereto, as subsequently amended, of Louisa County Farm Bureau, Inc. ("LCFB") requesting that certain Debenture Bonds be exempted from the securities registration requirements of the Virginia Securities Act ("Act"), § 13.1-501 w. of the Code of Virginia and that certain members of LCFB be exempted from the agent registration requirements of said Act.

BASED UPON THE INFORMATION submitted, the following facts, in addition to others not enumerated herein, appear to exist: LCFB is a non-stock Virginia corporation organized not for private profit but to advance and improve certain state and national level agricultural organizations in the development of an abundant, just and efficient economy, and a free and democratic society; to develop a definite program of work in the said County and cooperate with established rural institutions that will bring said County better economic, social, educational and spiritual conditions; LCFB intends to offer and sell Registered Debenture Bonds in an approximate aggregate amount of \$100,000 on terms and conditions as more fully described in the Prospectus filed as a part of the application; said securities are to be offered and sold by a bond sales committee composed of officers and directors of LCFB who will not be compensated for their sales efforts; and said securities will be offered only to members and their immediate family.

THE COMMISSION, based on the facts asserted by LCFB in the written application and exhibits, is of the opinion and finds, and does hereby ADJUDGE AND ORDER that, pursuant to the provisions of §13.1-514.1 B of the Act, the securities described above be, and they hereby are, exempted from the securities registration requirements of the Act and the members of the bond sales committee be, and they hereby are, exempted from the agent registration requirements of said Act.

**CASE NO. SEC-2002-00020**  
**NOVEMBER 13, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION

v.

KEVIN L HARRELL d/b/a FIRST AMERICAN FINANCIAL SERVICES CLUB,  
Defendant

**JUDGMENT**

By Rule to Show Cause issued against Kevin L. Harrell d/b/a First American Financial Services Club on June 13, 2002, the Division of Securities and Retail Franchising ("Division") alleged that the Defendant failed to comply with a Commission subpoena order issued on March 15, 2002. The Commission assigned this case to Deborah V. Ellenberg, Chief Hearing Examiner, to conduct a hearing for the Commission on September 24, 2002. The Defendant failed to appear for the hearing. The Hearing Examiner issued her Report setting forth her recommended findings of fact and conclusions of law on September 24, 2002. The Chief Hearing Examiner recommended the following:

(A) Defendant is in violation of the Commission's subpoena for his failure to produce the documents as ordered and his failure to appear at hearing to provide an excuse for refusal to produce the documents as ordered by the Commission.

(B) Defendant should be fined \$5,000 pursuant to § 12.1-33 of the Code of Virginia and § 13.1-521 of the Virginia Securities Act ("Act"), § 13.1-501 *et seq.* of the Code of Virginia for failure to obey an order of the Commission.

(C) Defendant should be subject to a continuing fine of \$5,000 per day beginning one day after the Commission issues a judgment order and continuing until the Defendant produces all of the documents ordered to be produced in the subpoena.

(D) The Commission adopt the Hearing Examiner's findings.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

One hour after the conclusion of the hearing, the Defendant arrived at the Commission's offices. Division staff met with Mr. Harrell to discuss the situation. The Defendant agreed to produce all the documents that he had available no later than October 11, 2002. The Division staff agreed that if Defendant produced the subpoenaed documents as he promised that the staff would recommend that the Commission impose no sanction. By the end of business on October 11, 2002, Defendant provided the subpoenaed documents to the Division.

Upon consideration of the Report and the subsequent events, the Commission is of the opinion and finds as follows:

- (1) Defendant failed to submit the documents required by Commission subpoena and failed to appear at the hearing.
- (2) Defendant violated § 13.1-518 of the Act and § 12.1-33 of the Code of Virginia by failing to comply with the Commission's subpoena order.
- (3) Defendant, by agreement with the Division, and subsequent to the hearing, submitted the subpoenaed documents.
- (4) The Division recommended that the Commission not impose a sanction upon the Defendant.

Accordingly, IT IS ADJUDGED AND ORDERED THAT:

1. Defendant is in violation of § 12.1-33 of the Code of Virginia and 13.1-518 of the Act for failure to comply with the Commission's subpoena.
2. No sanction will be imposed due to Defendant's subsequent compliance with the Commission's subpoena order.
3. This case is dismissed from the docket, and the papers herein shall be placed among the ended causes.

**CASE NO. SEC-2002-00028  
NOVEMBER 26, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION

v.

MERRILL LYNCH, PIERCE, FENNER & SMITH, INC.,  
Defendant

**SETTLEMENT ORDER**

The Division of Securities and Retail Franchising ("Division") has advised the State Corporation Commission ("Commission") that the State of New York's Attorney General commenced a proceeding on April 8, 2002, pursuant to Section 354 of the General Business Law of New York (Index No. 02/401522), including submission of the Affidavit of the Chief of Investment Protection Bureau, New York State Department of Law, containing assertions regarding the research practices of Merrill Lynch Pierce, Fenner & Smith, Inc. ("Merrill Lynch").

As a result of that proceeding, fifty states, the District of Columbia and Puerto Rico, through a committee of the North American Securities Administrators Association, Inc. ("NASAA") have negotiated an agreement ("State Agreement"), a copy of which is attached. In resolution of the matters arising from the allegations made by the state of New York, Merrill Lynch recognizes that the Commission is a unique regulatory entity and is acting as a court of record in this proceeding. The Division has recommended to the Commission that this case be settled in accordance with the terms of the State Agreement pursuant to authority granted in § 12.1-15 of the Code of Virginia.

NOW THEREFORE, IT IS ORDERED THAT:

1. Pursuant to the authority granted the Commission in § 12.1-15, the offer of settlement set forth in the State Agreement is accepted subject to the provisions of this order.
2. Merrill Lynch shall forward the amount designated in the State Agreement to the Comptroller of the Commission who shall receive such funds to be designated as the Virginia Investor Education Fund. The amount received shall be deposited in the said fund and shall be expended at the direction of the Commission to enhance the securities education program. The program shall enhance the Division's programs that provide information about investor's rights, fraudulent activities and any other investor education as the Commission deems necessary and appropriate in the public interest pursuant to the Virginia Securities Act, § 13.1-501 *et seq.* of the Code of Virginia.
3. Any unexpended or unobligated funds from this education program fund shall be transferred to the General Fund of the Commonwealth.
4. Merrill Lynch shall comply fully with the terms of the State Agreement, which compliance shall be enforced by this Commission and governed by the laws of the Commonwealth of Virginia.
5. The entry of this order does not constitute a waiver by Merrill Lynch of any jurisdictional defenses except as expressly provided in the State Agreement.
6. If Merrill Lynch complies fully with the terms of the State Agreement, the State Agreement shall constitute a final and complete resolution of all matters concerning Merrill Lynch as discussed in the State Agreement.
7. The Commission shall retain jurisdiction in this matter for all purposes, including the institution of a show cause proceeding for Merrill Lynch's failure to comply with the State Agreement.

**CASE NO. SEC-2002-00029  
AUGUST 2, 2002**

APPLICATION OF  
HOSANNA VICTORY CHURCH  
7903 Midlothian Turnpike  
Richmond, Virginia 23235-5229

For an Order of Exemption under §j 13.1-514.1 B of the Code of Virginia, as amended

**ORDER OF EXEMPTION**

THIS MATTER came for consideration upon written application dated May 17, 2002, with exhibits attached thereto, as subsequently amended, of Hosanna Victory Church ("HVC") requesting that certain First Deed of Trust Bonds be exempted from the securities registration requirements of the Virginia Securities Act ("Act"), § 13.1-501 et seq. of the Code of Virginia and that certain members of HVC be exempted from the agent registration requirements of said Act.

BASED UPON THE INFORMATION submitted, the following facts, in addition to others not enumerated herein, appear to exist: HVC is a Virginia unincorporated non-profit organization operating exclusively for religious purposes; HVC intends to offer and sell Series 2002-A First Deed of Trust Bonds in an approximate aggregate amount of \$950,000 on terms and conditions as more fully described in the Prospectus filed as a part of the application; said securities are to be offered and sold by a bond sales committee composed of members of HVC who will not be compensated for their sales efforts; and said securities may also be offered and sold by broker-dealers so registered under the Act.

THE COMMISSION, based on the facts asserted by HVC in the written application and exhibits, is of the opinion and finds, and does hereby ADJUDGE AND ORDER that, pursuant to the provisions of § 13.1-514.1 B of the Act, the securities described above be, and they hereby are, exempted from the securities registration requirements of the Act and the members of HVC be, and they hereby are, exempted from the agent registration requirements of said Act.

**CASE NO. SEC-2002-00031  
AUGUST 7, 2002**

APPLICATION OF  
CHURCH EXTENSION INVESTORS FUND  
One South 210 Summit Avenue  
Oakbrook Terrace, Illinois 60181

For an Order of Exemption under 5 13.1-514.1 B of the Code of Virginia, as amended

**ORDER OF EXEMPTION**

THIS MATTER came for consideration upon written application dated July 11, 2002, with exhibits attached thereto, as subsequently amended, of Church Extension Investors Fund ("CEIF") requesting that certain Debt Securities be exempted from the securities registration requirements of the Virginia Securities Act ("Act"), § 13.1-501 et seq. of the Code of Virginia and that certain officers of CEIF be exempted from the agent registration requirements of said Act.

BASED UPON THE INFORMATION submitted, the following facts, in addition to others not enumerated herein, appear to exist: CEIF is an Illinois not for profit corporation operating exclusively for religious purposes; CEIF intends to offer and sell unsecured variable rate Foundation and Building Fund Certificates and fixed rate Term, Charitable Gift, and Institutional Certificates in an approximate aggregate amount of \$25,000,000 on terms and conditions as more fully described in the Offering Circular filed as a part of the application; and said securities are to be offered and sold by the President and the Vice President/Secretary of CEIF who will not be compensated for their sales efforts.

THE COMMISSION, based on the facts asserted by CEIF in the written application and exhibits, is of the opinion and finds, and does hereby ADJUDGE AND ORDER that, pursuant to the provisions of § 13.1-514.1 B of the Act, the securities described above be, and they hereby are, exempted from the securities registration requirements of the Act and the designated CEIF officers be, and they hereby are, exempted from the agent registration requirements of said Act.

**CASE NO. SEC-2002-00037  
NOVEMBER 4, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*,  
STATE CORPORATION COMMISSION  
v.  
WASHINGTON SQUARE SECURITIES, INC.,  
Defendant

**SETTLEMENT ORDER**

The Division of Securities and Retail Franchising ("Division") of the State Corporation Commission ("Commission") has instituted the above investigations of Washington Square Securities, Inc. ("Washington Square" or the "Company"), pursuant to § 13.1-518 of the Virginia Securities Act (the "Act"), § 13.1-501 *et seq.* of the Code of Virginia.

**ALLEGATIONS**

As a result of its investigations, the Division alleges that:

The Company was and is a broker-dealer registered under the Act and was, according to Rule 21 VAC 5-20-260A as promulgated under the Act, responsible for the actions of its registered agents, William James Guy ("Guy"), Candace Ann Bloodsworth ("Bloodsworth"), and David Hartman Henderson ("Henderson") and each of them.

Guy, in the offer and sale of (i) a promissory note issued by Yucatan Investments, and (ii) an investment contract issued by Driving Force 1:

- (a) Violated § 13.1-502(2) of the Act by omitting to disclose material facts;
- (b) Violated § 13.1-502(2) of the Act by misrepresenting material facts;
- (c) Violated § 13.1-502(2) of the Act by omitting to disclose risk warnings;
- (d) Transacted business as an unregistered agent (Yucatan and Driving Force), respectively) in violation of § 13.1-504A of the Act;
- (e) Sold unregistered securities in violation of § 13.1-507 of the Act;
- (f) Sold securities not recorded on the regular books of the Company in violation of Rule 21 VAC 5-20-280B2; and
- (g) Sold unsuitable investments violating Rule 21 VAC 5-20-280A3.

Bloodsworth, in the offer and sale of (i) promissory notes issued by AmeriTech Petroleum, and (ii) investment contracts issued by Driving Force 1:

- (a) Violated § 13.1-502(2) of the Act by omitting to disclose material facts;
- (b) Violated § 13.1-502(2) of the Act by misrepresenting material facts;
- (c) Sold unregistered securities in violation of § 13.1-507 of the Act; and
- (d) Sold unsuitable investments in violation of Rule 21 VAC 5-20-280A3.

Henderson, in the offer and sale of (i) promissory notes issued by AmeriTech Petroleum, (ii) ETS Payphones, and (iii) promissory notes issued by U.S. Capital Funding:

- (a) Violated § 13.1-502(2) of the Act by omitting to disclose material facts;
- (b) Engaged in a practice and course of business dealing that operated as a fraud and deceit upon investors in violation of § 13.1-502(3) of the Act;
- (c) Violated § 13.1-502(2) of the Act by misrepresenting material facts;
- (d) Sold unregistered securities in violation of § 13.1-507 of the Act; and
- (e) Sold unregistered, non-exempt securities investments in violation of § 13.1-507 of the Act.

The Company failed to exercise diligent supervision over the securities activities of Guy, Bloodsworth, and Henderson, in violation of Rule 21 VAC 5-20-260B.

**OFFER OF SETTLEMENT**

Solely for the purpose of these proceedings, and without admitting or denying any allegations made herein, and prior to a hearing pursuant to the Virginia Securities Act and the Virginia Administrative Code, the Company has offered and agreed to comply with the following terms and undertakings:



1. Contemporaneously with the submission of this Settlement Order, the Company has submitted to the Division correspondence, papers and other documents through which the Company offers to pay six (6) residents of the state of Virginia ("Residents") fifty-five percent of the face amount of each respective investment that was placed at issue by the Division, in exchange for (i) an assignment of each Resident's claims against Henderson, Guy and Bloodsworth, respectively; (ii) an assignment of each Resident's claim or interest in and right or title to each investment at issue, including any and all claims against the issuer; and (iii) a complete, full and final release of any and all claims that each of the Residents may have against the Company ("Offer").

2. The Division has advised the Company that the instruments referenced in paragraph 1 of this Offer of Settlement are in a form and substance acceptable to the Division. The instruments will be mailed to each of the Residents within one business day after receipt of written notice from the Division that the Commission has accepted this Offer of Settlement;

3. The Company will provide the Division with written evidence of its compliance with the provisions of paragraphs 1 and 2 of this Offer of Settlement within thirty (30) days of the date the final payment is remitted to the Residents or from the date the final outstanding Offer is rejected, whichever occurs last. Such evidence will be in the form of a Declaration, executed by the Chief Compliance Officer of the Company that will contain the following information: (i) the date upon which payment was remitted to each Resident; (ii) the amount of payment remitted to each Resident; (iii) and, if applicable, a statement identifying any Resident who refuses the Offer. The Company shall be deemed to have complied with this term of the Order upon the filing of this Declaration;

4. Contemporaneously with the Offer, the Company will provide each Resident with a copy of this Settlement Order;

5. The Company will furnish the Division with a copy of all correspondence that the Company sends to each Resident;

6. As of the date of entry of the Order, the Company will exercise reasonable and diligent supervision of its agents in accordance with the Rules of the Commission;

7. Pursuant to § 13.1-518A of the Act, the Company shall pay to the Commission fifteen thousand dollars (\$15,000) to defray the cost of the investigation. This sum will be paid within eight (8) business days after receipt by the Company of written notice that the Commission has accepted this Offer of Settlement;

8. It is recognized and understood that if the Company fails to comply with any of the foregoing terms and undertakings, then the Commission reserves the right, the exercise of which right will not be contested by the Company, to institute a show cause proceeding under the Act or other applicable statutes based on such failure to comply, on the allegations contained herein, and/or such other allegations as warranted.

The Division has recommended that the Company's Offer of Settlement be accepted pursuant to the authority granted to the Commission in § 12.1-15 of the Code of Virginia.

THEREFORE, IT IS ORDERED THAT:

(A) Pursuant to the authority granted to the Commission in § 12.1-15 of the Code of Virginia, the Company's Offer of Settlement is accepted according to its terms. The Commission notes that this Order is entered after receiving an Offer of Settlement from the Company. The Order was not entered after hearing;

(B) The Company shall comply fully with the aforesaid terms and undertakings of its Offer of Settlement;

(C) Pursuant to § 13.1-518 A of the Act, the Company shall pay to the Commission fifteen thousand dollars (\$15,000) to defray the cost of the investigation in accordance with paragraph 7 of the Offer of Settlement;

(D) The Commission shall retain jurisdiction over this matter for all purposes, including the institution of a show cause proceeding as described above, or taking such other action it deems appropriate, on account of the Company's failure to comply with the terms and undertakings of the Settlement Order.

**CASE NO. SEC-2002-00038  
OCTOBER 3, 2002**

APPLICATION OF  
FIRST ASSEMBLY OF GOD OF HARRISONBURG, VIRGINIA  
1310 Garbers Church Road  
Harrisonburg, Virginia 22801

For an Order of Exemption under § 13.1-514.1 B of the Code of Virginia, as amended

**ORDER OF EXEMPTION**

THIS MATTER came for consideration upon written application dated August 14, 2002, with exhibits attached thereto, as subsequently amended, of First Assembly of God of Harrisonburg, Virginia ("FAGH) requesting that certain First Mortgage Bonds be exempted from the securities registration requirements of the Virginia Securities Act ("Act"), § 13.1-501 et seq. of the Code of Virginia and that certain members of FAGH be exempted from the agent registration requirements of said Act.

BASED UPON THE INFORMATION submitted, the following facts, in addition to others not enumerated herein, appear to exist: FAGH is an unincorporated organization operating not for private profit but exclusively for religious purposes; FAGH intends to offer and sell Simple Interest and Compound Interest First Mortgage Bonds Series of October 15, 2002, in an approximate aggregate amount of \$1,100,000 on terms and conditions as more

fully described in the Prospectus filed as a part of the application; and said securities are to be offered and sold by a bond sales committee composed of members of FAGH who will not be compensated for their sales efforts and by broker-dealers so registered under the Act.

THE COMMISSION, based on the facts asserted by FAGH in the written application and exhibits, is of the opinion and finds, and does hereby ADJUDGE AND ORDER that, pursuant to the provisions of § 13.1-514.1 B of the Act, the securities described above be, and they hereby are, exempted from the securities registration requirements of the Act and the members of the bond sales committee be, and they hereby are, exempted from the agent registration requirements of said Act.

**CASE NO. SEC-2002-00052  
DECEMBER 9, 2002**

COMMONWEALTH OF VIRGINIA, *ex rel.*  
STATE CORPORATION COMMISSION

v.  
SEAN M. SANDRIDGE,  
Defendant

**SETTLEMENT ORDER**

The Commission's Division of Securities and Retail Franchising ("Division") has instituted an investigation of Defendant, Sean M. Sandridge ("Sandridge") pursuant to § 13.1-518 of the Virginia Securities Act ("Act"), § 13.1-501 *et seq.* of the Code of Virginia.

As a result of its investigation, the Division alleges that (i) Sandridge acted as an unregistered agent in violation of § 13.1-504 A of the Act, and (ii) Sandridge offered for sale and sold unregistered securities, to wit: an investment contract, in violation of § 13.1-507 of the Act.

The Defendant neither admits nor denies the allegations, but admits to the Commission's jurisdiction and authority to enter this order.

As a proposal to settle all matters arising from the allegations made against him, the Defendant has offered, and agreed to comply with, the following terms and undertakings:

- (1) Defendant has made an offer of restitution to the one known Virginia investor, which has been accepted and paid.
- (2) For a period of two years from the date of this Order, Defendant will not apply for registration under the Act either as a broker-dealer or as an agent.
- (3) Defendant agrees to be permanently enjoined from violating the provisions of the Act in the future.

The Division has recommended that the Defendant's offer of settlement be accepted pursuant to the authority granted to the Commission in § 12.1-15 of the Code of Virginia. Accordingly,

THEREFORE, IT IS ORDERED THAT:

- (1) Pursuant to the authority granted to the Commission in § 12.1-15 of the Code of Virginia, the Defendant's offer of settlement is accepted;
- (2) The Defendant shall fully comply with the aforesaid terms and undertakings of the settlement;
- (3) Pursuant to Virginia Code § 13.1-519, Sean M. Sandridge be, and hereby is, permanently enjoined from violating the provisions of the Virginia Securities Act;
- (4) This case is dismissed and that the papers herein be placed in the file for end causes.

## TABLES

### CLERK'S OFFICE

Summary of the changes in the number of Virginia corporations, foreign corporations, and limited partnerships licensed to do business in Virginia, and of amendments to Virginia, foreign, and limited partnership charters during 2001 and 2002.

#### VIRGINIA CORPORATIONS

	<u>2001</u>	<u>2002</u>
Certificates of Incorporation issued .....	18,342	19,232
Corporations voluntarily terminated .....	2,560	2,903
Corporations involuntarily terminated .....	111	126
Corporations automatically terminated .....	14,881	15,755
Reinstatements of terminated corporations .....	4,501	4,490
Charters amended .....	2,625	2,835
Active Stock Corporations .....	139,977	142,893
Active Non-Stock Corporations .....	27,943	29,339
Total Active Virginia Corporations .....	167,920	172,232

#### FOREIGN CORPORATIONS

Certificates of Authority to do business in Virginia issued .....	4,075	4,660
Voluntary withdrawals from Virginia .....	1,256	1,401
Certificates of Authority automatically revoked .....	2,676	2,815
Certificates of Authority involuntarily revoked .....	24	20
Reentry of corporations with surrendered or revoked certificates .....	874	846
Charters amended .....	1,184	1,074
Active Stock Corporations .....	31,874	32,147
Active Non-Stock Corporations .....	1,891	1,967
Total Active Foreign Corporations .....	33,765	34,114
Total Active (Domestic and Foreign) Corporations .....	201,685	206,346

#### LIMITED PARTNERSHIPS

Limited Partnership Certificates filed .....	2,023	1,877
Limited Partnership Certificates amended .....	188	355
Limited Partnership Certificates voluntarily canceled .....	184	212
Limited Partnership Certificates involuntarily canceled .....	585	541
Total Active (Domestic and Foreign) Limited Partnerships .....	8,487	8,519

#### LIMITED LIABILITY COMPANIES

Articles of organization filed .....	15,369	19,599
Articles of organization amended .....	889	1,334
Articles of organization voluntarily canceled .....	825	1,077
Articles of organization involuntarily canceled .....	5,372	5,850
Total Active (Domestic and Foreign) Limited Liability Companies .....	54,621	68,011

#### LIMITED LIABILITY PARTNERSHIPS

Statements of registration as a Registered Limited Liability Partnership .....	53	71
Renewals of registration as a Registered Limited Liability Partnership .....	804	906
Total Active (Domestic and Foreign) Registered Limited Liability Partnerships .....	860	983

#### GENERAL PARTNERSHIPS

Total active General Partnerships filed .....	156	148
Total active General Partnerships on record .....	864	923

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

**COMPARISON OF REVENUES DEPOSITED BY THE CLERK'S OFFICE  
FOR THE FISCAL YEARS ENDING JUNE 30, 2001, AND JUNE 30, 2002**

<u>General Fund</u>	<u>2001</u>	<u>2002</u>	<u>Difference</u>
Securities Application Fees-Utilities	\$15,275.00	\$9,750.00	(\$5,525.00)
Charter Fees	1,793,642.00	1,602,225.00	(191,417.00)
Entrance Fees	2,447,995.00	1,526,865.00	(921,130.00)
Filing Fees	839,455.00	808,425.00	(31,030.00)
Registered Name	2,610.00	3,050.00	440.00
Registered Office and Agent	0.00	0.00	0.00
Service of Process	27,960.00	28,890.00	930.00
Copy and Recording Fees	481,561.90	478,329.88	(3,232.02)
SCC Annual Report Sales	4,766.00	5,999.68	1,233.68
Uniform Commercial Code Revenues	819,270.00	1,607,380.00	788,110.00
Excess Fees Paid into State Treasury	157,615.14	128,711.82	(28,903.32)
Miscellaneous Sales	0.00	0.00	0.00
<b>TOTAL</b>	<u>\$6,590,150.04</u>	<u>\$6,199,626.38</u>	<u>(\$390,523.66)</u>
<u>Special Fund</u>			
Domestic-Foreign Corp. Registration Fee	\$15,572,287.03	\$16,288,805.13	\$716,518.10
Limited Partnership Registration Fee	399,453.49	406,227.00	6,773.51
Reserved Name - Limited Partnership	14,080.00	19,310.00	5,230.00
Certificate Limited Partnership	64,500.00	57,525.00	(6,975.00)
Application Reg. Foreign LP	23,600.00	19,500.00	(4,100.00)
Reinstatement LP	14,650.00	13,350.00	(1,300.00)
Registration Fee LLC	1,625,865.00	2,048,960.00	423,095.00
Application For. Reg. LLC	160,635.00	169,025.00	8,390.00
Art of Org. Dom. LLC	1,321,375.00	1,551,850.00	230,475.00
AMEND, CANC, CORR. RAC, Etc. LLC	65,545.00	71,270.00	5,725.00
SCC Bad Check Fee	3,615.00	5,015.00	1,400.00
Interest on Del. Tax	12.62	0.00	(12.62)
Penalty on Non-Pay Fees by Due Date	612,666.67	656,525.97	43,859.30
Miscellaneous Revenue	0.00	0.00	0.00
Statement of Reg. As Domestic LLP	2,600.00	6,500.00	3,900.00
LLP Annual Continuation	32,200.00	34,875.00	2,675.00
Statement of Partnership Authority GP Dom	4,325.00	3,200.00	(1,125.00)
Statement of Partnership Authority GP For	100.00	200.00	100.00
Statement of Amendments - GP	395.00	375.00	(20.00)
Statement of Reg. As Foreign LLP	6,900.00	1,300.00	(5,600.00)
Statement of Amendment LLP	1,050.00	850.00	(200.00)
Reinstatement/Reentry LLC	55,500.00	76,400.00	20,900.00
Tape Sales, Misc Fees	66,000.00	74,000.00	8,000.00
Copies, Recording Fees	0.00	0.00	0.00
Recovery of Prior Yr Expenses	0.00	0.00	0.00
LLP Reinstatement	0.00	200.00	200.00
<b>TOTAL</b>	<u>\$20,047,354.81</u>	<u>\$21,505,263.10</u>	<u>\$1,457,908.29</u>
<u>Valuation Fund</u>			
Corp Operations Rec Of Copy and Cert Fees	\$16,928.37	\$5,909.84	(\$11,018.53)
Dual Party Relay Assessments	0.00	0.00	0.00
Recovery of Prior Yr Expenses	999.50	0.00	(999.50)
<b>TOTAL</b>	<u>\$17,927.87</u>	<u>\$5,909.84</u>	<u>(\$12,018.03)</u>
<u>Trust &amp; Agency Fund</u>			
Fines Imposed and Collected by SCC	\$420.00	\$58,416.00	\$57,996.00
Debt Set Off Collection	262.00	284.00	22.00
<b>TOTAL</b>	<u>\$682.00</u>	<u>\$58,700.00</u>	<u>\$58,018.00</u>
 <b>GRAND TOTAL</b>	 <u>\$26,656,114.72</u>	 <u>\$27,769,499.32</u>	 <u>\$1,113,384.60</u>

**COMPARISON OF FEES COLLECTED BY THE BUREAU OF FINANCIAL INSTITUTIONS  
FOR FISCAL YEARS ENDING JUNE 30, 2001, AND JUNE 30, 2002**

	<u>2000/2001</u>	<u>2001/2002</u>
Banks	\$5,881,390	\$6,885,387
Savings Institutions and Savings Banks	41,548	33,180
Consumer Finance Licensees	873,425	714,114
Credit Unions	693,408	761,188
Trust subsidiaries and Trust Companies	89,337	121,266
Industrial Loan Associations	15,371	22,682
Money Order Sellers and Transmitters	33,500	38,000
Debt Counseling Agency Licensees	10,350	11,400
Mortgage Lenders and Mortgage Brokers	1,567,519	1,713,333
Miscellaneous Collections	<u>25,514</u>	<u>29,978</u>
<b>TOTAL</b>	<b>\$9,231,362</b>	<b>\$10,330,528</b>

**COMPARISON OF FEES AND TAXES COLLECTED BY THE BUREAU OF INSURANCE  
FOR THE FISCAL YEARS ENDING JUNE 30, 2001, AND JUNE 30, 2002**

<u>Kind</u>	<u>General Fund</u>	<u>2001</u>	<u>2002</u>	<u>Increase or (Decrease)</u>
Gross Premium Taxes of Insurance Companies		\$268,060,165.30	\$292,702,124.84	\$24,641,959.54
Fraternal Benefit Societies Licenses		2,480.00	580.00	(1,900.00)
Viatical Settlement Provider License Fees		3,000.00	500.00	(2,500.00)
Viatical Settlement Broker License Fees		2,650.00	2,600.00	(50.00)
Hospital, Medical, and Surgical Plans and Salesmen's Licenses		0.00	0.00	0.00
Interest on Delinquent Taxes		227,710.51	216,655.42	(11,055.09)
Penalty on non-payment of taxes by due date		92,139.21	90,674.74	(1,464.47)
<u>Special Fund</u>				
Company License Application Fee		23,500.00	23,500.00	0.00
Health Maintenance Organization License Fee		0.00	0.00	0.00
Automobile Club/ Agent Licenses		6,600.00	7,700.00	1,100.00
Insurance Premium Finance Companies Licenses		9,100.00	11,200.00	2,100.00
Agents Appointment Fees		11,464,391.44	12,655,711.00	1,191,319.56
Surplus Lines Broker Licenses		20,100.00	23,400.00	3,300.00
Producer License Application Fees		556,455.00	539,610.00	(16,845.00)
Recording, Copying, and Certifying Public Records Fee		51,819.00	57,640.90	5,821.90
Assessments To Insurance Companies for Maintenance of the Bureau of Insurance		10,447,308.42	9,175,080.00	(1,272,228.42)
Miscellaneous Revenue		0.00	114,069.31	114,069.31
Recovery of Prior Year Expenses		217,211.82	113,934.73	(103,277.09)
Fire Programs Fund		15,018,461.73	16,722,680.86	1,704,219.13
P&C Consultant License Fees		41,650.00	46,675.00	5,025.00
SCC Bad Check Fee		475.00	175.00	(300.00)
Managed Care Health Ins. Plan Appeals Fee		2,300.00	1,350.00	(950.00)
Appointment Fee Penalty		0.00	243,200.03	243,200.03
Administrative Penalty Payment		0.00	138,000.00	138,000.00
Fines Imposed by State Corporation Commission		1,810,675.00	1,333,310.00	(477,365.00)
Private Review Agents		0.00	0.00	0.00
Flood Assessment Fund		124,368.67	153,545.94	29,177.27
Heat Assessment Fund		1,186,742.20	1,593,132.09	406,389.89
Fraud Assessment Fund		3,225,018.94	3,623,134.29	398,115.35
Reinsurance Intermediary Broker Fees		1,000.00	500.00	(500.00)
Reinsurance Intermediary Managers Fee		500.00	0.00	(500.00)
Managing General Agent Fees		8,500.00	7,500.00	(1,000.00)
MCHIP Assessment		18,824.19	417,574.69	398,750.50
State Publication Sales		0.00	50.00	50.00
Debt Set Off Collections		0.00	0.00	0.00

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

Fire Programs Fund Interest	81,916.32	79,497.09	(2,419.23)
Fraud Assessment Interest	<u>20,430.84</u>	<u>19,538.19</u>	<u>(892.65)</u>
<b>TOTAL</b>	\$312,725,493.59	\$340,114,844.12	\$27,389,350.53

**COMPARISON OF ASSESSMENT OF PUBLIC SERVICE COMPANIES  
FOR THE YEARS 2001 AND 2002**

Class of Company	Value of all Taxable Property Including Rolling Stock		Increase or (Decrease)
	2001	2002	
Electric Light & Power Corporations	\$14,970,455,622.00	\$16,956,900,239.00	\$1,986,444,617.00
Gas Corporations	1,348,023,224.00	1,390,167,491.00	42,144,267.00
Motor Vehicle Carriers (Rolling Stock only)	53,463,087.85	54,391,116.80	928,028.95
Telecommunications Companies	9,385,660,341.00	9,882,428,455.00	496,768,114.00
Water Corporations	<u>98,454,011.00</u>	<u>95,700,460.00</u>	<u>(2,753,551.00)</u>
<b>TOTAL</b>	\$25,856,056,285.85	\$28,379,587,761.80	\$2,523,531,475.95

**COMPARISON OF ASSESSMENT OF STATE TAXES OF PUBLIC SERVICE  
COMPANIES FOR THE YEARS 2001 AND 2002**

Class of Company	The Yearly License Tax		Increase or (Decrease)
	2001	2002	
Electric Light & Power Corporations	\$88,820,486.57	\$0.00	(\$88,820,486.57)
Gas Corporations	20,798,529.87	0.00	(20,798,529.87)
Water Corporations	<u>885,874.66</u>	<u>936,564.20</u>	<u>50,689.54</u>
<b>TOTAL</b>	\$110,504,891.10	\$936,564.20	(\$109,568,326.90)

**NOTE:** STATE TAXES ABOVE EXCLUDE License Tax for 2002 on Electric and Gas companies. As a result of deregulation, these companies now pay a net corporate income tax and a consumption tax.

**COMPARISON OF ASSESSMENT OF ADDITIONAL ANNUAL STATE TAX  
FOR VALUATION AND RATEMAKING OF CERTAIN CLASSES OF  
UTILITY COMPANIES FOR THE YEARS 2001 AND 2002**

Class of Company			Increase or (Decrease)
	2001	2002	
Electric Light & Power Corporations	\$11,937,640.76	\$0.00	(\$11,937,640.76)
Gas Corporations	2,079,852.98	0.00	(2,079,852.98)
Motor Vehicle Carriers	61,594.58	62,586.00	991.42
Railroad Companies	861,711.60	871,169.97	9,458.37
Telecommunications Companies	9,269,180.06	9,647,092.62	377,912.56
Virginia Pilots Association	28,637.22	32,389.23	3,752.01
Water Corporations	<u>88,587.50</u>	<u>93,656.40</u>	<u>5,068.90</u>
<b>TOTAL</b>	\$24,327,204.70	\$10,706,894.22	(\$13,620,310.48)

Railroad Companies assessed at one-tenth of one percent and all other companies at two-tenths of one percent.

**NOTE:** STATE TAXES ABOVE EXCLUDE Special Tax for 2002 on Electric and Gas companies. As a result of deregulation, these companies now pay a net corporate income tax and a consumption tax.

**COMPARATIVE STATEMENT OF ASSESSED VALUES OF  
PROPERTIES OF PUBLIC SERVICE CORPORATIONS  
AS ASSESSED BY THE STATE CORPORATION COMMISSION**

<u>Cities</u>	<u>2001</u>	<u>2002</u>	Increase or <u>(Decrease)</u>
Alexandria	\$326,986,929	\$593,463,458	\$266,476,529
Bedford	9,427,045	9,583,405	156,360
Bristol	13,129,446	16,364,868	3,235,422
Buena Vista	9,209,906	9,932,937	723,031
Charlottesville	127,235,475	138,739,651	11,504,176
Chesapeake	686,194,755	732,001,871	45,807,116
Clifton Forge	8,701,756	0.00	(8,701,756)
Colonial Heights	31,055,780	30,955,701	(100,079)
Covington	19,157,872	18,454,362	(703,510)
Danville	45,266,406	45,180,130	(86,276)
Emporia	17,826,766	18,892,269	1,065,503
Fairfax	106,124,270	101,762,739	(4,361,531)
Falls Church	29,234,426	26,448,414	(2,786,012)
Franklin	10,029,172	7,842,070	(2,187,102)
Fredericksburg	78,034,100	80,929,578	2,895,478
Galax	13,459,559	10,166,928	(3,292,631)
Hampton	255,172,024	253,655,206	(1,516,818)
Harrisonburg	50,686,314	50,344,948	(341,366)
Hopewell	72,308,403	280,786,431	208,478,028
Lexington	13,991,845	15,722,167	1,730,322
Lynchburg	184,289,367	201,810,808	17,521,441
Manassas	61,607,081	63,956,874	2,349,793
Manassas Park	16,642,984	17,561,397	918,413
Martinsville	26,467,396	26,447,350	(20,046)
Newport News	354,361,671	350,717,298	(3,644,373)
Norfolk	620,696,593	636,312,882	15,616,289
Norton	27,701,845	23,602,101	(4,099,744)
Petersburg	85,818,739	80,062,409	(5,756,330)
Poquoson	15,932,426	13,948,034	(1,984,392)
Portsmouth	214,616,864	275,926,363	61,309,499
Radford	15,534,531	16,106,528	571,997
Richmond	710,397,030	854,311,268	143,914,238
Roanoke	246,609,420	241,636,703	(4,972,717)
Salem	28,663,659	26,671,533	(1,992,126)
Staunton	62,737,105	64,929,817	2,192,712
Suffolk	153,099,267	149,677,879	(3,421,388)
Virginia Beach	726,278,431	745,867,961	19,589,530
Waynesboro	84,879,439	71,683,180	(13,196,259)
Williamsburg	48,000,682	47,383,235	(617,447)
Winchester	51,884,098	51,169,776	(714,322)
<b>Total Cities</b>	<b>\$5,659,450,877</b>	<b>\$6,401,010,529</b>	<b>\$741,559,652</b>

**COMPARATIVE STATEMENT OF ASSESSED VALUES OF  
PROPERTIES OF PUBLIC SERVICE CORPORATIONS  
AS ASSESSED BY THE STATE CORPORATION COMMISSION**

<u>Counties</u>	<u>2001</u>	<u>2002</u>	Increase or <u>(Decrease)</u>
Accomack	\$73,226,732	\$188,914,077	\$115,687,345
Albemarle	221,410,779	201,723,192	(19,687,587)
Alleghany	51,302,418	74,566,503	23,264,085
Amelia	25,703,726	26,409,275	705,549
Amherst	60,182,490	78,572,977	18,390,487
Appomattox	30,508,988	34,950,594	4,441,606
Arlington	807,729,222	869,014,862	61,285,640
Augusta	178,586,288	176,499,816	(2,086,472)
Bath	1,537,182,444	1,548,598,779	11,416,335
Bedford	170,322,977	176,094,484	5,771,507

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

Bland	11,558,507	15,534,869	3,976,362
Botetourt	114,116,995	136,169,577	22,052,582
Brunswick	47,423,998	42,481,091	(4,942,907)
Buchanan	61,178,599	58,674,411	(2,504,188)
Buckingham	44,214,562	47,855,411	3,640,849
Campbell	132,172,693	175,961,654	43,788,961
Caroline	95,012,479	208,649,324	113,636,845
Carroll	56,523,194	54,727,798	(1,795,396)
Charles City	31,750,718	31,873,590	122,872
Charlotte	29,030,402	34,938,732	5,908,330
Chesterfield	1,213,217,277	1,230,296,154	17,078,877
Clarke	32,633,861	36,532,604	3,898,743
Craig	11,869,694	11,009,761	(859,933)
Culpeper	96,008,570	94,274,140	(1,734,430)
Cumberland	25,120,979	30,077,151	4,956,172
Dickenson	37,902,581	37,525,885	(376,696)
Dinwiddie	94,479,518	99,826,010	5,346,492
Essex	32,013,487	32,406,939	393,452
Fairfax	2,976,414,882	3,250,072,885	273,658,003
Fauquier	314,858,822	314,139,929	(718,893)
Floyd	39,183,104	39,685,132	502,028
Fluvanna	122,400,515	137,458,357	15,057,842
Franklin	112,954,163	108,670,366	(4,283,797)
Frederick	200,743,806	185,065,419	(15,678,387)
Giles	119,642,434	115,948,075	(3,694,359)
Gloucester	72,898,261	79,269,152	6,370,891
Goochland	76,972,032	74,792,794	(2,179,238)
Grayson	29,965,625	32,355,152	2,389,527
Greene	27,605,663	25,162,476	(2,443,187)
Greensville	23,511,172	27,135,767	3,624,595
Halifax	925,469,177	870,357,505	(55,111,672)
Hanover	\$277,794,073	\$564,940,296	\$287,146,223
Henrico	815,672,236	824,265,198	8,592,962
Henry	117,750,480	109,943,040	(7,807,440)
Highland	16,892,746	16,667,410	(225,336)
Isle of Wight	84,751,151	204,916,166	120,165,015
James City	151,377,949	153,621,914	2,243,965
King George	18,064,670	22,863,960	4,799,290
King and Queen	44,002,210	303,836,804	259,834,594
King William	34,115,253	30,674,274	(3,440,979)
Lancaster	36,644,273	38,887,441	2,243,168
Lee	47,464,333	42,892,636	(4,571,697)
Loudoun	633,349,289	799,429,946	166,080,657
Louisa	1,929,258,671	1,888,350,646	(40,908,025)
Lunenburg	26,524,145	26,929,530	405,385
Madison	32,330,167	34,108,837	1,778,670
Mathews	19,856,314	19,399,790	(456,524)
Mecklenburg	92,094,481	189,399,788	97,305,307
Middlesex	33,959,464	32,532,207	(1,427,257)
Montgomery	119,641,226	116,825,741	(2,815,485)
Nelson	56,683,044	60,766,094	4,083,050
New Kent	55,534,844	52,857,719	(2,677,125)
Northampton	34,058,628	33,906,323	(152,305)
Northumberland	34,634,980	32,246,607	(2,388,373)
Nottoway	37,952,466	38,166,197	213,731
Orange	68,687,050	69,358,718	671,668
Page	45,812,323	37,966,264	(7,846,059)
Patrick	37,055,605	35,788,793	(1,266,812)
Pittsylvania	148,494,585	275,515,403	127,020,818
Powhatan	53,230,943	66,335,888	13,104,945
Prince Edward	33,623,798	33,879,391	255,593
Prince George	54,216,669	56,511,816	2,295,147
Prince William	841,436,761	852,965,586	11,528,825
Pulaski	71,331,231	75,962,820	4,631,589
Rappahannock	20,121,030	20,047,407	(73,623)
Richmond	41,039,183	38,429,314	(2,609,869)
Roanoke	180,997,971	195,144,021	14,146,050
Rockbridge	93,631,198	93,458,309	(172,889)
Rockingham	138,944,494	156,147,587	17,203,093
Russell	210,374,005	209,703,334	(670,671)
Scott	\$44,296,266	\$44,248,556	\$(47,710)
Shenandoah	107,561,172	122,393,140	14,831,968



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Smyth	78,748,159	80,566,441	1,818,282
Southampton	43,438,963	95,787,834	52,348,871
Spotsylvania	206,303,300	203,533,629	(2,769,671)
Stafford	172,005,617	166,693,738	(5,311,879)
Surry	1,473,070,087	1,349,219,796	(123,850,291)
Sussex	42,008,338	43,644,134	1,635,796
Tazewell	76,261,634	75,207,330	(1,054,304)
Warren	44,566,743	43,369,468	(1,197,275)
Washington	107,979,557	199,084,947	91,105,390
Westmoreland	45,279,446	43,159,241	(2,120,205)
Wise	62,067,613	61,870,286	(197,327)
Wythe	71,627,869	99,432,163	27,804,294
York	<u>413,519,784</u>	<u>426,059,529</u>	<u>12,539,745</u>
<b>Total Counties</b>	\$20,143,142,321	\$21,924,186,116	\$1,781,043,795
<b>Total Cities &amp; Counties</b>	\$25,802,593,198	\$28,325,196,645	\$2,522,603,447

**COMPARISON OF FEES COLLECTED BY THE DIVISION OF SECURITIES  
AND RETAIL FRANCHISING FOR THE YEARS ENDING DECEMBER 31, 2001  
AND DECEMBER 31, 2002**

<u>Kind</u>	<u>2001</u>	<u>2002</u>	<u>Increase or (Decrease)</u>
Securities Act	\$7,659,768	\$7,201,807	(\$457,961)
Retail Franchising Act	305,700	320,200	14,500
Trademarks-Service Marks	15,065	15,428	363
Fines	<u>38,860</u>	<u>70,815</u>	<u>31,955</u>
<b>TOTAL</b>	\$8,019,393	\$76,608,250	(\$411,143)

## PROCEEDINGS BY DIVISIONS DURING THE YEAR 2002

### DIVISION OF PUBLIC UTILITY ACCOUNTING

The following statistical data summarizes Rate Cases, Certificate Cases, Annual Informational Filings/Earnings Tests, Fuel Factor Cases, Compliance Audits, Depreciation Studies and Special Studies made by PUA in 2002.

<u>General Rate Cases</u>		
Electric Companies		0
Electric Cooperatives		0
Gas Companies		2
Water and Sewer Companies		<u>6</u>
<b>Total General Rate Cases</b>		<b>8</b>
<u>Expedited Rate Cases</u>		
Gas Company		<u>1</u>
<b>Total Rate Cases</b>		<b>9</b>
<u>Certificate Cases</u>		
Water and Sewer Companies		3
Gas Companies		1
<u>Ch. 4 or Ch. 5/Certificate Cases</u>		
Water and Sewer Companies		5
<u>Receivership/Certificate Cases</u>		
Water and Sewer Companies		<u>1</u>
<b>Total Certificate Cases</b>		<b>10</b>
<u>Annual Informational Filings/Earnings Tests</u>		
Electric Companies (Investor Owned)		6
Gas Companies		8
Telephone Companies		0
Water and Sewer Companies		<u>2</u>
<b>Total Annual Informational Filings</b>		<b>16</b>
<u>Fuel Factor Cases - Electric Companies</u>		1
<u>Compliance Audits</u>		0
<u>Depreciation Studies</u>		3
<u>Special Studies</u>		
Electric Companies		9
Gas Companies		4
Telephone Companies		4
Other		<u>1</u>
<b>Total Special Studies</b>		<b>18</b>

During the year 2002 Division of Public Utility Accounting received applications filed under the Public Utilities Affiliates Law and the Utility Transfers Act pertaining to public utilities for processing, analysis, and study. The number and type of written reports submitted to the Commission recommending action and orders drawn are as follows:

<u>Number of Utility Transfer Act Cases</u>		
Transfer of Assets		10
Transfer of Securities or Control		38
<u>Number of Affiliates Act Cases</u>		
Service Agreements		14
Power Sales		5½*
Assignments		3
Asset Management		2
License Agreement		2
Tax Allocation Agreement		2
Asset transfer		8
Contribution of capital		<u>½*</u>
<b>Total Number of Cases</b>		<b>57</b>

\* Represents cases containing more than one category.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

The Commission's Division of Public Utility Accounting consisted of the following personnel on December 31, 2002:

<u>Filled</u>	<u>Vacant</u>	<u>Description</u>
1		Director
2		Deputy Director
3		Manager of Audits
1		Systems Supervisor
1		Administrative Supervisor
1		Senior Office Technician
6		Principal Public Utility Accountant
1		Senior Public Utility Accountant
2	1	Public Utility Accountant
<u>1</u>	<u>1</u>	Public Utility Analyst
19	1	Total Authorized: 20

### DIVISION OF COMMUNICATIONS

The Division of Communications assists the Commission in carrying out its duties as prescribed by the Code of Virginia. It oversees the continued implementation of competition in telecommunications markets with the goal of achieving an effective regulatory environment that balances the advancement of competitive markets with the protection of consumers. The Division assists the Commission in developing, implementing, and enforcing alternatives to traditional forms of regulation as competitive markets evolve. It monitors, enforces, and makes interpretations on certain rates, tariffs, and operating procedures of investor-owned telecommunications utilities. The Division enforces service standards, assures compliance with tariff regulations, coordinates extended area service studies, enforces pay telephone regulations, assists in carrying out provisions of the 1996 Telecommunications Act, and prescribes depreciation rates. The Staff testifies in rate, service, and generic hearings, and meets with the public on communications issues and problems. The Division maintains territorial maps, performs special studies, monitors construction programs, and investigates and resolves consumer inquiries and complaints. The Staff also monitors developments at the federal level and prepares Commission responses where appropriate.

At the end of 2002, there were under the supervision of the Division:

14	Incumbent Investor-Owned Local Exchange Telephone Companies
186	Competitive Local Exchange Telephone Companies
146	Long Distance Telephone Companies
429	Payphone Service Providers

### SUMMARY OF 2002 ACTIVITIES

Consumer complaints and protests investigated	5,907
Telephone inquiries received	10,956
Tariff revisions received:	
Incumbent Local Exchange Companies	136
Competitive Local Exchange Companies	172
Interexchange Companies	98
Tariff sheets filed:	
Incumbent Local Exchange Companies	1,356
Competitive Local Exchange Companies	5,178
Interexchange Companies	2,187
Promotional Filings:	
Incumbent Local Exchange Companies	32
Competitive Local Exchange Companies	72
Interexchange Companies	59
Cases in which staff members prepared testimony or reports	43
Certificates of Convenience and Necessity Granted, Amended, or Canceled:	
Competitive Local Exchange Companies	49
Interexchange Companies	32
Interconnection Agreements/Amendments Approved or Dismissed	136
FCC comments filed	2
Extended Area Service studies completed or underway	14
Service Surveillance and Results Analysis Provided Monthly on:	
Telephone Companies	10
Access Lines	5,064,537
Switching Offices	436
Payphone Registration and Rules Enforcement provided on:	
Local Exchange Company payphone service providers	16
Local Exchange Company payphones	30,728
Private payphone service providers	413
Private payphones	13,980
Payphone audits (2 Auditors)	653
Complaints Investigated	27

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

Court Cases	9
Visits to:	
Customer premises to resolve customer complaints	4
Company premises to resolve customer complaints	2
Company premises to review service performance	10
Company premises to investigate collocation exemption requests	15
Construction Program reviews	2

**OTHER:**

Continued the Collaborative Committee on local competition market-opening measures:

- Adopted performance assurance plan for Verizon Virginia.

Assisted the Hearing Examiner with Verizon Virginia's 271 application.

Assisted the Commission in the continued implementation and operation of the Telecommunications Act of 1996.

Drafted proposed rules for localities to be certificated as local exchange companies.

Drafted proposed rules for retail service quality and 911 service.

Conducted state-wide consumer and business service quality survey.

Assisted Commission counsel with respect to formal rate, service, or generic matters.

Participated in matters affecting communications policy with federal agencies.

Pursued various activities related to the Commission's alternative plans for regulating telephone companies, including the following:

- Reviewed proposed service classifications for new services and reclassifications for existing services;
- Evaluated Individual Case Basis (ICB) and Special Assembly price filings;
- Assisted in gathering monitoring data.

Continued outreach activities by making presentations to trade and citizens groups, associations, telephone companies, and a legislative committee.

Implemented new Payphone Rules.

Responded to questionnaires from the National Association of Regulatory Utility Commissioners ("NARUC") and others with respect to telecommunications matters.

Made two presentations to Congressional Staff.

Reviewed construction budgets of Verizon and Sprint.

Met with local governing bodies and citizens groups regarding local calling areas and service problems.

Managed Virginia's telephone number utilization program.

Worked with the Virginia Department for the Deaf and Hard of Hearing on monitoring the Telecommunications Relay Service in Virginia.

Hosted a Delegation of Romanian Telecom Regulatory Officials.

Staff member serves on the NARUC Staff Subcommittee on Communications.

Staff member serves on the NARUC Staff Subcommittee on Depreciation.

Staff member serves on the NARUC Staff Subcommittee on Service Quality.

Staff member serves on the Advisory Council for the Virginia Department for the Deaf and Hard of Hearing.

**DIVISION OF ECONOMICS AND FINANCE**

The Division of Economics and Finance performs analysis and research on economic and financial issues pertaining to utility regulation. The Division also provides analytical and research support as needed by non-utility divisions within the Commission.

The Division has ongoing responsibility for:

- issuing monthly Fuel Price Index reports;
- maintaining and issuing monthly reports for the electric utility Fuel Monitoring System;
- issuing quarterly Natural Gas Price Index reports;
- analyzing and presenting testimony on capital structure, cost of capital, and other finance-related issues in utility rate cases;
- analyzing and presenting testimony on interest expense, appropriate earnings level and other finance-related issues in electric cooperative rate cases;

- monitoring the financial condition of Virginia utilities;
- monitoring the diversification activities of holding companies with utility subsidiaries operating in Virginia;
- reviewing annual financing plans of Virginia utilities;
- analyzing utility applications for the issuance of securities and providing the Commission with recommendations;
- conducting studies of intermediate/long range issues in electric, gas and telecommunications utility regulations;
- acquiring and running analytic computer models used to simulate, project, and/or evaluate utility operations and regulatory issues;
- monitoring inter-LATA and intra-LATA telecommunications competition;
- monitoring the incumbent local exchange companies participating in the Alternative Regulatory Plans;
- monitoring competitive local exchange carriers;
- analyzing financial fitness of applicants seeking status as competitive local exchange and interexchange carriers;
- monitoring and maintaining files of electric utilities' operating forecasts;
- monitoring and maintaining files of gas utilities' Five Year Forecasts;
- providing statistical and graphic support for other SCC divisions;
- maintaining database management systems for preparation of economic and financial analysis in utility cases;
- maintaining a utility stock price database;
- maintaining an electric energy market price database;
- monitoring electric and natural gas retail access programs statewide and nationally;
- monitoring evolving competitive energy markets, including market power issues;
- analyzing applications for licenses to become a competitive service provider or aggregator;
- analyzing customer demand-response programs and associated trends; and
- analyzing financial fitness of non-regulated firms seeking approval to build generating facilities or gas pipelines.

#### **SUMMARY OF MAJOR ACTIVITIES DURING 2002**

- Presented testimony on capital structure, cost of capital and other financial issues in five investor-owned utility rate cases.
- Presented testimony on financial and competitive issues for three utility merger cases.
- Completed 14 Annual Informational Filing reports for electric, gas, telephone and water utilities.
- Analyzed and processed 22 applications of utilities seeking authority to issue securities.
- Prepared reports regarding the financial condition of 33 competitive local exchange carriers and two municipal local exchange carriers applying for certification.
- Prepared reports on applications for certificates to construct eight electric generating facilities.
- Prepared and presented testimony in two electric fuel factor proceedings.
- Prepared reports regarding the financial condition of three companies seeking licensure as competitive energy service providers or aggregators.
- Coordinated the revision of filing requirements for the siting of electric generating facilities in Virginia that are 50 megawatts or less in size.
- Provided support for the Hearing Examiner's report regarding Verizon's application to receive authority to provide long distance service in Virginia.
- Continued participation in the collaborative committee that negotiated Verizon's duties with respect to the Telecommunications Act of 1996 and its service to competitive providers. Began analysis of metrics from Verizon's Performance Appraisal Plan, measuring the levels of service provided to competitors.
- Monitoring the levels of service provided by incumbent telephone companies to competitor companies.
- Assisted the development of rules governing electric and natural gas retail access programs regarding supplier consolidated billing, competitive metering, and aggregation.
- Monitored the transition of electricity and natural gas pilot programs to open retail access programs.
- Supported and monitored activities regarding the continued development of Regional Transmission Organizations and associated participation of Virginia electric utilities.
- Facilitated the continued development of Electronic Data Interchange guidelines for communication among utilities and competitive service providers in Virginia and the surrounding region.
- Represented the Commission at meetings of the North American Energy Standards Board, encompassing wholesale and retail electricity and natural gas sectors, to establish Uniform Business Practices.
- Developed the Status Report to the Legislative Transition Task Force and Governor of Virginia regarding the Development of a Competitive Retail Market for Electric Generation within the Commonwealth of Virginia.
- Developed a forecast of the consumption tax collected no electricity usage for Public Service Taxation.
- Developed a forecast of budget items for Bureau of Insurance.
- Developed with the Division of Communications a forecast of the Virginia Telecommunications relay service bank balance.
- Developed a forecast of the Clerk's office special fund collection for the Office of Commission Comptroller.
- Developed a forecast of the non-general fund revenue collections and bank balances for the Division of Securities and Retail Franchising.
- Maintained the Virginia Electronic Data Transfer website.
- Designed a comprehensive database on competitive energy service providers.

### **DIVISION OF ENERGY REGULATION**

#### **Activities for Calendar Year 2002**

The Division of Energy Regulation assists the Commission in fulfilling its statutory responsibilities pursuant to Title 56, Chapter 10 of the Code of Virginia. Activities include reviewing investor-owned electric, natural gas, and water/sewer utilities' cost of service studies; reviewing allocation methods, depreciation rates and rate design philosophies; and providing expert testimony in that regard.

The Division provides expert testimony in certificate cases for service areas and major facility construction of public utilities and independent power producers. After such certificates are granted, the Division is responsible for maintaining the official certificates and associated maps.

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

The Division has monitoring responsibilities relative to: the collection of gas costs by gas utilities, the incurrence of wholesale purchased power expenses by electric cooperatives, and the recovery of fuel expenses and the construction and operation of major facilities by the investor-owned utilities. It also reviews extraordinary costs and policies related to nuclear power, including decommissioning of nuclear power plants and the storage of spent nuclear fuel.

The Division investigates and resolves informal consumer complaints/inquiries relative to regulated utilities and licensed electricity and natural gas suppliers.

Finally, it provides the Commission with technical expertise in policy related issues including both state and national proceedings associated with industry restructuring and mergers and acquisitions of natural gas and electric utilities.

**SUMMARY OF 2002 ACTIVITIES**

Consumer Complaints, Letters of Protest, and Inquiries Received	5,704
Tariff Filings Received	265
Testimony and Reports Filed by Staff	64
Certificates of Convenience and Necessity Granted, Transferred, or Revised	20
Special Reports	20
Electric On-Site Construction Inspections	2
Electric Meter Tests Witnessed	2
Depreciation Studies	3
Federal Energy Regulatory Commission Filing/Comments	7
Legislative Presentations	2

**BUREAU OF FINANCIAL INSTITUTIONS**

The Bureau of Financial Institutions is responsible under Title 6.1 of the Code of Virginia for the regulation and supervision of the following types of institutions: state chartered banks, independent trust companies, state chartered savings institutions, state chartered credit unions, industrial loan associations, consumer finance licensees, money order seller/money transmitter licensees, mortgage lenders and brokers, debt counseling agencies, check cashers, and payday lenders. Financial institutions domiciled outside of Virginia that have deposit-taking subsidiaries within the Commonwealth are also subject to the Bureau regulatory authority, as are out-of-state deposit-taking subsidiaries of financial holding companies domiciled in Virginia.

During the calendar year, the Bureau of Financial Institutions received, investigated, and processed 2,526 applications for various certificates authority as shown below:

**APPLICATIONS RECEIVED AND/OR ACTED UPON  
BY THE BUREAU OF FINANCIAL INSTITUTIONS IN 2002**

New Banks	3
Bank Branches	76
Bank Branch Office Relocations	14
Relocate Bank Main Office	3
Bank EFT Facilities	1
Bank Mergers	2
Acquisitions Pursuant to Chapter 13 of Title 6.1	5
Acquisitions Pursuant to Chapter 15 of Title 6.1	2
Establish an Independent Trust Branch	3
Independent Trust Branch Move	1
Out of State Credit Union	2
Credit Union Mergers	4
Credit Union Service Facilities	4
Move a Credit Union Office	4
New Consumer Finance	2
Consumer Finance Offices	3
Consumer Finance Other Business	14
Consumer Finance Office Relocations	7
New Mortgage Brokers	249
New Mortgage Lenders	56
New Mortgage Lenders and Brokers	63
Mortgage Lender Broker Additional Authority	34
Exclusive Agent Qualifications	3
Acquisitions Pursuant to Section 6.1-416.1 of the Virginia Code	26
Mortgage Branches	1257
Mortgage Office Relocations	463
New Money Order Sellers	21
Acquire Money Order Seller/Transmitter	1
New Non-Profit Debt Counseling Agencies	9
Non-Profit Debt Counseling Agency Additional Offices	14

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

New Check Cashers	40
New Payday Lender	62
Payday Additional Office	76
Payday Office Relocation	2

At the end of 2002, there were under the supervision of the Bureau 94 banks with 1,231 branches, 59 Virginia bank holding companies, 15 non-Virginia bank holding companies with banking offices in Virginia, 2 independent trust companies, 2 savings institutions with 2 offices, 71 credit unions, 7 industrial loan associations, 25 consumer finance companies with 235 Virginia offices, 41 money order sellers and money transmitters, 24 non-profit debt counseling agencies, 74 check cashers, 112 mortgage lenders with 428 offices, 691 mortgage brokers with 1,181 offices, 242 mortgage lender/brokers with 1,825 offices, and 53 payday lenders with 417 offices.

## CONSUMER SERVICES

The Bureau received and acted upon 1,491 formal written complaints from consumers during 2002.

### DIVISION OF INSURANCE REGULATION ACTIVITIES FOR THE FISCAL YEAR ENDING JUNE 30, 2002

The regulation of insurance was transferred to the State Corporation Commission from the Auditor of Public Accounts in 1906. The Bureau of Insurance (Bureau) has licensed and examined the affairs of insurance companies since that time. Regulation of insurance has been left almost exclusively to state governments since 1869, and here in the Commonwealth of Virginia the functions of the Bureau have increased with the complexity and importance of insurance in our daily lives.

The Bureau of Insurance is divided into the following four divisions: The Financial Regulation Division which licenses, analyzes, and examines insurance companies and, if necessary, takes steps to resolve financial problems before a company becomes unable to meet its obligations; the Life and Health Market Regulation Division regulates the activities of life, and accident and sickness insurers, health maintenance organizations, and agents; the Property and Casualty Market Regulation Division regulates the activities of property and casualty insurers (auto, homeowner's liability and property); and the Administrative Services Division collects various special taxes and assessments on insurance companies as well as, working as an auxiliary role to support the Bureau's other divisions.

The regulatory functions of the Bureau of Insurance include: (1) Agents Investigation - monitoring the activities of insurance agents and agencies to ensure their actions comply with state law, (2) Consumer Services - answer questions and assists consumers with problems concerning insurance companies or agents by investigating consumer complaints, (3) Market Conduct - conduct on-site field examinations of Virginia insurance company practices to ensure that they comply with state law by verifying whether a company pays claims in a timely manner, ensure that underwriting decisions are not unfairly discriminatory, and evaluate marketing materials to ensure that they are not misleading; (4) Office of the Managed Care Ombudsman promotes and protects the interests of covered persons under Managed Care Health Insurance Plans (MCHIP), and assist consumers in understanding and exercising their rights of appeal of adverse decisions made by MCHIPs; and (5) Policy Forms and Rates - evaluates insurance policies and rates to ensure that they comply with state law, are understandable, are of high quality, and that the premiums charged are reasonable and fair.

## SUMMARY OF 2002 ACTIVITIES

New insurance companies licensed to do business in Virginia	49
Insurance company financial statements analyzed	5,364
Financial examinations of insurance companies conducted	36
Property and Casualty insurance rules, rates and form submissions	5,952
Life and Health insurance policy forms and rates submissions	7,544
Property and Casualty insurance complaints received	4,891
Life and Health insurance complaints received	4,052
Market conduct examinations completed by the Life and Health Division	22
Market conduct examinations completed by the Property and Casualty Division	14
Insurance agents and agencies licensed	109,407
Tax and assessment audits	7,750

## EXTERNAL APPEAL CALENDAR YEAR 2002

Number of Cases Reviewed	162
Eligible Appeals	72
Ineligible Appeals	87
Eligibility Pending	3
Final Adverse Decision Upheld By Reviewer	28
Final Adverse Decision Overturned by Reviewer	32
MCHIP Reversed Itself	5
Appeal Decisions Pending	7
Approximate Cost Savings to Appellants	\$279,819

## NOTICE OF INSURANCE-RELATED ENTITIES IN RECEIVERSHIP

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

Pursuant to Virginia Code § 38.2-1517, please **TAKE NOTICE** that the following insurance-related entities are in receivership under authority of various provisions of Title 38.2 of the Code of Virginia:

**Fidelity Bankers Life Insurance Company d/b/a First Dominion Life Insurance (FBL/FD).** Date of receivership: May 13, 1991. It presently appears that the affairs of the receivership will be wound up in the early part of 2004 and that the company will not resume the transaction of the business of insurance.

**HOW Insurance Company, a Risk Retention Group, Home Owners Warranty Corporation and Home Warranty Corporation (the HOW Companies).** Date of receivership: October 7, 1994. It presently appears that the affairs of the receivership will be wound up in the latter part of 2004 or early 2005 and that the company will not resume the transaction of the business of insurance.

The Commission is the Receiver, and Commissioner of Insurance Alfred W. Gross is the Deputy receiver, of FBL/FD and the HOW Companies. Any inquiries concerning the conduct of the receivership of First Dominion Life Insurance Company and the HOW Companies may be directed to their Special Deputy Receiver, Patrick H. Cantilo, Esquire; Cantilo & Bennett, LLP; Suite 200, Building C, 7501 North Capital of Texas Highway, Austin, Texas 78731.

### DIVISION OF SECURITIES AND RETAIL FRANCHISING

The Division of Securities and Retail Franchising of the State Corporation Commission is charged with the administration of the following laws:

Virginia Securities Act (known as the "Blue Sky Law"), Virginia Code Sections 13.1-501 through 13.1-527.3.  
Virginia Trademark and Service Mark Act, Virginia Code Sections 59.1-92.1 through 59.1-92.21.  
Virginia Retail Franchising Act, Virginia Code Sections 13.1-557 through 13.1-574.

#### UNDER THE VIRGINIA SECURITIES ACT:

8	qualification applications received
83	coordination applications received
2	notification applications received
2,627	investment company filings
50	filings for exemption from registration
1,294	filings for exemption related federal covered securities
2,467	broker-dealer registrations renewed and granted
197	broker-dealer registrations denied, withdrawn, and terminated
154,527	agent registrations renewed and granted
41,743	agent registrations denied, withdrawn, and terminated
1,779	investment advisor registrations renewed and granted
62	investment advisor registrations denied, withdrawn, and terminated
714	investment advisor representative registrations denied, withdrawn and terminated
9,575	investment advisor representatives registrations renewed and granted
0	orders filing and/or canceling surety bonds
8	orders granting exemptions and/or official interpretations
33	orders for subpoena of records by banks, corporations, and individuals
30	orders of show cause
28	judgments of compromise and settlement
14	final order and/or judgment
15	temporary Injunction

#### UNDER THE VIRGINIA TRADEMARK AND SERVICE MARK ACT:

450	applications for trademarks and/or service marks approved, renewed, or assigned
454	applications for trademarks and/or service marks denied, abandoned, expired, or withdrawn

#### UNDER THE VIRGINIA RETAIL FRANCHISING ACT:

1,231	franchise registration, renewal, or post-effective amendment applications received
233	franchises denied, withdrawn, non-renewed, or terminated

#### DIVISION OF SECURITIES, FRANCHISING, TRADEMARKS

Consumer complaints Enforcement and Registration	253
Telephone inquiries Enforcement and Registration	17,062

### UNIFORM COMMERCIAL CODE



## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

The Clerk's Office is the Central Filing Office in the Commonwealth under Part 5 of Title 8.9A of the Uniform Commercial Code. It is charged with the duty of receiving, processing, indexing, and examining financing statements, continuation statements, amendments, assignments, releases and termination statements filed by nationwide financial and lending institutions, state and federal agencies, the legal profession, and the general public to perfect a security interest in collateral which secures payment or performance of an obligation. The Clerk's Office also is the Central Filing Office for Federal Tax Liens.

## SUMMARY OF CALENDAR YEAR ACTIVITIES

	<u>2001</u>	<u>2002</u>
Financing/Subsequent Statements Filed	77,122	80,924
Federal Tax Liens/Subsequent Liens Filed	2,144	2,715
Reels of Microfilmed Documents Sold	559	560

## DIVISION OF UTILITY AND RAILROAD SAFETY

The Division of Utility and Railroad Safety assists the Commission in administering safety programs involving the jurisdictional natural gas and hazardous liquid pipeline facilities, railroads, and underground utility damage prevention. The Pipeline Safety section of the Division ensures the safe operation of natural gas and hazardous liquid pipeline facilities through inspections of facilities, review of records, and investigation of incidents. The Railroad Regulation section of the Division conducts inspections of railroad facilities including track and equipment to ensure the safe operation of jurisdictional railroads within Virginia. The Damage Prevention section investigates all reports of "probable violations" of the Underground Utility Damage Prevention Act ("Act") and presents its findings and recommendations to the Commission's Damage Prevention Advisory Committee. The Committee makes enforcement recommendations to the Commission. The Division provides free training relative to the Act to stakeholders, conducts public education campaigns, and promotes partnership amongst various parties to further underground utility damage prevention in Virginia.

## Summary of 2002 Activities

Consumer Complaints and Inquiries Received	11
Natural Gas Safety Inspections	586
Hazardous Liquid Safety Inspections	97
Testimony and Reports	24
Special Reports	1
Accident Investigations	27
Underground Utility Damage Reports Processed	2,470
Persons receiving Damage Prevention Training from Staff	3,059
Number of damage prevention educational materials disseminated	288,000
Number of railroad track units <sup>1</sup> inspected	9,115
Number of railroad locomotive and car units <sup>2</sup> inspected	25,632

<sup>1</sup> Each mile of track, record, crossing at grade, among others is considered a track unit.

<sup>2</sup> Each locomotive, car, motive power equipment record, among others is considered a unit.

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## LIST OF CASES ESTABLISHED IN 2002

<b>BAN/BFI:</b>	<b>BUREAU OF FINANCIAL INSTITUTIONS</b>
BAN20020001	Primerica Financial Services Home Mortgages, Inc. - To relocate a mortgage broker's office from 7740 Shrader Road, Suite D, Richmond, VA to 4807 Hermitage Road, Suite 204, Richmond, VA
BAN20020002	1st Metropolitan Mortgage Co. - To open a mortgage lender and broker's office at 1801 Grove Avenue, Richmond, VA
BAN20020003	Residential Loan Corp. - To relocate a mortgage broker's office from 5335 Wisconsin Avenue, NW, Washington, DC to 8630 Fenton Street, Suite 824, Silver Spring, MD
BAN20020004	Allied Mortgage Capital Corporation - To open a mortgage lender and broker's office at 1904 Byrd Avenue, Suite 337, Richmond, VA
BAN20020005	Anderson Home Mortgage Corporation - To relocate a mortgage broker's office from 15201 Shady Grove Road, Suite 103, Rockville, MD to 1803 Research Boulevard, Suite 402, Rockville, MD
BAN20020006	TransLand Financial Services, Inc. - To relocate mortgage lender's office from 2700 Westhall Lane, Suite 210, Maitland, FL to 2701 Maitland Center Parkway, Suite 300, Maitland, FL
BAN20020007	Residential Mortgage Funding Corporation (Used in VA by: Residential Mortgage Corporation) - To relocate mortgage broker's office from 1300 Mercantile Lane, Suite 100G, Largo, MD to 1400 Mercantile Lane, Suite 242, Largo, MD
BAN20020008	Savings Mortgage Inc. - To relocate mortgage broker's office from 105 South 7th Street, 5th Floor, Philadelphia, PA to 105 South 7th Street, 3rd Floor, Philadelphia, PA
BAN20020009	Nelson D. Rodgers t/a All Virginia Mortgage Co. - To relocate mortgage broker's office from 10136 Hull Street Road, Suite B, Midlothian, VA to 10136-D Hull Street Road, Midlothian, VA
BAN20020010	First Guaranty Mortgage Corporation - To relocate mortgage lender broker's office from 8180 Greensboro Drive, Suite 1175, McLean, VA to 8180 Greensboro Drive, Suite 500, McLean, VA
BAN20020011	East Coast Mortgage and Financial Services, Inc. - For a mortgage broker's license
BAN20020012	NovaStar Home Mortgage, Inc. - To open a mortgage lender and broker's office at 1816 Englishtown Road, Suite 103, Old Bridge, NJ
BAN20020013	Primerica Financial Services Home Mortgages, Inc. - To relocate mortgage broker's office from 4223 Dale Boulevard, Dale City, VA to 1400 Kempsville Road, Unit 115, Chesapeake, VA
BAN20020014	Bankers Funding Corporation - To open a mortgage broker's office at 4609-B Pinecrest Office Park Drive, Alexandria, VA
BAN20020015	Capital Assets Financial, Inc. - To open a mortgage broker's office at 6719 Leaberry Way, Haymarket, VA
BAN20020016	Associated Mortgage, Inc. - For a mortgage broker's license
BAN20020017	Swift 1 Mortgage LLC - For a mortgage broker's license
BAN20020018	NovaStar Home Mortgage, Inc. - To open a mortgage lender and broker's office at 15 N. Mill Street, Nyack, NY
BAN20020019	NovaStar Home Mortgage, Inc. - To open a mortgage lender and broker's office at 1812 Tribute Road, Suite J, Sacramento, CA
BAN20020020	Southern Trust Mortgage, LLC - To open a mortgage lender and broker's office at 329 Commercial Drive, Suite 102, Savannah, GA
BAN20020021	Southern Trust Mortgage, LLC - To open a mortgage lender and broker's office at 804 Towne Park Drive, Unit 200, Rincon, GA
BAN20020022	The Richmond Mortgage Group LLC - To open a mortgage lender and broker's office at 13356 Midlothian Turnpike, Suite B, Midlothian, VA
BAN20020023	Huntlyer Enterprises, Inc. d/b/a Ross Mortgage Corporation - For a mortgage broker's license
BAN20020024	The White Oak Mortgage Group, LLC - To open a mortgage lender and broker's office at 1600 Huguenot Road, Suite 119, Midlothian, VA
BAN20020025	Challenge Financial Investors Corp. - To open a mortgage broker's office at 9606 Peppertree Drive, Richmond, VA
BAN20020026	TrustMor Mortgage Company d/b/a Doiqualify.Com - To open a mortgage lender and broker's office at 1214 Boulevard, Colonial Heights, VA
BAN20020027	Allied Mortgage Capital Corporation - To open a mortgage lender and broker's office at 5000 Sunnyside Avenue, Suite 305, Beltsville, MD
BAN20020028	Allied Mortgage Capital Corporation - To open a mortgage lender and broker's office at 14744 Main Street, Suite 104, Upper Marlboro, MD
BAN20020029	Allied Mortgage Capital Corporation - To open a mortgage lender and broker's office at 6767 Forest Hill Avenue, Suite 305, Richmond, VA
BAN20020030	Heartland Home Finance, Inc. - To open a mortgage lender and broker's office at 7257 Parkway Drive, Suite 202, Hanover, MD
BAN20020031	Atlantic Bay Mortgage Group, L.L.C. - To open a mortgage lender and broker's office at 212 East 21st Street, Buena Vista, VA
BAN20020032	Lincoln Mortgage, LLC - To relocate mortgage broker's office from 128 N. Royal Avenue, Front Royal, VA to 824 John Marshall Highway, Suite 203, Front Royal, VA
BAN20020033	Columbia National, Incorporated - To relocate mortgage lender broker's office from 291 Virginia Street, Urbanna, VA to Route 3 and Route 33, Hartfield, VA
BAN20020034	Charles C. Ryan d/b/a Charles Ryan Agency - To relocate mortgage broker's office from 21 South Kent Street, Winchester, VA to 1814 Roberts Street, Winchester, VA
BAN20020035	Household Realty Corporation d/b/a Household Realty Corporation of Virginia - To open a mortgage lender and broker's office at 3031 Festival Way, Festival at Waldorf, Waldorf, MD
BAN20020036	Allied Mortgage Capital Corporation - To relocate mortgage lender broker's office from 3975 University Drive, Suite 390, Fairfax, VA to 3975 University Drive, Suite 100, Fairfax, VA
BAN20020037	Capitol Funding, LLC - To relocate mortgage broker's office from 15200 Shady Grove Road, Suite 202, Rockville, MD to 51 Monroe Street, Suite 203, Rockville, MD
BAN20020038	Alliance Mortgage Funding, Inc. - For a mortgage broker's license
BAN20020039	Joseph L. Simmons - To acquire 25 percent or more of Advantage Mortgage Services, Inc.
BAN20020040	Thomas Point Mortgage, Inc. - For a mortgage broker's license
BAN20020041	The Trust Company of Virginia - To relocate an independent trust company branch office from 460 McLaws Circle, Suite 115, James City County, VA to 4097 Ironbound Road, Suite B, James City County, VA
BAN20020042	Aames Funding Corporation d/b/a Aames Home Loan - To open a mortgage lender and broker's office at 11720 Sunrise Valley Drive, Suite 500, Reston, VA
BAN20020043	Gateway Funding Diversified Mortgage Services, L.P. - To open a mortgage lender's office at One High Street Court, Morristown, NJ

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

BAN20020044 MortgagePlus, LLC - For a mortgage broker's license  
 BAN20020045 Challenge Financial Investors Corp. - To relocate mortgage broker's office from 11632 Rumford Court, Lake Ridge, VA to 8807 Sudley Road, Suite 114, Manassas, VA

BAN20020046 NovaStar Home Mortgage, Inc. - To open a mortgage lender and broker's office at 600 Old Country Road, Suite 318, Garden City, NY  
 BAN20020047 American Pioneer Financial Services, Inc. d/b/a Lowratesusa.com - To relocate mortgage lender broker's office from 590 South State Street, Orem, UT to 14950 Pony Express Road, Suite 100, Bluffdale, UT

BAN20020048 Southern Finance Corp. - To conduct consumer finance business where tax preparation business will also be conducted  
 BAN20020049 Community Home Mortgage, LLC d/b/a Community Mortgage Group, LLC - To relocate mortgage broker's office from 1033 Stafford Drive, Princeton, WV to 234 Expert Circle, Suite 200, Princeton, WV

BAN20020050 Alambry Funding LLC - To relocate mortgage broker's office from 711 Moorefield Park Drive, Suite E, Richmond, VA to 611 Moorefield Park Drive, Suite C, Richmond, VA

BAN20020051 Carteret Mortgage Corporation - To relocate mortgage broker's office from 321 Tazewell Avenue, Bluefield, VA to 415 Paradise Circle, Belmont, NC

BAN20020052 Carteret Mortgage Corporation - To relocate mortgage broker's office from 611B West Main Street, Elkins, WV to 519 Rossmore Road, Richmond, VA

BAN20020053 Carteret Mortgage Corporation - To relocate mortgage broker's office from 6002 Bills Road, Mineral, VA to 2826 Roesh Way, Vienna, VA

BAN20020054 Carteret Mortgage Corporation - To relocate mortgage broker's office from 39852 Lime Kiln Road, Leesburg, VA to 4028 S. King Street, Leesburg, VA

BAN20020055 Carteret Mortgage Corporation - To open a mortgage broker's office at 64 Manor Drive, Fort Pierce, FL  
 BAN20020056 Carteret Mortgage Corporation - To open a mortgage broker's office at 15120 W. 156th. Terrace, Olathe, KS  
 BAN20020057 Carteret Mortgage Corporation - To open a mortgage broker's office at 9420 Annapolis Road, Suite 206, Lanham, MD  
 BAN20020058 Carteret Mortgage Corporation - To open a mortgage broker's office at 23 Spring Cove Court, Arden, NC  
 BAN20020059 Carteret Mortgage Corporation - To open a mortgage broker's office at 5645 Sharon Road, Charlotte, NC  
 BAN20020060 Carteret Mortgage Corporation - To open a mortgage broker's office at 3501 Piedmont Drive, Raleigh, NC  
 BAN20020061 Carteret Mortgage Corporation - To open a mortgage broker's office at 2214 34th. Street, N.W., Canton, OH  
 BAN20020062 Carteret Mortgage Corporation - To open a mortgage broker's office at 3799 Apple Valley Drive, Howard, OH  
 BAN20020063 Carteret Mortgage Corporation - To open a mortgage broker's office at 1446 S. Reynolds Road, Suite 320, Maumee, OH  
 BAN20020064 Carteret Mortgage Corporation - To open a mortgage broker's office at 6415 S.W. Virginia Street, Portland, OR  
 BAN20020065 Carteret Mortgage Corporation - To open a mortgage broker's office at 218 Henrietta Street, Greenville, SC  
 BAN20020066 Carteret Mortgage Corporation - To open a mortgage broker's office at 7392 Easterly Lane, Memphis, TN  
 BAN20020067 Carteret Mortgage Corporation - To open a mortgage broker's office at 9934 Goldenglade Street, Houston, TX  
 BAN20020068 Carteret Mortgage Corporation - To open a mortgage broker's office at 4612 Sutton Oaks Drive, Clifton, VA  
 BAN20020069 Carteret Mortgage Corporation - To open a mortgage broker's office at 4205 Allison Circle, Fairfax, VA  
 BAN20020070 Carteret Mortgage Corporation - To open a mortgage broker's office at 39821 Foxglove Court, Lovettsville, VA  
 BAN20020071 Carteret Mortgage Corporation - To open a mortgage broker's office at 1492 Roundleaf Court, Reston, VA  
 BAN20020072 Carteret Mortgage Corporation - To open a mortgage broker's office at 16215 Maplewild Avenue, S.W., Seattle, WA  
 BAN20020073 Keystone Mortgage and Investment Company - For a mortgage lender's license  
 BAN20020074 Sherry L. Tucker d/b/a Advance Mortgage Company - For a mortgage broker's license  
 BAN20020075 FFSI, Inc. (Used in VA by: First Financial Services, Inc.) - For a mortgage lender's license  
 BAN20020076 Premium Financial Services, Inc. - For additional mortgage authority  
 BAN20020077 Access Mortgage & Financial Corporation - For additional mortgage authority  
 BAN20020078 HomeGold, Inc. - To open a mortgage lender's office at 1800 Byberry Road, Suite 800, Huntingdon, PA  
 BAN20020079 Sunset Mortgage Company L.P. - To open a mortgage lender and broker's office at 1400 Chestnut Drive, Christiansburg, VA  
 BAN20020080 Allied Mortgage Capital Corporation - To open a mortgage lender and broker's office at 508 S. Independence Boulevard, Suite 200, Virginia Beach, VA

BAN20020081 Beneficial Virginia Inc. - To relocate consumer finance office from South Park Shopping Center, Winchester, VA to 2029 South Pleasant Valley Road, Pleasant Valley Marketplace, Winchester, VA

BAN20020082 Beneficial Discount Co. of Virginia - To relocate mortgage lender's office from South Park Shopping Center, Winchester, VA to 2029 South Pleasant Valley Road, Pleasant Valley Marketplace, Winchester, VA

BAN20020083 Beneficial Mortgage Co. of Virginia - To relocate mortgage lender broker's office from 2588 Valley Ave., Winchester, VA to 2029 South Pleasant Valley Road, Pleasant Valley Marketplace, Winchester, VA

BAN20020084 Foundation for Human Development, Inc. - To open an additional debt counseling office at 10440 Little Patuxent Pkwy., Suite 300, Columbia, MD

BAN20020085 John Jeffrey Peedin d/b/a Valley First Mortgage - To relocate mortgage broker's office from 70 River Road, Littleton, NC to 98 Madge Road, Littleton, NC

BAN20020086 Pilot Mortgage, LLC - To open a mortgage broker's office at 3925 Boston Creek Drive, Charlottesville, VA  
 BAN20020087 GetSmart.Com, Inc. - To relocate mortgage broker's office from 160 Spear Street, 7th Floor, San Francisco, CA to 123 Mission Street, 19th Floor, San Francisco, CA

BAN20020088 Allstate Mortgage, Inc. - For a mortgage broker's license  
 BAN20020089 Curo-Mortgage Corporation - For a mortgage broker's license  
 BAN20020090 CBSK Financial Group, Inc. /b/a American Home Loans - To open a mortgage lender and broker's office at 2230 Gallows Road, Suite 200, Dunn Loring, VA

BAN20020091 Shamrock Mortgage, Inc. - To relocate mortgage broker's office from 1536 Honey Grove Drive, Suite H, Richmond, VA to 4009 Fitzhugh Avenue, Suite 217, Richmond, VA

BAN20020092 Bank of the James - To open a branch at 4698 S. Amherst Highway, Madison Heights, VA  
 BAN20020093 Integrated Mortgage Strategies Ltd - To relocate mortgage broker's office from 5517 Chapel Hill Boulevard, Durham, NC to 300 Meadmont Village Circle, Suite 333, Chapel Hill, NC

BAN20020094 Guardian Loan Company of Massapequa, Inc. - For a mortgage lender's license  
 BAN20020095 Wells Fargo Financial Acceptance Virginia, Inc. - To open a consumer finance office  
 BAN20020096 Wells Fargo Financial Acceptance Virginia, Inc. - To conduct consumer finance business where mortgage lending will also be conducted

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BAN20020097	Wells Fargo Financial Acceptance Virginia, Inc. - To conduct consumer finance business where term life insurance business will also be conducted
BAN20020098	Wells Fargo Financial Acceptance Virginia, Inc. - To conduct consumer finance business where open-end lending will also be conducted
BAN20020099	1st Metropolitan Mortgage Co. - To open a mortgage lender and broker's office at 7023 Little River Turnpike, Suite 310, Annandale, VA
BAN20020100	Wells Fargo Financial Acceptance Virginia, Inc. - To conduct consumer finance business where sales finance business will also be conducted
BAN20020101	Apex Home Loans, Inc. - To open a mortgage broker's office at 462 Herndon Parkway, Suite 201, Herndon, VA
BAN20020102	NovaStar Home Mortgage, Inc. - To open a mortgage lender and broker's office at 6150 Oak Tree Boulevard, 3rd Floor, Independence, OH
BAN20020103	NovaStar Home Mortgage, Inc. - To relocate mortgage lender broker's office from 535 W. Iron Avenue, Suite 106, Mesa, AZ to 1819 East Southern Ave., Suite A-10, Mesa, AZ
BAN20020104	L-Squared, LLC d/b/a iwantalowrate.com - To relocate mortgage broker's office from 4970 Battery Lane, Suite 101, Bethesda, MD to 6301 Ivy Lane, Suite 601, Greenbelt, MD
BAN20020105	NovaStar Home Mortgage, Inc. - To open a mortgage lender and broker's office at 21308 Pathfinder Road, Suite 117, Diamond Bar, CA
BAN20020106	NovaStar Home Mortgage, Inc. -To relocate mortgage lender broker's office from 1800 N. Beauregard Street, Suite 150, Alexandria, VA to 250C Exchange Place, Herndon, VA
BAN20020107	Allied Mortgage Capital Corporation - To open a mortgage lender and broker's office at 533 Newtowne Road, Suite 113, Virginia Beach, VA
BAN20020108	Gateway Funding Diversified Mortgage Services, L.P. - To open a mortgage lender's office at One Mall Drive, Cherry Hill, NJ
BAN20020109	Conesco Finance Servicing Corp. - To open a mortgage lender's office at 11595 North Meridian Street, Suite 310, Carmel, IN
BAN20020110	Heritage Mortgage Brokers, L.L.C. - To open a mortgage broker's office at 626 D Grant Street, Herndon, VA
BAN20020111	Community Mortgage Services Corporation - To relocate mortgage broker's office from 5066 South Amherst Highway, Madison Heights, VA to 19-A Wadsworth Street, Lynchburg, VA
BAN20020112	Streamline Holding, LLC d/b/a Streamline Mortgage & Financial of VA - For a mortgage broker's license
BAN20020113	Washington Mortgage Services, Inc. - For a mortgage broker's license
BAN20020114	Carolina State Mortgage Corporation - For a mortgage broker's license
BAN20020115	Nationwide Finance Corporation - For a mortgage broker's license
BAN20020116	Carteret Mortgage Corporation - To open a mortgage broker's office at 3311 Toledo Terrace, Suite 105, Hyattsville, MD
BAN20020117	Carteret Mortgage Corporation - To open a mortgage broker's office at 5312 Bailey Road, Greensboro, NC
BAN20020118	Carteret Mortgage Corporation - To open a mortgage broker's office at 5203 Fennell Street, Indian Trail, NC
BAN20020119	Carteret Mortgage Corporation - To open a mortgage broker's office at 202 Oriental Gardens, Portsmouth, NH
BAN20020120	Carteret Mortgage Corporation - To open a mortgage broker's office at 1658 Providence Avenue, Niskayuna, NY
BAN20020121	Carteret Mortgage Corporation - To open a mortgage broker's office at 218 Henrietta Street, Suite 200, Greenville, SC
BAN20020122	Carteret Mortgage Corporation - To open a mortgage broker's office at 5033 Backlick Road, Annandale, VA
BAN20020123	Carteret Mortgage Corporation - To open a mortgage broker's office at 2625 Viking Drive, Oak Hill, VA
BAN20020124	Carteret Mortgage Corporation - To open a mortgage broker's office at 2645 Mulberry Loop, Virginia Beach, VA
BAN20020125	Carteret Mortgage Corporation - For additional mortgage authority
BAN20020126	David M. Mariniak - To acquire 25 percent or more of Cornerstone Mortgage Group Inc.
BAN20020127	Primerica Financial Services Home Mortgages, Inc. - To relocate mortgage broker's office from 10711 Spotsylvania Aveune, 2nd Floor, Fredericksburg, VA to 3920 Plank Road, Suite 120, Fredericksburg, VA
BAN20020128	American Equity Mortgage, Inc. - To relocate mortgage broker's office from 2400 E. Cary Street, Suite 218, Richmond, VA to 472 Eden Roc Circle, Suite 108, Virginia Beach, VA
BAN20020129	Advantage Investors Mortgage Corporation - To relocate mortgage lender broker's office from 12800 Frederick Road, Suite 202B, West Friendship, MD to 66 Painter's Mill Road, Suite 110, Owings Mills, MD
BAN20020130	Advantage Investors Mortgage Corporation - To relocate mortgage lender broker's office from 1760 Reston Parkway, Reston, VA to 11180 Sunrise Valley Drive, Suite 200, Reston, VA
BAN20020131	A. Anderson Scott Mortgage Group, Incorporated - To open a mortgage broker's office at 7700 Leesburg Pike, Suite 400, Falls Church, VA
BAN20020132	American Mortgage Lending Corp. - For a mortgage broker's license
BAN20020133	HomeGold, Inc. - To open a mortgage lender's office at 13537 Barrett Parkway, Suite 305, St. Louis, MO
BAN20020134	CH Mortgage Company I, Ltd., L.P. (Used in VA by: CH Mortgage Company I, Ltd.) - To relocate mortgage lender broker's office from 4515 Seton Center Pkwy., Suite 100, Austin, TX to 12554 Riata Vista Circle, 1st Floor, Austin, TX
BAN20020135	First Advantage Mortgage Company - To relocate mortgage broker's office from 13305 Darnestown Road, Gaithersburg, MD to 248 Main Street, Suite 300, Gaithersburg, MD
BAN20020136	East West Mortgage Company, Inc. - To open a mortgage lender and broker's office at 8405 Dorsey Circle, Suite 201, Manassas, VA
BAN20020137	V American Financial Services LLC - For a mortgage broker's license
BAN20020138	The Mortgage Link, Inc. - For a mortgage broker's license
BAN20020139	Tower Mortgage and Financial Services Corporation - To relocate mortgage broker's office from 7221 Hanover Parkway, Suite C, Greenbelt, MD to 8720 Georgia Avenue, Suite 1011, Silver Spring, MD
BAN20020140	Community Home Mortgage, LLC d/b/a Community Mortgage Group, LLC - To open a mortgage broker's office at 182 S-4 Neff Avenue, Harrisonburg, VA
BAN20020141	Primerica Financial Services Home Mortgages, Inc. - To open a mortgage broker's office at 7494 Lee Davis Road, Suite 16F, Mechanicsville, VA
BAN20020142	Primerica Financial Services Home Mortgages, Inc. - To open a mortgage broker's office at 2600 Carver Street, Suite E, Durham, NC
BAN20020143	FaithLoan, Inc. d/b/a Midas Mortgage - To relocate mortgage broker's office from 9323 Midlothian Turnpike, Suite P, Richmond, VA to 7293 Hanover Green Drive, Mechanicsville, VA
BAN20020144	Business Mortgage, Inc. - To relocate mortgage lender broker's office from 28163 U. S. Highway 19 North, Clearwater, FL to 4912 Creekside Drive, Clearwater, FL
BAN20020145	Embassy Mortgage, Inc. - To open a mortgage broker's office at 4302 Evergreen Lane, Suite 204, Annandale, VA

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

BAN20020146 Edward D. Jones & Co., L.P. d/b/a EdwardJones - To open a mortgage broker's office at 1437 S. Main Street, Farmville, VA  
 BAN20020147 Edward D. Jones & Co., L.P. d/b/a EdwardJones - To open a mortgage broker's office at 100 D MacTanley Place, Staunton, VA  
 BAN20020148 Edward D. Jones & Co., L.P. d/b/a EdwardJones - To open a mortgage broker's office at 2943 Riverside Drive, Suite C, Danville, VA  
 BAN20020149 Lifetime Mortgage, Inc. - To relocate mortgage broker's office from 11629 Hull Street, Midlothian, VA to 11900 Hull Street Road, Midlothian, VA  
 BAN20020150 Centex Home Equity Company, LLC - To relocate mortgage lender broker's office from 621 Lynnhaven Parkway, Suite 275, Virginia Beach, VA to 448 Viking Drive, Suite 170, Virginia Beach, VA  
 BAN20020151 Community First Bank - To open a branch at 69 Callohill Drive, Lovingston, VA  
 BAN20020152 Allied Mortgage Capital Corporation - To open a mortgage lender and broker's office at 7459 McConnell Road, Unit 2, Roanoke, VA  
 BAN20020153 American Residential Funding, Inc. - To open a mortgage lender and broker's office at 5948 Richmond Highway, Alexandria, VA  
 BAN20020154 Centex Home Equity Company, LLC - To open a mortgage lender and broker's office at Three Crowne Point Court, Suite 190, Cincinnati, OH  
 BAN20020155 Edward D. Jones & Co., L.P. d/b/a EdwardJones - To open a mortgage broker's office at 301 North Augusta Street, Staunton, VA  
 BAN20020156 Edward D. Jones & Co., L.P. d/b/a EdwardJones - To open a mortgage broker's office at 1835 Rosser Avenue, Suite 1, Waynesboro, VA  
 BAN20020157 Edward D. Jones & Co., L.P. d/b/a EdwardJones - To open a mortgage broker's office at 1619 West Morgan Avenue, Pennington Gap, VA  
 BAN20020158 Edward D. Jones & Co., L.P. d/b/a EdwardJones - To open a mortgage broker's office at 3333-2B South Crater Road, Petersburg, VA  
 BAN20020159 Citywide Mortgage Corporation - To relocate mortgage lender broker's office from 7850 Rossville Boulevard, Suite 206, Baltimore, MD to 1777 Reisterstown Road, Suite 365B, Pikesville, MD  
 BAN20020160 Watermark Financial Partners, Inc. - For a mortgage lender's license  
 BAN20020161 Wyndham Capital Mortgage, Inc. - For a mortgage broker's license  
 BAN20020162 Universal American Mortgage Company - To open a mortgage lender and broker's office at 8640 Guilford Road, Suite 252, Columbia, MD  
 BAN20020163 Sunset Mortgage Company L.P. - To open a mortgage lender and broker's office at 142 W. York Street, Suite 807, Norfolk, VA  
 BAN20020164 Blue Ridge Mortgage, L.L.C. - To open a mortgage broker's office at 324 Washington Avenue, S.W., Roanoke, VA  
 BAN20020165 Home Town Mortgage Group, Inc. - To relocate mortgage broker's office from 2426 Lee Highway, Suite 108, Bristol, VA to 1913 Lee Highway, Suite A-2, Bristol, VA  
 BAN20020166 North Atlantic Mortgage Corporation - To relocate mortgage broker's office from 10014-A Colesville Road, Silver Spring, MD to 512 East Randolph Road, Suite G, Silver Spring, MD  
 BAN20020167 Southwest Mortgage Company, L.L.C. - To relocate mortgage broker's office from 730 East Church Street, Suite 7, Martinsville, VA to 2671 Oak Level Road, Bassett, VA  
 BAN20020168 Allied Mortgage Capital Corporation - To relocate mortgage lender broker's office from 5000 Sunnyside Avenue, Suite 305, Beltsville, MD to 501 Sandy Springs Road, Suite 207, Sandy Springs, MD  
 BAN20020169 Allied Mortgage Capital Corporation - To relocate mortgage lender broker's office from 1353 South Military Highway, Chesapeake, VA to 1702 Taylor Ave., Suite A-207, Baltimore, MD  
 BAN20020170 A. Anderson Scott Mortgage Group, Incorporated - To open a mortgage broker's office at 1734 Elton Road, Suite 207, Silver Spring, MD  
 BAN20020171 American Finance House Lariba, Inc. (Used in VA by: American Finance House Lariba) - For a mortgage lender's license  
 BAN20020172 VIP Mortgage Corporation - For a mortgage broker's license  
 BAN20020173 Edward D. Jones & Co., L.P. d/b/a EdwardJones - To open a mortgage broker's office at 100-D MacTanley Place, Staunton, VA  
 BAN20020174 American Residential Funding, Inc. - To open a mortgage lender and broker's office at 1369 Terrace Way, Laguna Beach, CA  
 BAN20020175 American Residential Funding, Inc. - To open a mortgage lender and broker's office at 350 Old Ice Pond Road, Crozet, VA  
 BAN20020176 American Residential Funding, Inc. - To open a mortgage lender and broker's office at 3824 Larchwood Drive, Virginia Beach, VA  
 BAN20020177 First Vantage Bank/Tri-Cities - To open a branch at 915 West Oakland Avenue, Johnson City, TN  
 BAN20020178 CTX Mortgage Company, LLC - To relocate mortgage lender broker's office from 4100 Easter Court, Williamsburg, VA to 4300 Easter Circle, Building 4, Williamsburg, VA  
 BAN20020179 At-Home Mortgage Associates, Ltd., A Limited Partnership (Used in VA By: At-Home Mortgage Associates, Ltd.) - To relocate mortgage lender broker's office from 4100 Easter Court, Williamsburg, VA to 4300 Easter Circle, Building 4, Williamsburg, VA  
 BAN20020180 Mortgage Loan Specialists, Inc. - For a mortgage broker's license  
 BAN20020181 Keith A. Luedeman - To acquire 25 percent or more of Barrons Mortgage Group, Ltd.  
 BAN20020182 William E. Judy, Jr. - To acquire 25 percent or more of Barrons Mortgage Group, Ltd.  
 BAN20020183 MortgageIT, Inc. d/b/a MIT Lending (Rockville, Md. only) - To open a mortgage lender and broker's office at 1065 Old Country Road, Westbury, NY  
 BAN20020184 Allied Mortgage Capital Corporation - To relocate mortgage lender broker's office from 3235 Winmoor Drive, Green Valley, MD to 20010 Fisher Avenue, Unit A, Poolesville, MD  
 BAN20020185 1st Nations Mortgage Corporation - To open a mortgage broker's office at 90 Rambo Court, Linden, VA  
 BAN20020186 NovaStar Home Mortgage, Inc. - To open a mortgage lender and broker's office at 3285 A-8 Veterans Memorial Highway, Ronkonkoma, NY  
 BAN20020187 NovaStar Home Mortgage, Inc. - To open a mortgage lender and broker's office at 516 West Orange, Lancaster, PA  
 BAN20020188 Home Equity Loan Products, Inc. - For a mortgage broker's license  
 BAN20020189 Mortgage Lenders of America, L.L.C. - To open a mortgage broker's office at 287 Independence Boulevard, Pembroke Two, Suite 245, Virginia Beach, VA  
 BAN20020190 Tracentrix, Inc. - For a money order license  
 BAN20020191 Martinsville Du Pont Employees Credit Union, Incorporated - To open a credit union service office at Highway 220 and Rives Road, Martinsville, VA  
 BAN20020192 Martinsville Du Pont Employees Credit Union, Incorporated - To open a credit union service office at 5835 Virginia Avenue, Bassett, VA  
 BAN20020193 Martinsville Du Pont Employees Credit Union, Incorporated - To open a credit union service office at 1000 Spruce Pine Street, Martinsville, VA  
 BAN20020194 CTX Mortgage Company, LLC - To relocate mortgage lender broker's office from 4 Loudoun Street, S.E., Leesburg, VA to 821 E South King Street, Leesburg, VA

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BAN20020195	Monarch Bank - To relocate office from 2700 Virginia Beach Boulevard, Virginia Beach, VA to 100 Lynnhaven Parkway, Virginia Beach, VA
BAN20020196	Edward D. Jones & Co., L.P. d/b/a EdwardJones - To relocate mortgage broker's office from 102 North Taylor Street, Ashland, VA to 629-B N. Washington Highway, Suite 1, Ashland, VA
BAN20020197	HomeGold, Inc. - To relocate mortgage lender's office from 113 Reed Avenue, Lexington, SC to 1021 Briargate Circle, Suite B, Columbia, SC
BAN20020198	Southern Trust Mortgage, LLC - To open a mortgage lender and broker's office at Town Point Center, 150 Boush Street, Suite 402, Norfolk, VA
BAN20020199	Primerica Financial Services Home Mortgages, Inc. - To open a mortgage broker's office at 2325 Dulles Corner Boulevard, Suite 500, Herndon, VA
BAN20020200	Johnson Mortgage Company, LLC - For a mortgage lender and broker license
BAN20020201	Sebring Capital Partners, Limited Partnership - For a mortgage lender's license
BAN20020202	Old Stone Mortgage Corporation - To relocate mortgage broker's office from 1553 South Military Highway, Chesapeake, VA to 801 Volvo Parkway, Suite 141, Greenbrier South Shopping Center, Chesapeake, VA
BAN20020203	Edward D. Jones & Co., L.P. d/b/a EdwardJones - To relocate mortgage broker's office from 101 Evergreen Avenue, Appomattox, VA to 20 Main Street, Appomattox, VA
BAN20020204	Phoenix Financial Corporation d/b/a Abacus Mortgage - To relocate mortgage broker's office from 5101 Cleveland Street, Suite 305, Virginia Beach, VA to 522 S. Independence Blvd., Suite 100, Virginia Beach, VA
BAN20020205	Brice A. Halbrook - To acquire 25 percent or more of Townsend & Wright Mortgage Corporation
BAN20020206	Allfirst Bank - To open a branch at Dulles Town Center Mall, 21099 Dulles Town Circle, Loudoun County, VA
BAN20020207	Monarch Bank - To open a branch at 3701 Pacific Avenue, Virginia Beach, VA
BAN20020208	The Anyloan Company - To open a mortgage lender and broker's office at 2 Hampshire Street, Foxboro, MA
BAN20020209	Primerica Financial Services Home Mortgages, Inc. - To open a mortgage broker's office at 5020 Sunnyside Avenue, Suite 106, Beltsville, MD
BAN20020210	Cornerstone Mortgage, Inc. - To open a mortgage broker's office at 4323 Olley Lane, Fairfax, VA
BAN20020211	The White Oak Mortgage Group, LLC - To open a mortgage lender and broker's office at 4601 Presidents Drive, Suite 131, Lanham, MD
BAN20020212	JMS Capital Group, Inc. - For a mortgage broker's license
BAN20020213	Lighthouse Mortgage Service Co., Inc. - For additional mortgage authority
BAN20020214	Advantage Investors Mortgage Corporation - To relocate mortgage lender broker's office from 1541 Brickell Avenue, Suite 404, Miami, FL to 640 South Miami Avenue, Suite 1, Miami, FL
BAN20020215	Worth Funding Incorporated - To open a mortgage lender's office at 12801 Worldgate Drive, Suite 503, Herndon, VA
BAN20020216	Independent Realty Capital Corporation - To open a mortgage lender and broker's office at 342 Railroad Avenue, Danville, CA
BAN20020217	Financial Advantage Funding Corporation - For a mortgage broker's license
BAN20020218	Pan-American Financial Resources LLC - For a mortgage broker's license
BAN20020219	Superior Mortgage Corporation - To open a mortgage lender and broker's office at 320 South Main Street, 3rd Floor, Emporia, VA
BAN20020220	American Business Mortgage Services, Inc. - To open a mortgage lender's office at 111 Presidential Boulevard, Suite 111, Bala Cynwyd, PA
BAN20020221	The Knox Financial Group, LLC - To relocate mortgage broker's office from 10 West Eager Street, Baltimore, MD to 2400 Boston Street, Suite 301, Baltimore, MD
BAN20020222	First Bank - To open a branch at 1717 Shenandoah Avenue, Front Royal, VA
BAN20020223	Allied Mortgage Capital Corporation - To open a mortgage lender and broker's office at 41 Simmons Lane, Severna Park, MD
BAN20020224	1st Metropolitan Mortgage Co. - To open a mortgage lender and broker's office at 1037 Mansfield Crossing Road, Richmond, VA
BAN20020225	Infinity Mortgage Corporation - To open a mortgage broker's office at 690 J. Clyde Morris Boulevard, Suite B, Newport News, VA
BAN20020226	Virginia Mortgage Services, Inc. - To open a mortgage broker's office at 11800 Chester Village Drive, Suite B, Chester, VA
BAN20020227	Loan Consolidation and Refinancing Company, LLC - To open a mortgage broker's office at 324 Prince Street, Tappahannock, VA
BAN20020228	Landmark Mortgage, Inc. - To open a mortgage broker's office at 625 Elden Street, Herndon, VA
BAN20020229	Centex Home Equity Company, LLC - To open a mortgage lender and broker's office at 397 S. H. 121 Bypass, Lewisville, TX
BAN20020230	Valley Bank - To open a branch at 1003 Hardy Road, Vinton, VA
BAN20020231	American Residential Funding, Inc. - To open a mortgage lender and broker's office at 1512 Colonial Avenue, Suite E, Norfolk, VA
BAN20020232	Primary Residential Mortgage, Inc. - For a mortgage lender and broker license
BAN20020233	D & M Financial, Corp. - For additional mortgage authority
BAN20020234	Superior Home Mortgage Corporation (Used in VA by: Superior Mortgage Corporation) - To relocate mortgage lender broker's office from 1226 Progressive Drive, Suite 103, Chesapeake, VA to 1228 Progressive Drive, Suite 104, Chesapeake, VA
BAN20020235	Nationwide Financial Corp. - To open a mortgage lender and broker's office at 9318-E Old Keene Mill Road, Burke, VA
BAN20020236	Concorde Acceptance Corporation - For additional mortgage authority
BAN20020237	Millennium Financing, Inc. - To open a mortgage broker's office at 1100 Walker Circle, Vienna, VA
BAN20020238	Accredited Home Lenders, Inc. - To relocate mortgage lender's office from 4000 Blackburn Lane, Suite 150, Burtonsville, MD to 4040 Blackburn Lane, Suite 200, Burtonsville, MD
BAN20020239	First Vantage Bank/Tri-Cities - To open a branch at 104 University Parkway, Suite 1, Johnson City, TN
BAN20020240	NovaStar Mortgage, Inc. - To open a mortgage lender's office at 6150 Oak Tree Boulevard, 3rd Floor, Independence, OH
BAN20020241	Diversified Mortgage Brokers, Inc. - To relocate mortgage broker's office from 1120 Laskin Road, Virginia Beach, VA to 3333-24 Virginia Beach Boulevard, Virginia Beach, VA
BAN20020242	Finance America, LLC - To relocate mortgage lender broker's office from 777 Penn Center Boulevard, Suite 111, Pittsburgh, PA to One Thorne Center, 1187 Thorn Run Extension, Suite 650, Coraopolis, PA
BAN20020243	Washington Capitol Financial Corp. - To relocate mortgage broker's office from 136 Amberleigh Drive, Silver Spring, MD to 5103 Crossfield Court, Suite 12, Rockville, MD
BAN20020244	William J. Henderson d/b/a MoneyLink - To relocate mortgage broker's office from 732 Thimble Shoals Boulevard,, Newport News, VA to 11 Cherokee Drive, Poquoson, VA
BAN20020245	MoneyLink, Inc. - To relocate mortgage broker's office from 732 Thimble Shoals Boulevard, Newport News, VA to 11 Cherokee Drive, Poquoson, VA

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

BAN20020246 Branch Banking and Trust Company of Virginia - To relocate office from 4802 S. Laburnum Avenue, Henrico County, VA to Northwest Corner of S. Laburnum Avenue and Findlay Street, Henrico County, VA

BAN20020247 Barsons Financial Services Corporation - To relocate mortgage broker's office from 3900 Koger Boulevard, Suite 130, Greensboro, NC to 3808 Littlebrook Drive, Clemmons, NC

BAN20020248 Access Mortgage & Financial Corporation - To relocate mortgage broker's office from 302 South Waverly Road, Lansing, MI to 420 S. Waverly Road, Lansing, MI

BAN20020249 Advantage First Mortgage Corp. - For a mortgage broker's license

BAN20020250 Secured Funding Corporation - For a mortgage lender and broker license

BAN20020251 PayPal, Inc. - For a money order license

BAN20020252 Carteret Mortgage Corporation - To relocate mortgage broker's office from 747 Waverly Drive, Elgin, IL to 7N388 Wagon Tire Road, St. Charles, IL

BAN20020253 Carteret Mortgage Corporation - To relocate mortgage broker's office from 6115 Jacksonburg Road, Middletown, OH to 6155 Jacksonburg Road, Middletown, OH

BAN20020254 Carteret Mortgage Corporation - To relocate mortgage broker's office from 8350 Greensboro Drive, Suite 409, McLean, VA to 10146 North Yorktown Drive, Great Falls, VA

BAN20020255 Carteret Mortgage Corporation - To relocate mortgage broker's office from 8304 Morningside Drive, Manassas, VA to 9426 Battle Street, Suite 201, Manassas, VA

BAN20020256 Carteret Mortgage Corporation - To open a mortgage broker's office at 7336 East Norwood Street, Mesa, AZ

BAN20020257 Carteret Mortgage Corporation - To open a mortgage broker's office at 1266 West Paces Ferry Road, Suite 423, Atlanta, GA

BAN20020258 Carteret Mortgage Corporation - To open a mortgage broker's office at 2801 Manchester Road, Westminster, MD

BAN20020259 Carteret Mortgage Corporation - To open a mortgage broker's office at 13820 Guild Avenue, Apple Valley, MN

BAN20020260 Carteret Mortgage Corporation - To open a mortgage broker's office at 1233 Somerset Road, Raleigh, NC

BAN20020261 Carteret Mortgage Corporation - To open a mortgage broker's office at 1820 Commonwealth Drive, Xenia, OH

BAN20020262 Carteret Mortgage Corporation - To open a mortgage broker's office at 123 New Market Circle, Lexington, SC

BAN20020263 Carteret Mortgage Corporation - To open a mortgage broker's office at 4306 Poplar Branch Drive, Chantilly, VA

BAN20020264 Carteret Mortgage Corporation - To open a mortgage broker's office at 112 Stone Court, NE, Leesburg, VA

BAN20020265 Carteret Mortgage Corporation - To open a mortgage broker's office at 31B Goldsmith Place, Newport News, VA

BAN20020266 Carteret Mortgage Corporation - To open a mortgage broker's office at 3605 E. Weyburn Road, Richmond, VA

BAN20020267 Carteret Mortgage Corporation - To open a mortgage broker's office at 1 Clover Hill Drive, Stafford, VA

BAN20020268 Carteret Mortgage Corporation - To open a mortgage broker's office at 3460 Commission Court, Woodbridge, VA

BAN20020269 Carteret Mortgage Corporation - To open a mortgage broker's office at 4831 Silver Hill Road, Suitland, MD

BAN20020270 Donald O. King d/b/a Access Mortgage Kod - To open a mortgage broker's office at 700 Baker Road, Suite 201, Virginia Beach, VA

BAN20020271 All Credit Considered Mortgage, Inc. - To relocate mortgage broker's office from 751 Rockville Pike, Suite 5B, Rockville, MD to 932 Hungerford Drive, Suite 6B, Rockville, MD

BAN20020272 Crosstowne Mortgage Corporation - To relocate mortgage broker's office from 13321 New Hampshire Avenue, Silver Spring, MD to 13321 New Hampshire Ave., 3rd Floor, Silver Spring, MD

BAN20020273 Principal Residential Mortgage, Inc. - To open a mortgage lender and broker's office at 620 Herndon Parkway, Suite 330, Herndon, VA

BAN20020274 Olmn.net Corporation d/b/a Southard Street Mortgage - To open a mortgage broker's office at 300 Southard Street, Suite 103, Key West, FL

BAN20020275 New Century Mortgage Corporation - To open a mortgage lender and broker's office at 350 Commerce, Suite 200, Irvine, CA

BAN20020276 Peoples Bank of Virginia - To open a branch at 5734 Hopkins Road, Chesterfield County, VA

BAN20020277 Choice Capital Funding, Inc. - For a mortgage lender's license

BAN20020278 Heritage Mortgage Brokers, L.L.C. - To open a mortgage broker's office at 13674 Orchard Drive, Clifton, VA

BAN20020279 Heritage Mortgage Brokers, L.L.C. - To open a mortgage broker's office at 4719 King William Road, Richmond, VA

BAN20020280 Homefirst Mortgage Corp. d/b/a MortgageFool.Com - To open a mortgage broker's office at 14101-A Willard Road, Chantilly, VA

BAN20020281 McLean Financial Mortgage Corporation - To open a mortgage broker's office at 9827 Summerday Drive, Burke, VA

BAN20020282 Centex Home Equity Company, LLC - To open a mortgage lender and broker's office at 1101 N. Kings Highway, Suite 208, Cherry Hill, NJ

BAN20020283 Allied Mortgage Capital Corporation - To relocate mortgage lender broker's office from 7825 Midlothian Turnpike, Suite 215, Richmond, VA to 9011 Arboretum Parkway, Suite 175, Richmond, VA

BAN20020284 Bull Run Mortgage, Inc. - For a mortgage broker's license

BAN20020285 Bay Mortgage Group, L.L.C. - For a mortgage broker's license

BAN20020286 Madison Funding, Inc. - For a mortgage broker's license

BAN20020287 Southeast Mortgage of Georgia, Inc. - For additional mortgage authority

BAN20020288 Capital Realty & Brokerage, L.L.C. - For a mortgage broker's license

BAN20020289 Servimex, Inc. - For a money order license

BAN20020290 Consumer Credit Counseling Service of Virginia and Southeast Maryland Inc. d/b/a Credit Counselors of Virginia - To open an additional debt counseling office at 3300 Tyre Neck Road, Suite G, Portsmouth, VA

BAN20020291 HomeGold, Inc. - To open a mortgage lender's office at 8606 Allisonville Road, Suite 350, Indianapolis, IN

BAN20020292 Pulte Mortgage Corporation - To open a mortgage lender and broker's office at 116 Bridgewater Circle, Fredericksburg, VA

BAN20020293 The Merion Group, L.C. - To open a mortgage lender and broker's office at 14555 Avion Parkway, Suite 150, Chantilly, VA

BAN20020294 Ability Mortgage Funding, Inc. - For a mortgage broker's license

BAN20020295 North Atlantic Mortgage Corporation - To relocate mortgage broker's office from 10014-A Colesville Road, Silver Spring, MD to 512-G East Randolph Road, Silver Spring, MD

BAN20020296 Advantage Investors Mortgage Corporation - To relocate mortgage lender broker's office from 105 South Union Street, Suite 602, Danville, VA to 2276 Franklin Turnpike, Suite 107, Danville, VA

BAN20020297 Gulf Coast Mortgage Company, Inc. - For a mortgage broker's license

BAN20020298 Seneca Financial Group LLC - To relocate mortgage broker's office from 9115 Guilford Road, Suite 400, Columbia, MD to 4906 Montgomery Lane, Bethesda, MD

BAN20020299 Seneca Capital Group, Inc. - To acquire 25 percent or more of Seneca Financial Group LLC

BAN20020300 Finance America, LLC - To relocate mortgage lender broker's office from 95 W. Main Street, Suite 200, Chester, NJ to 227 N Route 206 Boulevard, Suite 2, Flanders, NJ

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

BAN20020301 e-Mortgage, LLC - To relocate mortgage broker's office from 1835 Savoy Drive, Suite 308, Atlanta, GA to 4001 Presidential Parkway, Suite 1200, Atlanta, GA

BAN20020302 Primerica Financial Services Home Mortgages, Inc. - To open a mortgage broker's office at 2046 B Jefferson Davis Highway, Stafford, VA

BAN20020303 Primerica Financial Services Home Mortgages, Inc. - To open a mortgage broker's office at 9023 Forest Hill Avenue, Suite 3-E, Richmond, VA

BAN20020304 TCD Mortgage Corporation - To relocate mortgage lender broker's office from 2000 Spring Road, Suite 520, Oak Brook, IL to 11220 S. Harlem Avenue, Worth, IL

BAN20020305 Home Consultants, Inc. - For a mortgage lender's license

BAN20020306 First County Mortgage Services Incorporated - To open a mortgage lender and broker's office at 13350 H. G. Trueman Road, Solomons, MD

BAN20020307 First County Mortgage Services Incorporated - To relocate mortgage lender broker's office from 7611 South Osborne Road, Suite 101, Upper Marlboro, MD to 3140 West Ward Road, Dunkirk, MD

BAN20020308 First County Mortgage Services Incorporated - To relocate mortgage lender broker's office from 5990 Kingstowne Towne Center, Alexandria, VA to 5901 Kingstowne Village Pkwy., Suite 202, Alexandria, VA

BAN20020309 NovaStar Home Mortgage, Inc. - To open a mortgage lender and broker's office at 2700 Newport Boulevard, Suite 164, Newport Beach, CA

BAN20020310 New Peoples Bank, Inc. - To open a branch at Colley Shopping Center, Highway 83, Clintwood, VA

BAN20020311 Hometown Mortgage Corp. - To open a mortgage broker's office at 522 South Independence Boulevard, Suite 200, Virginia Beach, VA

BAN20020312 Metro Financial Group, LLC - To relocate mortgage broker's office from 10809 Campaign Court, Manassas, VA to 9525 Georgia Avenue, Suite 202, Silver Spring, MD

BAN20020313 Challenge Financial Investors Corp. - To open a mortgage broker's office at 2238-C Gallows Road, Vienna, VA

BAN20020314 Ronald L. Price, Jr. d/b/a The Mortgage Center - To open a mortgage broker's office at 377 Suite C Fairfax Pike, Stephens City, VA

BAN20020315 American Residential Funding, Inc. - To open a mortgage lender and broker's office at 10800 Hanna Street, Suite R, Beltsville, MD

BAN20020316 Heritage Home Funding Corp. - For a mortgage broker's license

BAN20020317 Liberty Mortgage Corporation - For additional mortgage authority

BAN20020318 Edward D. Jones & Co., L.P. d/b/a EdwardJones - To relocate mortgage broker's office from 8710 Choctaw Road, Richmond, VA to 3082 Stony Point Road, Unit 42, Richmond, VA

BAN20020319 Edward D. Jones & Co., L.P. d/b/a EdwardJones - To relocate mortgage broker's office from US 29 North and Route 130 West, Madison Heights, VA to 4058 S. Amherst Highway, Madison Heights, VA

BAN20020320 Edward D. Jones & Co., L.P. d/b/a EdwardJones - To open a mortgage broker's office at 5522 Lakeside Avenue, Richmond, VA

BAN20020321 Aurora Loan Services Inc. - To open a mortgage lender's office at 3131 S. Vaughn Way, Suite 500, Aurora, CO

BAN20020322 NovaStar Home Mortgage, Inc. - To open a mortgage lender and broker's office at 4411 Wycombe Court, Charlotte, NC

BAN20020323 Primerica Financial Services Home Mortgages, Inc. - To open a mortgage broker's office at 9059 Gaither Road, Gaithersburg, MD

BAN20020324 One Source Mortgage, L.L.C. - For a mortgage lender's license

BAN20020325 Integrity Mortgage, LLC - For a mortgage broker's license

BAN20020326 LenderLive Network, Inc. - To open a mortgage broker's office at 7000 Belleview, Suite 140, Greenwood Village, CO

BAN20020327 Integrated Mortgage Strategies Ltd - To open a mortgage broker's office at 3200 Croasdaile Drive, Suite 703, Durham, NC

BAN20020328 East West Mortgage Company, Inc. - To open a mortgage lender and broker's office at 7676 New Hampshire Avenue, Suite 418, Hyattsville, MD

BAN20020329 East West Mortgage Company, Inc. - To open a mortgage lender and broker's office at 374 Jefferson Drive West, Palmyra, VA

BAN20020330 Scot D. Shumway d/b/a Residential Lending Services - To relocate mortgage broker's office from 9320 Annapolis Road, Suite 320, Lanham, MD to 321 Duxbury Road, Silver Spring, MD

BAN20020331 Greenway Lending Group, LLC - To open a mortgage lender and broker's office at 4701 Sangamore Road, Lower Level, Bethesda, MD

BAN20020332 Greenway Lending Group, LLC - To open a mortgage lender and broker's office at 5518 Connecticut Avenue, NW, Washington, DC

BAN20020333 Greenway Lending Group, LLC - To open a mortgage lender and broker's office at 10200 River Road, Potomac, MD

BAN20020334 Greenway Lending Group, LLC - To open a mortgage lender and broker's office at 4910 Massachusetts Avenue, NW, Washington, DC

BAN20020335 Greenway Lending Group, LLC - To open a mortgage lender and broker's office at 12113 Darnestown Road, Gaithersburg, MD

BAN20020336 Walter Mortgage Company - For a mortgage lender's license

BAN20020337 GMAC Mortgage Corporation d/b/a Ditech.Com - To open a mortgage lender and broker's office at 2222 Electric Road, SW, Roanoke, VA

BAN20020338 GMAC Mortgage Corporation d/b/a Ditech.Com - To relocate mortgage lender broker's office from 207 Cobble Way, Walkersville, MD to 470 West Patrick Street, Frederick, MD

BAN20020339 American Mortgage Bankers, Inc. - To relocate mortgage broker's office from 534 Winding Rose Drive, Rockville, MD to 4915 St. Elmo Avenue, Suite 106, Bethesda, MD

BAN20020340 Aames Funding Corporation d/b/a Aames Home Loan - To open a mortgage lender and broker's office at 3913 Old Lee Highway, Suite 31A, Fairfax, VA

BAN20020341 Homefirst Mortgage Corp. d/b/a MortgageFool.Com - To open a mortgage broker's office at 4632-B South 36th Street, Arlington, VA

BAN20020342 Family Mortgage Corp. - For a mortgage broker's license

BAN20020343 Edward C. L. Holt d/b/a Cavalier Mortgage Group - For a mortgage broker's license

BAN20020344 United Mortgage Corporation - For a mortgage broker's license

BAN20020345 Residential Professional Mortgage, Inc. - To relocate mortgage broker's office from 510 S. Independence Blvd., Suite 202, Virginia Beach, VA to 506 S. Independence Blvd., Suite 202, Virginia Beach, VA

BAN20020346 The Bank of Fincastle - To open a branch at 4525 Challenger Avenue, Roanoke County, VA

BAN20020347 Anykind Check Cashing, LC - To open a check casher at 21 E. Broad Street, Richmond, VA

BAN20020348 Allfirst Bank - To open a branch at 1416 North Point Village Center, Reston, VA

BAN20020349 AmeriDebt, Inc. - To open an additional debt counseling office at 2703 Gateway Drive, Suite B, Pompano Beach, FL

BAN20020350 Family Lender, Inc. - For a mortgage broker's license

BAN20020351 Mecap Mortgage, LLC - For a mortgage lender and broker license

BAN20020352 Equity One Consumer Loan Company, Inc. - To conduct consumer finance business where property insurance business will also be conducted

BAN20020353 Prosperity Mortgage Company - To relocate mortgage lender's office from 11351 Random Hills Road, Suite 400, Fairfax, VA to 4440 Brookfield Corporate Drive, Chantilly, VA

BAN20020354 Sunny View Mortgage Group, L.L.C. - For a mortgage broker's license

BAN20020355 Edward D. Jones & Co., L.P. d/b/a EdwardJones - To open a mortgage broker's office at 1524 Insurance Lane, Suite C, Charlottesville, VA

BAN20020356 Advanced Call Center Technologies, LLC - To relocate mortgage broker's office from 5355 Oakbrook Parkway, Norcross, GA to 606 Morgan Boulevard, Harlingen, TX

BAN20020357 Southern Trust Mortgage, LLC - To relocate mortgage lender broker's office from 5544 Greenwich Road, Suite 301, Virginia Beach, VA to 5029 Corporate Woods Drive, Suite 170, Virginia Beach, VA

BAN20020358 HomeGold, Inc. - To open a mortgage lender's office at 2340 Broad River Road, Suite B, Columbia, SC

BAN20020359 Challenge Financial Investors Corp. - To open a mortgage broker's office at 134 24th. Street, Roanoke, VA

BAN20020360 Greenwood Properties, LLC d/b/a Greenwood Lending - To relocate mortgage broker's office from 716 W. Rio Road, Suite E, Charlottesville, VA to 1200 Augusta Street, Charlottesville, VA

BAN20020361 Valley Team Mortgage, Inc. - To relocate mortgage broker's office from 16503 Booker T. Washington Highway, Moneta, VA to 13455 Booker T. Washington Highway, Suite 107, Moneta, VA

BAN20020362 Challenge Financial Investors Corp. - To relocate mortgage broker's office from 3055 Mt. Pleasant Street, NW, Washington, DC to 2133 First Street, N.W., Washington, DC

BAN20020363 Southern Community Bank & Trust - To relocate office from north side of Hull Street Rd., 500 feet east, Midlothian, VA to 6736 Southshore Drive, Midlothian, VA

BAN20020364 All Fund, Inc. d/b/a All Fund Mortgage - To open a mortgage lender and broker's office at 3331 Toledo Terrace, Suite 305, Hyattsville, MD

BAN20020365 New Century Mortgage Corporation - To open a mortgage lender and broker's office at 1 Maynard Drive, Suite 100, Park Ridge, NJ

BAN20020366 Fidelity & Trust Mortgage, Inc. - To open a mortgage lender's office at 1020 Winchester Avenue, Martinsburg, WV

BAN20020367 Fidelity & Trust Mortgage, Inc. - To open a mortgage lender's office at 8304 Professional Hill Drive, Fairfax, VA

BAN20020368 Fidelity & Trust Mortgage, Inc. - To open a mortgage lender's office at 133 Defense Highway, Suite 204, Annapolis, MD

BAN20020369 Fidelity & Trust Mortgage, Inc. - To open a mortgage lender's office at 7200 Wisconsin Avenue, Suite 410, Bethesda, MD

BAN20020370 Fidelity & Trust Mortgage, Inc. - To open a mortgage lender's office at 540 N.C. 42 West, Clayton, NC

BAN20020371 Fidelity & Trust Mortgage, Inc. - To open a mortgage lender's office at 6321 Greenbelt Road, Suite 102, College Park, MD

BAN20020372 Fidelity & Trust Mortgage, Inc. - To open a mortgage lender's office at 5235 Westview Drive, Suite 110, Frederick, MD

BAN20020373 Fidelity & Trust Mortgage, Inc. - To open a mortgage lender's office at 12800 Middlebrook Road, Suite 1, Germantown, MD

BAN20020374 Fidelity & Trust Mortgage, Inc. - To open a mortgage lender's office at 7229 Hanover Parkway, Suite C, Greenbelt, MD

BAN20020375 Fidelity & Trust Mortgage, Inc. - To open a mortgage lender's office at 7920 McDonogh Road, Suite 204, Owings Mills, MD

BAN20020376 Fidelity & Trust Mortgage, Inc. - To open a mortgage lender's office at 6828 Commerce Street, Suite 102, Springfield, VA

BAN20020377 Beneficial Discount Co. of Virginia - To relocate mortgage lenders' office from 212 N. Frederick Avenue, Gaithersburg, MD to 223 Kentlands Boulevard, Gaithersburg, MD

BAN20020378 Beneficial Mortgage Co. of Virginia - To relocate mortgage lender broker's office from 212 N. Frederick Avenue, Gaithersburg, MD to 223 Kentlands Boulevard, Gaithersburg, MD

BAN20020379 Finance America, LLC - To relocate mortgage lender broker's office from 6205 Barfield Road, Suite 127, Atlanta, GA to 4151 Ashford Dunwoody Road, Suite 612, Atlanta, GA

BAN20020380 NovaStar Home Mortgage, Inc. - To open a mortgage lender and broker's office at 4312 Woodman Avenue, 2nd Floor, Sherman Oaks, CA

BAN20020381 American Mortgage Network, Inc. - For a mortgage lender's license

BAN20020382 MortgageStar, Inc. - To open a mortgage lender and broker's office at 1060 Laskin Road, Suite 11B, Virginia Beach, VA

BAN20020383 The Mortgage Center Inc. - To relocate mortgage broker's office from 111 Henry Street, Lexington, VA to 155 1/2 S. Main Street, Lexington, VA

BAN20020384 Atlantic Bay Mortgage Group, L.L.C. - To open a mortgage lender and broker's office at 1001 West Main Street, Radford, VA

BAN20020385 Kennedy Mortgage Corp. - To relocate mortgage broker's office from 4220 South Maryland Parkway., Las Vegas, NV to 1857 Helm Drive, Las Vegas, NV

BAN20020386 Union Bank and Trust Company - To open a branch at 5510 Morris Road, Thornburg, VA

BAN20020387 Lowe's Food Stores, Inc. d/b/a Lowes Foods - To open a check casher at 1204 S. Main Street, Galax, VA

BAN20020388 CBSK Financial Group, Inc. d/b/a American Home Loans - To relocate mortgage lender broker's office from 9401 W. Thunderbird Road, Suite 143, Peoria, AZ to 13260 N. 94th. Drive, Suite 200, Peoria, AZ

BAN20020389 Allied Mortgage Capital Corporation - To open a mortgage lender and broker's office at 14456 Old Mill Road, Upper Marlboro, MD

BAN20020390 1st Metropolitan Mortgage Co. - To open a mortgage lender and broker's office at 1157 S. Military Highway, Suite 104, Chesapeake, VA

BAN20020391 1st Metropolitan Mortgage Co. - To open a mortgage lender and broker's office at 7004-M Little River Turnpike, Annandale, VA

BAN20020392 1st Metropolitan Mortgage Co. - To open a mortgage lender and broker's office at 604 1/2 High Street, Suite 100, Portsmouth, VA

BAN20020393 Federated Home Mortgage, Inc. - To relocate mortgage broker's office from 5380 Peachtree Industrial Boulevard, Norcross, GA to 11130 State Bridge Road, Suite E201, Alpharetta, GA

BAN20020394 1st Nations Mortgage Corporation - To relocate mortgage broker's office from 300 Preston Avenue, Suite 206, Charlottesville, VA to 700 Harris Street, Suite 103, Charlottesville, VA

BAN20020395 Crescent Financial Inc. (Used in VA by: Crescent Financial Trust Inc.) - For a mortgage broker's license

BAN20020396 American General Finance of America, Inc. - To conduct a consumer finance business where the sale of limited physical damage auto insurance will also be conducted

BAN20020397 First-Citizens Bank, A Virginia Corporation - To relocate main office from 3601 Thirlane Road, Roanoke, VA to 110 Church Avenue, 3rd Floor, Roanoke, VA

BAN20020398 Bank of Botetourt - To open a branch at 5800 block of N. Lee Hwy., .2 miles N. of Route 710 and Interstate 81, Fairfield, VA

BAN20020399 Cornerstone First Financial, LLC - For a mortgage broker's license

BAN20020400 Nationwide Advantage Mortgage Company - For a mortgage lender's license

BAN20020401 Credit Debt Solutions Inc. - To open a debt counseling office

BAN20020402 Financial Mortgage, Inc. - To relocate mortgage lender broker's office from 1206 Laskin Road, Virginia Beach, VA to 404 Oakmeads Crescent, Suite 204, Virginia Beach, VA



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BAN20020403 Bradley D. Ives - To acquire 25 percent or more of Mortgage Lenders of America, L.L.C.  
 BAN20020404 ABC Money Transactions, Inc. - For a money order license  
 BAN20020405 Virginia Heartland Bank - To merge into it Caroline Savings Bank  
 BAN20020406 Money Tree Mortgage, Inc. - For a mortgage lender and broker license  
 BAN20020407 NovaStar Home Mortgage, Inc. - To open a mortgage lender and broker's office at 716 D Thimble Shoals Boulevard, Newport News, VA  
 BAN20020408 First Fidelity Mortgage, Inc. - To relocate mortgage lender broker's office from 3959 Electric Road, Suite 203, Roanoke, VA to 3959 Electric Road, Suite 190, Roanoke, VA  
 BAN20020409 Lincoln Mortgage, LLC - To open a mortgage broker's office at 1277 N. Queen Street, Martinsburg, WV  
 BAN20020410 Saver's Choice Mortgage and Funding of Ohio Inc. - For a mortgage broker's license  
 BAN20020411 ATS, L.L.C. - For a mortgage broker's license  
 BAN20020412 Branch Banking and Trust Company of Virginia - To relocate office from 14260-J Centreville Square, Centreville, VA to northwest corner of Route 28, Centreville Road, and Machen Road, Centreville, VA  
 BAN20020413 Victory Mortgage Inc. - To relocate mortgage broker's office from 5900 Princess Garden Parkway, Lanham, MD to 4400 Stamp Road, Suite 307, Temple Hills, MD  
 BAN20020414 Challenge Financial Investors Corp. - To open a mortgage broker's office at 12 West Glebe Road, Alexandria, VA  
 BAN20020415 Sampson Mortgage, LLC - For a mortgage broker's license  
 BAN20020416 1st E-Choice Mortgage Corp. (Used in VA by: 1st E-Choice National Mortgage Corp.) - For a mortgage broker's license  
 BAN20020417 Household Realty Corporation d/b/a Household Realty Corporation of Virginia - To open a mortgage lender and broker's office at 111 Congressional Boulevard, Suite 500, Carmel, IN  
 BAN20020418 Beneficial Mortgage Co. of Virginia - To open a mortgage lender and broker's office at 111 Congressional Boulevard, Suite 500, Carmel, IN  
 BAN20020419 Beneficial Discount Co. of Virginia - To open a mortgage lender's office at 111 Congressional Boulevard, Suite 500, Carmel, IN  
 BAN20020420 Fabian Thomas d/b/a F & T Mortgage - For a mortgage broker's license  
 BAN20020421 B & B Enterprises d/b/a 1st American Mortgage - For a mortgage broker's license  
 BAN20020422 Atlantic Coastal Homes, Inc. - For a mortgage broker's license  
 BAN20020423 Aegis Mortgage Corporation d/b/a UC Lending - To open a mortgage lender's office at 2 Crowne Point Office Building, 2 Crown Point Court, No. 350, Sharonville, OH  
 BAN20020424 1st Metropolitan Mortgage Co. - To open a mortgage lender and broker's office at 12 W. Glebe Road, Alexandria, VA  
 BAN20020425 American Residential Funding, Inc. - To open a mortgage lender and broker's office at 85 E. Gay Street, Columbus, OH  
 BAN20020426 Emerald Financial Group LLC - For a mortgage broker's license  
 BAN20020427 1st Atlas Mortgage Corporation - For a mortgage broker's license  
 BAN20020428 Orlandi Valuta, Incorporated (Used in VA by: Orlandi Valuta) - For a money order license  
 BAN20020429 WECCU Credit Union - To merge into it Hercules Covington Employees Credit Union, Covington, VA  
 BAN20020430 Sunset Mortgage Company L.P. - To open a mortgage lender and broker's office at 7507A Ashby Lane, Alexandria, VA  
 BAN20020431 1st Metropolitan Mortgage Co. - To open a mortgage lender and broker's office at 9400 Livingston Road, Suite 318, Ft. Washington, MD  
 BAN20020432 HomeGold, Inc. - To open a mortgage lender's office at 525 Central Park Drive, Suite 500, Oklahoma City, OK  
 BAN20020433 HomeGold, Inc. - To open a mortgage lender's office at BNA Corporate Center, 402 BNA Drive, Suite 312, Nashville, TN  
 BAN20020434 Consumer Credit Counseling Service of San Francisco - To open a debt counseling office  
 BAN20020435 American Family Mortgage Inc. - For a mortgage broker's license  
 BAN20020436 Viking Mortgage Company, LLC - For a mortgage broker's license  
 BAN20020437 Loyalty Mortgage Corporation - To relocate mortgage broker's office from 8200 Professional Place, Suite 104B, Lanham, MD to 9500 Annapolis Road, Suite C1, Lanham, MD  
 BAN20020438 Sidus Financial Corporation - To relocate mortgage lender broker's office from 605 N. Courthouse Road, Suite 103, Richmond, VA to 611 N. Courthouse Road, Suite 102, Richmond, VA  
 BAN20020439 Mortgage Virginia LLC - To open a mortgage lender's office at 8400 Highland Glenn Drive, Chesterfield, VA  
 BAN20020440 American Residential Funding, Inc. - To open a mortgage lender and broker's office at 3701 Old Court Road, Suite 16, Baltimore, MD  
 BAN20020441 American Residential Funding, Inc. - To open a mortgage lender and broker's office at 10101 Juniper Drive, Bowie, MD  
 BAN20020442 Century Mortgage Corporation of Georgia (Used in VA by: Century Mortgage Corporation) - To relocate mortgage lenders' office from 7360 McWhorter Place, Suite 200, Annandale, VA to 4115 Annandale Road, Annandale, VA  
 BAN20020443 Amerigroup Mortgage Corporation (Used in VA by: Mortgage Investors Corporation) - To relocate mortgage lenders' office from 8401 Patterson Avenue, Suite 206, Richmond, VA to West Shore III, 301 Concourse Blvd., Suite 110, Glen Allen, VA  
 BAN20020444 CMS Mortgage Services, Inc. (Used in VA by: Cooperative Mortgage Services, Inc.) - To relocate mortgage lender's office from 5875 Landerbrook Drive, Mayfield Heights, OH to 6070 Parkland Boulevard, Mayfield Heights, OH  
 BAN20020445 Wells Fargo Financial Acceptance Virginia, Inc. - To open a consumer finance office  
 BAN20020446 SequoiaBank - To open a branch at 14231 Willard Road, Suite 100, Chantilly, VA  
 BAN20020447 Wells Fargo Financial Acceptance Virginia, Inc. - To conduct consumer finance business where mortgage lending will also be conducted  
 BAN20020448 Wells Fargo Financial Acceptance Virginia, Inc. - To conduct consumer finance business where open-end lending will also be conducted  
 BAN20020449 Wells Fargo Financial Acceptance Virginia, Inc. - To conduct consumer finance business where sales finance business will also be conducted  
 BAN20020450 Wells Fargo Financial Acceptance Virginia, Inc. - To conduct consumer finance business where term life insurance business will also be conducted  
 BAN20020451 Challenge Financial Investors Corp. - To open a mortgage broker's office at 402 Westwood Office Park, Fredericksburg, VA  
 BAN20020452 Edward D. Jones & Co., L.P. d/b/a EdwardJones - To open a mortgage broker's office at 3015 S. Main Street, Suite C, Harrisonburg, VA  
 BAN20020453 Edward D. Jones & Co., L.P. d/b/a EdwardJones - To open a mortgage broker's office at 913 Main Street, West Point, VA  
 BAN20020454 Edward D. Jones & Co., L.P. d/b/a EdwardJones - To open a mortgage broker's office at 70 Scruggs Road, Moneta, VA  
 BAN20020455 Edward D. Jones & Co., L.P. d/b/a EdwardJones - To open a mortgage broker's office at 324 East 5th Street North, Big Stone Gap, VA  
 BAN20020456 Edward D. Jones & Co., L.P. d/b/a EdwardJones - To open a mortgage broker's office at 1424 Roanoke Road, Daleville, VA

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BAN20020457 Edward D. Jones & Co., L.P. d/b/a EdwardJones - To open a mortgage broker's office at 120 East Little Creek Road, Norfolk, VA  
 BAN20020458 Edward D. Jones & Co., L.P. d/b/a EdwardJones - To open a mortgage broker's office at 201 N. Washington Highway, Ashland, VA  
 BAN20020459 Edward D. Jones & Co., L.P. d/b/a EdwardJones - To open a mortgage broker's office at 745 C Westover Drive, Danville, VA  
 BAN20020460 Fieldstone Mortgage Company d/b/a Broad Street Mortgage Co. - To open a mortgage lender and broker's office at 12934 Harbor Drive, Building D, Suite 110, Woodbridge, VA  
 BAN20020461 Faircloth Financial Services, LLC - For a mortgage broker's license  
 BAN20020462 Trusted Advisers Mortgage LLC - For a mortgage broker's license  
 BAN20020463 Alliance Bank Corporation - To open a branch at 11730 Plaza America Drive, Reston, VA  
 BAN20020464 NovaStar Home Mortgage, Inc. - To open a mortgage lender and broker's office at 126 Vandalia, Suite 2, Collinsville, IL  
 BAN20020465 1st Metropolitan Mortgage Co. - To open a mortgage lender and broker's office at 530 E. Main Street, Richmond, VA  
 BAN20020466 GSF Mortgage Corporation - To relocate mortgage broker's office from 4940 Campbell Boulevard, Suite 160-A, Baltimore, MD to 2107 Laurel Bush Road, Suite 205, Belair, MD  
 BAN20020467 First Residential Mortgage Corporation - To open a mortgage broker's office at 208 W. Main , Suite C, Wytheville, VA  
 BAN20020468 First Residential Mortgage Corporation - To relocate mortgage broker's office from 108 East Valley Street, Abingdon, VA to 185 East Valley Street, Abingdon, VA  
 BAN20020469 Providence One, Inc. - To open a mortgage lender and broker's office at 6562 Tidewater Drive, B091, Norfolk, VA  
 BAN20020470 Potomac Lending LLC - To open a mortgage broker's office at 42834 Bluestone Court, Ashburn, VA  
 BAN20020471 Wells Fargo Financial Virginia, Inc. - To conduct consumer finance business where a home security business will also be conducted  
 BAN20020472 Wells Fargo Financial Acceptance Virginia, Inc. - To conduct consumer finance business where a home security business will also be conducted  
 BAN20020473 Wells Fargo Financial Virginia, Inc. - To conduct consumer finance business where a noncredit related disability income insurance business will also be conducted  
 BAN20020474 Wells Fargo Financial Acceptance Virginia, Inc. - To conduct consumer finance business where a noncredit related disability income insurance business will also be conducted  
 BAN20020475 Chesapeake Unlimited, Inc. - For a mortgage broker's license  
 BAN20020476 PHM Financial Incorporated d/b/a Professional Home Mortgage - For a mortgage lender and broker license  
 BAN20020477 1st 2nd Mortgage Company of N.J., Inc. - For a mortgage lender and broker license  
 BAN20020478 Flick Mortgage Investors, Inc. - For a mortgage lender's license  
 BAN20020479 PowerPlus Mortgage, Inc. - For a mortgage broker's license  
 BAN20020480 Universal Mortgage Processing, Inc. - For a mortgage broker's license  
 BAN20020481 Peoples Bank of Virginia - To open a branch at 6951 Commons Plaza, Chesterfield County, VA  
 BAN20020482 Branch Banking and Trust Company of Virginia - To relocate office from 123 East Sixth Street, Front Royal, VA to northwest corner of N. Shenandoah Avenue and W. 14th Street (Route 522), Front Royal, VA  
 BAN20020483 Numerica Funding, Inc. - To relocate mortgage lender broker's office from 4525 E. Honeygrove Road, Suite 204, Virginia Beach, VA to 348 Southport Circle, Suite 102, Virginia Beach, VA  
 BAN20020484 Allied Mortgage Capital Corporation - To relocate mortgage lender broker's office from 509 East Center Street, Kingsport, TN to 505 East Center Street, Kingsport, TN  
 BAN20020485 America's Mortgage Center, Inc. - To relocate mortgage broker's office from 5708 140th Place, S. E., Bellevue, WA to 450 Shattuck Avenue South, Suite 300, Renton, WA  
 BAN20020486 HomeGold, Inc. - To open a mortgage lender's office at 125 Baylis Road, Suite 280, Melville, NY  
 BAN20020487 Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 101 N. Center Street, Westminster, MD to 6788 Whiterock Road, Skyesville, MD  
 BAN20020488 Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 7392 Easterly Lane, Memphis, TN to 3792 South Mendenhall, Suite 202, Memphis, TN  
 BAN20020489 Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 31B Goldsmith Place, Newport News, VA to 103 North Bowman Terrace, Yorktown, VA  
 BAN20020490 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 411 Pleasant Ridge Court, Spartanburg, SC  
 BAN20020491 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 1120 Newbeury Lane West, Mobil, AL  
 BAN20020492 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 4012 Oak Shadow Lane, Montgomery, AL  
 BAN20020493 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 14435 South 48th Street, Suite 1123, Phoenix, AZ  
 BAN20020494 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 7336 East Norwood Street, Mesa, AZ  
 BAN20020495 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 5612 Marquette Street, Davenport, IA  
 BAN20020496 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 14660 W. Hickory Road, Zion, IL  
 BAN20020497 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 15120 S. Seminole Drive, Olathe, KS  
 BAN20020498 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 7 Dalamar Street, Suite 200, Gaithersburg, MD  
 BAN20020499 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 1450 Mercantile Lane, Suite 137, Largo, MD  
 BAN20020500 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 2525 N. Reynolds Road, Suite 3, Toledo, OH  
 BAN20020501 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 3330 Hillcroft Avenue, Suite D-314, Houston, TX  
 BAN20020502 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 811 Merribrook, Friendswood, TX  
 BAN20020503 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 950 Herndon Parkway, Suite 230, Herndon, VA  
 BAN20020504 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 10458 Historyland Highway, Warsaw, VA  
 BAN20020505 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 7402 Twin Oaks Court, Franklin, WI  
 BAN20020506 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 104 1/2 South Randolph Avenue, Elkins, WV  
 BAN20020507 O'Neill Financial Group, LLC - For a mortgage broker's license  
 BAN20020508 Frank J. Weaver, Inc. d/b/a Atlantic Home Equity - For a mortgage lender and broker license  
 BAN20020509 Alambry Funding Inc. - For a mortgage broker's license  
 BAN20020510 The Bank of Williamsburg - To open a branch at 610 Thimble Shoals Drive, Suite 102, Newport News, VA  
 BAN20020511 Michael O. Crawford d/b/a Michael O. Crawford Financial Resources - To open a mortgage broker's office at 9420 Developers Drive, Manassas, VA  
 BAN20020512 Guaranty Bank - To relocate office from 520 East Main Street, Charlottesville, VA to 400 East Main Street, Charlottesville, VA  
 BAN20020513 1st Metropolitan Mortgage Co. - To open a mortgage lender and broker's office at 404 W. Franklin Street, Suite 4, Richmond, VA  
 BAN20020514 Consultants of America, Inc. - For a mortgage broker's license

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BAN20020515	Community First Financial Corporation - To acquire Community First Bank, VA
BAN20020516	Sunset Mortgage Company L.P. - To open a mortgage lender and broker's office at 1206 Laskin Road, Suite 101, Virginia Beach, VA
BAN20020517	Sims Realty & Mortgage Corp. - To open a mortgage broker's office at 532 Fidelity Road, Roanoke, VA
BAN20020518	1st Metropolitan Mortgage Co. - To relocate mortgage lender broker's office from 297 Independence Boulevard, Virginia Beach, VA to 522 S. Independence Blvd., Suite 102-D, Virginia Beach, VA
BAN20020519	MortgageStar, Inc. - To open a mortgage lender and broker's office at 100 Luna Park Drive, Suite 379, Alexandria, VA
BAN20020520	MortgageStar, Inc. - To open a mortgage lender and broker's office at 2008 Schooner Drive, Stafford, VA
BAN20020521	F. D. B. Mortgage, Inc. - To relocate mortgage broker's office from 10612 Beaver Dam Road, Second Floor, Hunt Valley, MD to 111 Warren Road, Suite 113, Hunt Valley, MD
BAN20020522	Vietnam Express, LLC - For a money order license
BAN20020523	CMS Holding, LLC - To acquire 25 percent or more of CMS Mortgage Services, Inc.
BAN20020524	Mid-State Ventures, LLC d/b/a Checks-2-Cash - To open a check casher at 1549 Armory Drive, Franklin, VA
BAN20020525	The Funding Group, Inc. - To relocate mortgage broker's office from 1 Wyoming Court, Bethesda, MD to 4900 Auburn Avenue, Suite 203, Bethesda, MD
BAN20020526	Community Home Mortgage of Virginia, Inc. - To relocate mortgage broker's office from 201 Concourse Boulevard, Suite 111, Glen Allen, VA to 1500 Forest Avenue, Suite 213, Randolph Building, Richmond, VA
BAN20020527	Bank of Clarke County - To open a branch at 400 McNeil Drive, Berryville, VA
BAN20020528	First Source Financial USA, Inc. (Used in VA by: First Source Financial USA) - For a mortgage broker's license
BAN20020529	Highlands Community Bank - To open a bank at 307 Thacker Avenue, Covington, VA
BAN20020530	The Portsmouth Post Office Credit Union, Incorporated - To relocate credit union office from 933 Broad Street, Room 123, Portsmouth, VA to 1310 Rodman Avenue, Portsmouth, VA
BAN20020531	University of Virginia Community Credit Union, Inc. - To relocate credit union office from 409 Lane Road Annex, Charlottesville, VA to 222 Lee Street, Charlottesville, VA
BAN20020532	Mid-States Financial Group, Inc. - To relocate mortgage broker's office from 1446-22 Edwin Miller Boulevard, Martinsburg, WV to 55 Meridian Parkway, Suite 101, Martinsburg, WV
BAN20020533	Catamount Mortgage Group, Inc. - For a mortgage broker's license
BAN20020534	Giomex, Inc. - For a money order license
BAN20020535	Instafi.com (Inc.) (Used in VA by: Instafi.com) - For a mortgage lender and broker license
BAN20020536	Aames Funding Corporation d/b/a Aames Home Loan - To relocate mortgage lender broker's office from 3913 Old Lee Highway, Suite 31A, Fairfax, VA to 8605 Westwood Center Drive, Suite 401, Vienna, VA
BAN20020537	NovaStar Mortgage, Inc. - To open a mortgage lender's office at 9115 Guilford Road, Suite 400, Columbia, MD
BAN20020538	Option One Mortgage Corporation - To relocate mortgage lender broker's office from 5 Catamore Boulevard, East Providence, RI to 950 Warren Avenue, Suite 100, East Providence, RI
BAN20020539	NovaStar Home Mortgage, Inc. - To open a mortgage lender and broker's office at 2432 West Peoria, Suite 1284, Phoenix, AZ
BAN20020540	NovaStar Home Mortgage, Inc. - To relocate mortgage lender broker's office from 5331 southwest Macadam, Suite 243, Portland, OR to 5520 southwest Macadam, Suite 100, Portland, OR
BAN20020541	Towne Bank - To open a branch at 137 Mount Pleasant Road, Chesapeake, VA
BAN20020542	Johnson Mortgage Company, LLC - To open a mortgage lender and broker's office at 2419 York Crossing Drive, Gloucester, VA
BAN20020543	The Bank of Hampton Roads - To relocate office from 415 St. Pauls Boulevard, Norfolk, VA to 500 Plume Street East, Suite 100, Norfolk, VA
BAN20020544	Homefirst Mortgage Corp. d/b/a MortgageFool.Com - To open a mortgage broker's office at 2831 N. Franklin Road, Arlington, VA
BAN20020545	Residential Mortgage Center, Inc. - For additional mortgage authority
BAN20020546	Dominion Financial Mortgage Corporation - For a mortgage broker's license
BAN20020547	Encore Credit Corp. - For a mortgage lender and broker license
BAN20020548	Wells Fargo Financial Virginia, Inc. - To conduct consumer finance business where an auto club business will also be conducted
BAN20020549	Wells Fargo Financial Acceptance Virginia, Inc. - To conduct consumer finance business where an auto club business will also be conducted
BAN20020550	Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 3012 Linda Vista Drive, Alameda, CA to 20180 Hardwood Terrace, Ashburn, VA
BAN20020551	Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 220 East Justis Street, Newport, DE to 11272 Rock Road, Bent Mountain, VA
BAN20020552	Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 10240 N.W. 47th Street, Suite 17, Sunrise, FL to 12380 N.W. 30th Street, Sunrise, FL
BAN20020553	Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 4321 South Bracken Court, Winter Park, FL to 1330 Prince Phillips Drive, Casselberry, FL
BAN20020554	Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 75-5782 Kawena Street, Kailiua-Kona, HI to 78-7259 Puuloa Road, Kailiua-Kona, HI
BAN20020555	Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 4839 Schmucker Drive, Fort Wayne, IN to 2811 Allegany Avenue, Fort Wayne, IN
BAN20020556	Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 905-A Fifth Avenue, Garner, NC to 305 Clarendon Crescent Drive, Raleigh, NC
BAN20020557	Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 1446 S. Reynolds Road, Suite 320, Maumee, OH to 13545 Reed Road, Swanton, OH
BAN20020558	Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 119 New Market Circle, Lexington, SC to 106 Morton Road, Falmouth, VA
BAN20020559	Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 4944 Carriage Park Road, Fairfax, VA to 3038 Sedgfield Road, Roanoke, VA
BAN20020560	Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 115 W. 2nd Avenue, Franklin, VA to 4741 Bay Quarter Court, Virginia Beach, VA
BAN20020561	Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 4860 Cox Road, Suite 200, Glen Allen, VA to 3800 Somerbrook Court, Richmond, VA

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BAN20020562 Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 11408 Great Meadow Drive, Reston, VA to 1424 Preserve Drive, Virginia Beach, VA

BAN20020563 Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 1101 Evergreen Avenue, Richmond, VA to 10800 Weybridge Road, Chester, VA

BAN20020564 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 3422 East Rockwood Drive, Phoenix, AZ

BAN20020565 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 1120 Newbeury Lane West, Mobile, AL

BAN20020566 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 4012 Oak Shadow Lane, Montgomery, AL

BAN20020567 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 4441 North 12th Avenue, Pensacola, FL

BAN20020568 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 2686 Stanton Court, Aurora, IL

BAN20020569 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 11715 Creekview Court, Mokena, IL

BAN20020570 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 2438 Gradison Circle, Indianapolis, IN

BAN20020571 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 2645 Maryland Avenue, Baltimore, MD

BAN20020572 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 5202 Torrington Circle, Baltimore, MD

BAN20020573 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 2736 Superior Avenue, Baltimore, MD

BAN20020574 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 6310 Montgomery Road, Elkridge, MD

BAN20020575 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 13109-B Shadyside Lane, Germantown, MD

BAN20020576 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 22 Woodland Way, Greenbelt, MD

BAN20020577 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 570 High Lake Road, Traverse City, MI

BAN20020578 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 206 Mourning Dove Lane, Goldsboro, NC

BAN20020579 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 419 Mountain Road, Concord, NH

BAN20020580 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 1440 Chickasaw Drive, London, OH

BAN20020581 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 13940 Bammel-n-Houston, Suite 106, Houston, TX

BAN20020582 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 344 N. Battlefield Boulevard, Chesapeake, VA

BAN20020583 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 2204 Lilly Drive, Charleston, WV

BAN20020584 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 5418 Karen Circle, Cross Lanes, WV

BAN20020585 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 311 Cleveland Avenue, Suite 213, Fairmont, WV

BAN20020586 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 150 Zink Lane, Mt. Hope, WV

BAN20020587 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 1113 Jackson Avenue, Huntington, WV

BAN20020588 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 327 Cherokee Trail, Huntington, WV

BAN20020589 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 5701 Pinecrest Drive, Suite 31, Huntington, WV

BAN20020590 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 59 Quality Terrace, Martinsburg, WV

BAN20020591 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 162 Pella Lane, Midway, WV

BAN20020592 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 185 Matney Town Road, Oceana, WV

BAN20020593 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at #1 Main Street, Suite 3, Poca, WV

BAN20020594 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 1 McMann Court, South Charleston, WV

BAN20020595 Intercoastal Mortgage Company - To relocate mortgage lender broker's office from 12500 Fair Lakes Circle, Suite 290, Fairfax, VA to 4100 Monument Corner Drive, Suite 220, Fairfax, VA

BAN20020596 Sunset Mortgage Company L.P. - To open a mortgage lender and broker's office at 14001-C Saint Germain Drive, Suite 106, Centreville, VA

BAN20020597 Edward D. Jones & Co., L.P. d/b/a EdwardJones - To open a mortgage broker's office at 385 S. Main Street, Rocky Mount, VA

BAN20020598 Challenge Financial Investors Corp. - To relocate mortgage broker's office from 12 West Glebe Road, Alexandria, VA to 919 Prince Street, 2nd Floor, Suite 2A, Alexandria, VA

BAN20020599 Erie Financial Group, LTD. - To open a mortgage broker's office at 216 Main Street, 2nd Floor, Gaithersburg, MD

BAN20020600 Harborside Financial Network, Inc. - To open a mortgage lender's office at 31685 US Highway 79 South, Suite C, Temecula, CA

BAN20020601 MLI Capital Group, Inc. - To open a mortgage lender and broker's office at 2866 Virgil Goode Highway, Rocky Mount, VA

BAN20020602 Cardinal Financial Company, Limited Partnership - To open a mortgage lender's office at Iron Mountain, 3433 Progress Drive, Bensalem, PA

BAN20020603 Destiny Mortgage Group, Inc. - To relocate mortgage broker's office from 15 Charles Plaza, Suite 200, Baltimore, MD to 246 Cockeysville Road, Suite 3, Cockeysville, MD

BAN20020604 Primerica Financial Services Home Mortgages, Inc. - To relocate mortgage broker's office from 320 S. Main Street, 2nd Floor, Emporia, VA to 510 N. Main Street, 2nd Floor, Franklin, VA

BAN20020605 Coastal Capital Corp. - For a mortgage lender and broker license

BAN20020606 EDS Credit Union - Out of state credit union to open an in state office

BAN20020607 1st Metropolitan Mortgage Co. - To open a mortgage lender and broker's office at 919 Prince Street, 2nd Floor, Alexandria, VA

BAN20020608 NovaStar Home Mortgage, Inc. - To relocate mortgage lender broker's office from 3285 A-8 Veterans Memorial Highway, Ronkonkoma, NY to 300 Wheeler Road, Suite 101, Hauppauge, NY

BAN20020609 Community Home Mortgage, LLC d/b/a Community Mortgage Group, LLC - To open a mortgage broker's office at 1291 Robert C. Byrd Drive, Crab Orchard, WV

BAN20020610 Columbia National, Incorporated - To open a mortgage lender and broker's office at 116 Defense Highway, Suite 202, Annapolis, MD

BAN20020611 T. Byrd, Inc. d/b/a Instant Money Service - To open a check casher at 3040-D South Crater Road, Petersburg, VA

BAN20020612 Fidelity First Home Mortgage Company - For a mortgage broker's license

BAN20020613 B.E.M.C. Mortgage, Inc. (Used in VA by: Mortgage Express, Inc.) - For a mortgage lender and broker license

BAN20020614 Turnstone Mortgage Company, LLC (Used in VA by: Turnstone Mortgage Company) - For a mortgage broker's license

BAN20020615 MortgageStar, Inc. - To open a mortgage lender and broker's office at 4106 Tarnywood Drive, Portsmouth, VA

BAN20020616 Countryside Mortgage Services, Inc. - To relocate mortgage broker's office from 2111 Wilson Boulevard, Suite 711, Arlington, VA to 1206 N. Nelson Street, Arlington, VA

BAN20020617 James Monroe Bank - To open a branch at 10 West Market Street, Leesburg, VA

BAN20020618 Provident Bank of Maryland - To open a branch at 9622 Main Street, Fairfax, VA

BAN20020619 Ace Mortgage, Inc. - For a mortgage broker's license

BAN20020620 Home Loan Center, Inc. - For a mortgage lender and broker license

BAN20020621 Pennwest Home Equity Services Corporation - For a mortgage lender and broker license

BAN20020622 First Capital Bank - To open a branch at 1580 Koger Center Boulevard, Chesterfield County, VA

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BAN20020623 Mid-Atlantic Mortgage Corporation - To open a mortgage broker's office at 118 Creekside Lane, Winchester, VA  
 BAN20020624 Discount Funding Associates, Inc. - To relocate mortgage broker's office from 110 Washington Drive, Centerport, NY to 1000 Fort Salonga Road, Northport, NY

BAN20020625 American General Finance of America, Inc. - To conduct consumer finance business where mortgage brokering will also be conducted  
 BAN20020626 American General Finance, Inc. (Used in VA by: American General Financial Services, Inc.) - For additional mortgage authority  
 BAN20020627 Consumer Credit Counseling Service of Virginia and Southeast Maryland Inc. d/b/a Credit Counselors of Virginia - To open an additional debt counseling office at 200 Citizens Commonwealth Center, 300 Preston Avenue, Charlottesville, VA

BAN20020628 Amerifirst Mortgage Corp. - To relocate mortgage broker's office from 808 Moorefield Park Drive, Suite 119, Richmond, VA to 2401 Camelback Road, Richmond, VA

BAN20020629 New Century Mortgage Corporation - To relocate mortgage lender broker's office from 8500 Leesburg Pike, Suite 205, Vienna, VA to 8500 Leesburg Pike, Suite 7700, Vienna, VA

BAN20020630 Carolina Equity Services, Inc. - For a mortgage broker's license  
 BAN20020631 American Residential Funding, Inc. - To open a mortgage lender and broker's office at 4606 Old Battleground Road, Suite 108, Greensboro, NC

BAN20020632 1st Metropolitan Mortgage Co. - To open a mortgage lender and broker's office at 5533 NC Highway 42 West, Garner, NC  
 BAN20020633 1st Metropolitan Mortgage Co. - To open a mortgage lender and broker's office at 633 N. 100 W, Heber City, UT  
 BAN20020634 1st Metropolitan Mortgage Co. - To open a mortgage lender and broker's office at 6895 Washington Boulevard, Elkridge, MD  
 BAN20020635 Lumina Mortgage Company, Inc. - For a mortgage lender and broker license  
 BAN20020636 MorEquity of Nevada, Inc. (Used in VA by: MorEquity, Inc.) - For additional mortgage authority  
 BAN20020637 Principal Residential Mortgage, Inc. - To relocate mortgage lender broker's office from 620 Herndon Parkway, Suite 330, Herndon, VA to 610 Herndon Parkway, Suite 700, Herndon, VA

BAN20020638 First Greensboro Home Equity, Inc. d/b/a Homeland Capital Group - To relocate mortgage lender broker's office from 7331 Timberlake Road, Suite 203, Lynchburg, VA to 102 Annjo Court, Forest, VA

BAN20020639 FirstCity Mortgage, Inc. - For a mortgage lender's license  
 BAN20020640 Home Mortgage & Investment Company - To relocate mortgage broker's office from 5929 Merritt Place, Falls Church, VA to 20070 Inverness Square, Ashburn, VA

BAN20020641 The Credit People Company - To relocate mortgage broker's office from 1800 North Beauregard Street, Alexandria, VA to 250 Exchange Place, Suite B, Herndon, VA

BAN20020642 Allied Mortgage Capital Corporation - To open a mortgage lender and broker's office at 416 Hungerford Drive, Suite 420, Rockville, MD

BAN20020643 American Residential Funding, Inc. - To relocate mortgage lender broker's office from 3320 Virginia Beach Boulevard, Virginia Beach, VA to 3800 Virginia Beach Boulevard, Suite 1, Virginia Beach, VA

BAN20020644 NovaStar Home Mortgage, Inc. - To open a mortgage lender and broker's office at 575 Lynnhaven Parkway, Suite 250, Virginia Beach, VA

BAN20020645 First Choice Mortgage Inc. - To relocate mortgage broker's office from 4323 Cox Road, Glen Allen, VA to 201 Concourse Boulevard, Glen Allen, VA

BAN20020646 Edward D. Jones & Co., L.P. d/b/a EdwardJones - To open a mortgage broker's office at 123 W. Main Street, Luray, VA  
 BAN20020647 United American Mortgage Corporation - For a mortgage broker's license  
 BAN20020648 Thornburg Mortgage Home Loans, Inc. - To relocate mortgage lenders's office from 119 East Marcy Street, Santa Fe, NM to 150 Washington Avenue, Suite 302, Santa Fe, NM

BAN20020649 America's Mortgage Broker, L.L.C. d/b/a Affordable Home Funding - To open a mortgage lender and broker's office at 4128 28th Street North, St. Petersburg, FL

BAN20020650 Mary P. Dooley t/a MPD Mortgage Company - To relocate mortgage broker's office from 2 Manchester Street South, Arlington, VA to 120 South Hudson Street, Arlington, VA

BAN20020651 Bank of Botetourt - To relocate office from Unit 130, Stonewall Square Shopping, Rockbridge County, VA to 65 East Midland Trail, Rockbridge County, VA

BAN20020652 Access One Mortgage Group, Inc. - For a mortgage broker's license  
 BAN20020653 Branch Banking and Trust Company of Virginia - To open a branch at 38 Rouss Avenue, Winchester, VA  
 BAN20020654 Challenge Financial Investors Corp. - To open a mortgage broker's office at 1209 Independence Blvd., Suite 108B, Virginia Beach, VA  
 BAN20020655 Abibirem Group, LLC - For a money order license  
 BAN20020656 USLoans.net, Inc. - For a mortgage broker's license  
 BAN20020657 Resource Bank - To open a branch at Hilltop North Shopping Center, 1616 Laskin Road, Virginia Beach, VA  
 BAN20020658 First Fidelity Mortgage, Inc. - To relocate mortgage lender broker's office from 1610 Forest Avenue, Suite 114, Richmond, VA to 2550 Professional Road, 2nd Floor, Richmond, VA

BAN20020659 Edward D. Jones & Co., L.P. d/b/a EdwardJones - To open a mortgage broker's office at Stafford Square, 2048 B Jefferson Davis Highway, Stafford, VA

BAN20020660 21st Mortgage Corporation - To relocate mortgage lender broker's office from 4420 Taggart Creek Road, Suite 112, Charlotte, NC to 19615 Liverpool Parkway, Suite B, Cornelius, NC

BAN20020661 Horizon Mortgage Corp. - To open a mortgage broker's office at 9 Centre Street, Stafford, VA  
 BAN20020662 First Virginia Bank - To relocate office from 7205 Little River Turnpike, Annandale, VA to 4401 Backlick Road, Annandale, VA  
 BAN20020663 1st Metropolitan Mortgage Co. - To open a mortgage lender and broker's office at 3407 Rickey Avenue, Temple Hills, MD  
 BAN20020664 Benchmark Mortgage Inc. - To open a mortgage lender and broker's office at 6800 Paragon Place, Suite 215, Richmond, VA  
 BAN20020665 Benchmark Mortgage Inc. - To open a mortgage lender and broker's office at 320 C Dimmock Parkway, Colonial Heights, VA  
 BAN20020666 Trust One Mortgage Corporation - To relocate mortgage lenders's office from 17780 Fitch Street, Suite 120, Irvine, CA to 502 East Ocean Front, Newport Beach, CA

BAN20020667 Accent Mortgage Services, Inc. - To relocate mortgage broker's office from 5895 Windward Parkway, Suite 220, Alpharetta, GA to 2500 Northwinds Parkway, Suite 350, Alpharetta, GA

BAN20020668 Tim E. Schaffer - For a mortgage broker's license  
 BAN20020669 Lynetta Wapner - To relocate mortgage broker's office from 205 Burtcher Court, Williamsburg, VA to 2509 Campbell Close, Williamsburg, VA

BAN20020670 Millican Mortgage Corporation - To relocate mortgage broker's office from 205 Burtcher Court, Williamsburg, VA to 2509 Campbell Close, Williamsburg, VA

BAN20020671 Amerigroup Mortgage Corporation (Used in VA by: Mortgage Investors Corporation) - To open a mortgage lender's office at 7310 Ritchie Highway, Suite 414, Glen Burnie, MD

BAN20020672 HomeFirst Direct, Inc. (Used in VA by: HomeFirst Mortgage, Inc.) - For additional mortgage authority

BAN20020673 Numerica Funding, Inc. - To relocate mortgage lender broker's office from 701 Lynnhaven Parkway, Virginia Beach, VA to 780 Pilot House Drive, Building 500, Unit B, Newport News, VA

BAN20020674 Miracle Mortgage, Inc. - To relocate mortgage broker's office from 508 North Birdneck Road, Suite G, Virginia Beach, VA to 508 N. Birdneck Road, Suite F, Virginia Beach, VA

BAN20020675 Allfirst Bank - To open a branch at 10697 Braddock Road, Fairfax, VA

BAN20020676 American General Finance of America, Inc. - To relocate consumer finance office from 461 East Nelson Street, Lexington, VA to 90 East Midland Trail, Suite 200, Rockbridge County, VA

BAN20020677 American General Finance, Inc. - To relocate mortgage lenders's office from 461 East Nelson Street, Lexington, VA to 90 E. Midland Trail, Suite 200, Lexington, VA

BAN20020678 All Fund, Inc. d/b/a All Fund Mortgage - To open a mortgage lender and broker's office at 414 Oakmears Crescent, Suite 201, Virginia Beach, VA

BAN20020679 NovaStar Home Mortgage, Inc. - To relocate mortgage lender broker's office from 3692 NC Highway 14, Reidsville, NC to 612-B Business Park Drive, Eden, NC

BAN20020680 NovaStar Home Mortgage, Inc. - To relocate mortgage lender broker's office from 13809 S. Casper, Suite B, Glenpool, OK to 6400 S. Lewis, Suite 1100, Tulsa, OK

BAN20020681 NovaStar Home Mortgage, Inc. - To open a mortgage lender and broker's office at 212 Center on the Lake, Lake St. Louis, MO

BAN20020682 Elite Mortgage, LLC - To relocate mortgage broker's office from 21670 Channing Court, Ashburn, VA to 15073 Sycamore Hills Place, Haymarket, VA

BAN20020683 Tidewater Home Funding, LLC - To open a mortgage lender and broker's office at 1919 Commerce Drive, Suite 100, Hampton, VA

BAN20020684 Fortune Mortgage Company - To open a mortgage broker's office at 5515 Cherokee Avenue, Suite 402, Alexandria, VA

BAN20020685 HomeGold, Inc. - To open a mortgage lender's office at 6200 Oak Tree Boulevard, Suite 100, Independence, OH

BAN20020686 Aegis Mortgage Corporation d/b/a UC Lending - To relocate mortgage lenders's office from Sherwood Plaza, 9990 Lee Highway, Fairfax, VA to 8410 Hunt Valley Drive, Vienna, VA

BAN20020687 Allied Mortgage Capital Corporation - To relocate mortgage lender broker's office from 1320 Fenwick Lane, Suite 708, Silver Spring, MD to 1320 Fenwick Lane, Suite 602, Silver Spring, MD

BAN20020688 SB Mortgage Consultants LLC - For a mortgage broker's license

BAN20020689 Edward D. Jones & Co., L.P. d/b/a EdwardJones - To open a mortgage broker's office at Holly Hill Business Center, 986 John Marshall Highway, Suite C, Front Royal, VA

BAN20020690 Edward D. Jones & Co., L.P. d/b/a EdwardJones - To open a mortgage broker's office at 603 E. Jubal Early Drive, Winchester, VA

BAN20020691 Continental Mortgage Corp. - To relocate mortgage broker's office from 8500 Leesburg Pike, Suite 210, Vienna, VA to 8500 Leesburg Pike, Suite 203, Vienna, VA

BAN20020692 LenderLive Network, Inc. - To relocate mortgage broker's office from 2420 West 26th Avenue, Suite 300-D, Denver, CO to 4500 Cherry Creek Drive South, #200, Glendale, CO

BAN20020693 Reliable Financial Group, LLC - To open a mortgage broker's office at 2 W. Forrest Avenue, Shrewsbury, PA

BAN20020694 Reliable Financial Group, LLC - To relocate mortgage broker's office from 10045 Red Run Boulevard, Suite 250, Owings Mills, MD to 1777 Reisterstown Road, CommerceCentre East, Suite 253, Baltimore, MD

BAN20020695 1st Metropolitan Mortgage Co. - To open a mortgage lender and broker's office at 305 W. Mountain Street, Suite H, Kernesville, NC

BAN20020696 H&R Block Mortgage Corporation - To open a mortgage lender and broker's office at 13990 Baltimore Avenue, Laurel, MD

BAN20020697 Allied Mortgage Capital Corporation - To open a mortgage lender and broker's office at 3051 B Trenwest Drive, Winston-Salem, NC

BAN20020698 Equity One Consumer Loan Company, Inc. - To relocate consumer finance office from 25383 Lankford Highway, Onley, VA to 25258 Lankford Highway, Onley, VA

BAN20020699 Blue Chip Mortgage, LLC - For a mortgage broker's license

BAN20020700 A Money Matter Mortgage Inc. - To open a mortgage broker's office at 1037 Sterling Road, Suite 105, Herndon, VA

BAN20020701 Edward D. Jones & Co., L.P. d/b/a EdwardJones - To open a mortgage broker's office at 1295 South Boston Road, Danville, VA

BAN20020702 Challenge Financial Investors Corp. - To open a mortgage broker's office at 613 Hampton Circle, North Augusta, SC

BAN20020703 All Fund, Inc. d/b/a All Fund Mortgage - To open a mortgage lender and broker's office at 6005 West Grove Circle, Gibsonia, PA

BAN20020704 Franklin Mortgage Corporation - To relocate mortgage broker's office from 1928 Arlington Boulevard, Suite 107, Charlottesville, VA to 1928 Arlington Boulevard, Suite 206, Charlottesville, VA

BAN20020705 Semidey & Semidey Mortgage Group, LLC - For a mortgage broker's license

BAN20020706 Sun Coast Mortgage of Delmarva, LLC - For a mortgage broker's license

BAN20020707 Bankers Fidelity Mortgage Corporation - To relocate mortgage broker's office from 3920 University Drive, 3rd Floor, Fairfax, VA to 10805 Main Street, Suite 100, Fairfax, VA

BAN20020708 Consolidated Credit Counseling Services, Inc. - To open a debt counseling office

BAN20020709 Sherry L. Tucker d/b/a Advance Mortgage Company - To open a mortgage broker's office at 1263 Mason Mill Court, Herndon, VA

BAN20020710 Fidelity & Trust Mortgage, Inc. - To open a mortgage lender's office at 9500 Annapolis Road, Suite B-3, Lanham, MD

BAN20020711 Fidelity & Trust Mortgage, Inc. - To open a mortgage lender's office at 13800 Copper Mine Road, Herndon, VA

BAN20020712 Superior Home Mortgage Corporation (Used in VA by: Superior Mortgage Corporation) - To open a mortgage lender and broker's office at 1 Leifried Lane, Tuckerton, NJ

BAN20020713 Federal Funding Mortgage Corporation - To open a mortgage lender and broker's office at 8300 Greensboro Drive, Suite 880-A, McLean, VA

BAN20020714 Check'n Go of Virginia, Inc. d/b/a Check 'n Go - For a payday lender license

BAN20020715 1st Nations Mortgage Corporation - To open a mortgage broker's office at 2288 Souverain Lane, Virginia Beach, VA

BAN20020716 Alliance of Savings Klub, Inc. - To relocate mortgage broker's office from 580 Market Street, Suite 100, San Francisco, CA to 564 Market Street, Suite 314, San Francisco, CA

BAN20020717 Cyber Mortgage Inc. d/b/a Global Mortgage - For a mortgage broker's license

BAN20020718 All Fund, Inc. d/b/a All Fund Mortgage - To open a mortgage lender and broker's office at 6495 New Hampshire Avenue, Suite 202, Hyattsville, MD

BAN20020719 Robert Musseman d/b/a Potomac Mortgage Bank - To relocate mortgage broker's office from 11510 Waterhaven Court, Reston, VA to 828 Springvale Road, Great Falls, VA

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BAN20020720 P & P Financial Group, Inc. - For a mortgage broker's license  
 BAN20020721 Home Loans Direct, Inc. - For a mortgage broker's license  
 BAN20020722 DuPont Community Credit Union - To merge into it Community Advantage Federal Credit Union  
 BAN20020723 Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 2801 Manchester Road, Westminster, MD to 3107 Main Street, Suite D, Manchester, MD  
 BAN20020724 Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 415 Paradise Circle, Belmont, NC to 2504 Hampton Meadows Lane, Cramerton, NC  
 BAN20020725 Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 3540-197-B Maitland Drive, Raleigh, NC to 9387 Founder's Street, Fort Mill, SC  
 BAN20020726 Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 1233 Somerset Road, Raleigh, NC to 412 S. Myrtle Drive, Surfside, SC  
 BAN20020727 Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 223 South 11th, Muskogee, OK to 2909 Wauhilah Drive, Muskogee, OK  
 BAN20020728 Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 10419 Carriage Park Court, Fairfax, VA to 2257 Fox Hatch Place, Warrenton, VA  
 BAN20020729 Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 10803 Main Street, Fairfax, VA to 8845 Swordstone Lane, Bristow, VA  
 BAN20020730 Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 907 Foxboro Drive, Newport News, VA to 3787 Blue Sulphur Road, Ona, WV  
 BAN20020731 Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 1549 Williamastic Drive, Virginia Beach, VA to 408 Terrace Court, Virginia Beach, VA  
 BAN20020732 Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 162 Pella Lane, Midway, WV to 5701 Pinecrest Drive Box 31, Huntington, WV  
 BAN20020733 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 13182 W. Fargo Drive, Surprise, AZ  
 BAN20020734 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 1012 N. Wade Drive, Gilbert, AZ  
 BAN20020735 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 4425 North 78th Street, Suite 166 B, Scottsdale, AZ  
 BAN20020736 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 8896 E. Red Mountain Lane, Gold Canyon, AZ  
 BAN20020737 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 109 Beachfield Drive, Rehoboth, DE  
 BAN20020738 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 1301 SW-12th Avenue, Boca Raton, FL  
 BAN20020739 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 2804 Del Prado Boulevard, Suite 204, Cape Coral, FL  
 BAN20020740 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 36 Morning Star Court, Sicklerville, NJ  
 BAN20020741 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 22 Woodland Way, Greenbelt, MD  
 BAN20020742 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 2664 Sequoia Way, Prince Frederick, MD  
 BAN20020743 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 289 Willow Lane, Linden, MI  
 BAN20020744 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 534 Bayport Avenue, Bayport, NY  
 BAN20020745 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 708 Sheffield Drive, Springfield, PA  
 BAN20020746 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 5 Novella Drive, St. Peters, MO  
 BAN20020747 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 7 Longspur Court, Simpsonville, SC  
 BAN20020748 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 187 N. Church Street, 9th Floor, Spartanburg, SC  
 BAN20020749 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 100 Crescent Court, 7th Floor, Dallas, TX  
 BAN20020750 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 1131 Bayliss Drive, Alexandria, VA  
 BAN20020751 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 1522 Plantation Lakes Circle, Chesapeake, VA  
 BAN20020752 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 344 North Battlefield Boulevard, Chesapeake, VA  
 BAN20020753 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 7801 Helena Drive, Falls Church, VA  
 BAN20020754 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 12212 Meadowstream Court, Herndon, VA  
 BAN20020755 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 21797 Baldwin Square, Sterling, VA  
 BAN20020756 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 602 Lake Dale Way, Yorktown, VA  
 BAN20020757 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 103 N. Bowman Terrace, Yorktown, VA  
 BAN20020758 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 2103 Overly Drive, St. Albans, WV  
 BAN20020759 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 41C Mount Vernon Drive, Hurricane, WV  
 BAN20020760 Empire Equity Group, Inc. d/b/a 1st Metropolitan Mortgage - To open a mortgage broker's office at 4050 Sky Ron Drive, Suite D2A, Doylestown, PA  
 BAN20020761 Empire Equity Group, Inc. d/b/a 1st Metropolitan Mortgage - To open a mortgage broker's office at 923 Del Prado Boulevard, Cape Coral, FL  
 BAN20020762 Empire Equity Group, Inc. d/b/a 1st Metropolitan Mortgage - To open a mortgage broker's office at 325 West Water Street, Toms River, NJ  
 BAN20020763 First Mutual Corp. - To open a mortgage lender's office at 14800 Conference Center Drive, Suite 200, Chantilly, VA  
 BAN20020764 Greenfield Mortgage, Inc. - To open a mortgage lender and broker's office at 6825 Shiloh Road, East, Suite B-6, Alpharetta, GA  
 BAN20020765 Challenge Financial Investors Corp. - To open a mortgage broker's office at 5630 Park Boulevard, Suite B, Pinellas Park, FL  
 BAN20020766 Weststar Mortgage, Inc. - To open a mortgage lender and broker's office at 15521 Real Estate Avenue, Dahlgren, VA  
 BAN20020767 First Community Finance, Inc. - To relocate consumer finance office from 1327-B West Broad Street, Waynesboro, VA to 2014 Goose Creek Road, Suite 110, Augusta County, VA  
 BAN20020768 Capital Financial Associates, Inc. - To open a mortgage broker's office at 4711 B Eisenhower Avenue, Alexandria, VA  
 BAN20020769 Stephen D. Ruben - To acquire 25 percent or more of Loyalty Mortgage Corporation  
 BAN20020770 1st Chesapeake Home Mortgage, LLC - For a mortgage lender and broker license  
 BAN20020771 All Mortgage Connections, Inc. - For a mortgage broker's license  
 BAN20020772 American Consumer Credit Counseling, Inc. - To open a debt counseling office  
 BAN20020773 Universal American Mortgage Company, LLC - For a mortgage lender and broker license  
 BAN20020774 Southwest Check Advance, Inc. - For a payday lender license  
 BAN20020775 HomeGold, Inc. - To open a mortgage lender's office at Signature 91 Building, 35 Thorpe Avenue, Suite 100, Wallingford, CT  
 BAN20020776 HomeGold, Inc. - To open a mortgage lender's office at Park Building, 4224 Park Place Court, Suite B, Glen Allen, VA

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BAN20020777 Southern Atlantic Builder Finance, Incorporated - For a mortgage lender and broker license  
 BAN20020778 Sunshine Mortgage Corporation - To relocate mortgage lender broker's office from 3334 Gwinnett Plantation Way, Duluth, GA to 3075 Breckinridge Boulevard, Suite 465, Duluth, GA

BAN20020779 The Lending Connection, Inc. - For a mortgage lender's license  
 BAN20020780 Consumer Credit and Budget Counseling, Inc. - To open a debt counseling office  
 BAN20020781 Cresleigh Financial Services LLC - For a mortgage lender and broker license  
 BAN20020782 Lendmark Financial, LLC - For a mortgage broker's license  
 BAN20020783 PDQ Cash Advance, Inc. - For a payday lender license  
 BAN20020784 CTX Mortgage Company, LLC - To open a mortgage lender and broker's office at 10687 Gaskins Way, Suite 200, Manassas, VA  
 BAN20020785 Principal Residential Mortgage, Inc. - To open a mortgage lender and broker's office at 512 Township Line Road, Suite 102, Blue Bell, PA

BAN20020786 MortgageStar, Inc. - To open a mortgage lender and broker's office at 158 Graystone Trace, Suffolk, VA  
 BAN20020787 Universal American Mortgage Company - To relocate mortgage lender broker's office from 730 NW 107th Avenue, 4th Floor, Miami, FL to 700 N.W. 107th Avenue, 3rd Floor, Miami, FL

BAN20020788 Diversified Financial Mortgage Corporation - To open a mortgage broker's office at 4224 Lee Highway, Warrenton, VA  
 BAN20020789 Allied Mortgage Capital Corporation - To open a mortgage lender and broker's office at 15 East Main Street, Suite 230, Westminster, MD

BAN20020790 Challenge Financial Investors Corp. - To relocate mortgage broker's office from 1701 Gravenhurst Drive, Virginia Beach, VA to 3707 Virginia Beach Blvd, Suite 214, Virginia Beach, VA

BAN20020791 NovaStar Home Mortgage, Inc. - To open a mortgage lender and broker's office at 100 E. Tarpon Avenue, Suite 9, Tarpon Springs, FL  
 BAN20020792 NovaStar Home Mortgage, Inc. - To open a mortgage lender and broker's office at 5009 High Point Road, Greensboro, NC  
 BAN20020793 Western Home Mortgage Corporation - To relocate mortgage broker's office from 17952 Sky Park Circle, Suite J, Irvine, CA to 502 E. Oceanfront, Newport Beach, CA

BAN20020794 First Heritage Mortgage, LLC - To relocate mortgage lender broker's office from 4035 Ridge Top Road, Suite 250, Fairfax, VA to 4100 Monument Corner Drive, Suite 210, Fairfax, VA

BAN20020795 NovaStar Home Mortgage, Inc. - To relocate mortgage lender broker's office from 15 N. Mill Street, Nyack, NY to 267 B Main Street, Nyack, NY

BAN20020796 All Fund, Inc. d/b/a All Fund Mortgage - To open a mortgage lender and broker's office at 200 Split Rock Terrace, Ovilla, TX  
 BAN20020797 Edward C. L. Holt d/b/a Cavalier Mortgage Group - To open a mortgage broker's office at 713 Bobolink Drive, Virginia Beach, VA  
 BAN20020798 Sageworth Trust Company - To open a new independent trust company branch at 11951 Freedom Drive, 13th Floor, Reston, VA  
 BAN20020799 Justin Enterprises, Inc. d/b/a Cash To Payday - For a payday lender license  
 BAN20020800 Brooke Enterprises, Inc. d/b/a Cash Today - For a payday lender license  
 BAN20020801 Advance Mortgage - To relocate mortgage lender's office from 1428 Kempsville Road, Chesapeake, VA to 4456 Corporation Lane, Suite 115, Virginia Beach, VA

BAN20020802 EZ Payday Loans of Virginia LLC d/b/a EZ Payday Loans - For a payday lender license  
 BAN20020803 Cash & Go, Inc. of Virginia d/b/a Cash-N-Go - For a payday lender license  
 BAN20020804 First Pacific Financial, Inc. - For additional mortgage authority  
 BAN20020805 American Cash Exchange Enterprise of Virginia, L.L.C. d/b/a 1st Choice - For a payday lender license  
 BAN20020806 General Mortgage Corporation of America - For a mortgage lender's license  
 BAN20020807 1st Nations Mortgage Corporation - To open a mortgage broker's office at 20 Stoneridge Drive, Waynesboro, VA  
 BAN20020808 New Peoples Bank, Inc. - To open a branch at 419 Shawnee Avenue East, Big Stone Gap, VA  
 BAN20020809 1st Metropolitan Mortgage Co. - To open a mortgage lender and broker's office at 1001 Fairlawn Avenue, Virginia Beach, VA  
 BAN20020810 Waterford Financial Services, Incorporated d/b/a First Commonwealth Funding - For a mortgage broker's license  
 BAN20020811 First Mutual Corp. - For additional mortgage authority  
 BAN20020812 Challenge Financial Investors Corp. - For additional mortgage authority  
 BAN20020813 Check into Cash of Virginia, LLC d/b/a Check into Cash - For a payday lender license  
 BAN20020814 Blue Ridge Mortgage, L.L.C. - For additional mortgage authority  
 BAN20020815 Benchmark Mortgage Inc. - To relocate mortgage lender broker's office from 320C Dimmock Parkway, Colonial Heights, VA to 201 Temple Avenue, Colonial Heights, VA

BAN20020816 Eleview International Inc. - To open a check casher at 7426 Alban Station Blvd., Suite B-208, Springfield, VA  
 BAN20020817 The Business Bank - To open a branch at 1900 Centennial Park Drive, Reston, VA  
 BAN20020818 Dana Capital Group, Inc. - To relocate mortgage lender broker's office from 24602 Raymond Way, Suite 9, Lake Forest, CA to 24361 El Toro Road, Suite 280, Laguna Woods, CA

BAN20020819 Advantage Investors Mortgage Corporation - To relocate mortgage lender broker's office from 9154 Reedy Creek Road, Bristol, VA to 412 Glenway Avenue, Bristol, VA

BAN20020820 Kenneth L. Daniel d/b/a American Mortgage Center - To relocate mortgage broker's office from 1500 Forest Avenue, Suite 101, Richmond, VA to 1500 Forest Avenue, Suite 200, Richmond, VA

BAN20020821 Executive Mortgage Services, Inc. - To relocate mortgage broker's office from 7345 McWhorter Place, Suite 110, Annandale, VA to 5622 Columbia Pike, Suite 205, Falls Church, VA

BAN20020822 Primerica Financial Services Home Mortgages, Inc. - To relocate mortgage broker's office from 1450 Mercantile Lane, Suite 245, Largo, MD to 9418 Annapolis Road, Suite 103, Lanham, MD

BAN20020823 Allied Mortgage Capital Corporation - To open a mortgage lender and broker's office at 1915 Huguenot Road, Suite 303, Richmond, VA

BAN20020824 Premier Mortgage Company, LLC - To relocate mortgage lender broker's office from 12150 Monument Drive, Suite 125, Fairfax, VA to 12150 Monument Drive, Suite 425, Fairfax, VA

BAN20020825 NOVAM, Inc. d/b/a NVA Mortgage - To relocate mortgage broker's office from 3501 Runnymede Road, Taneytown, MD to 2305 Hampstead/Mexico Road, Westminster, MD

BAN20020826 Edward D. Jones & Co., L.P. d/b/a EdwardJones - To open a mortgage broker's office at 606 Broad Street, Altavista, VA  
 BAN20020827 Southern Financial Bank - To merge into it Metro-County Bank of Virginia, Inc.  
 BAN20020828 ENVIOS R. D. CORP. - For a money order license  
 BAN20020829 T. Byrd, Inc. d/b/a Instant Money Service - For a payday lender license  
 BAN20020830 Eastchester Mortgage Corp. - For a mortgage broker's license



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BAN20020831 American Cash Center, Inc. (Used in VA by: B & L Management, Inc.) - For a payday lender license  
 BAN20020832 MortgageIT, Inc. d/b/a MIT Lending (Rockville, Md. only) - To open a mortgage lender and broker's office at 520 8th Avenue, New York, NY  
 BAN20020833 MortgageIT, Inc. d/b/a MIT Lending (Rockville, Md. only) - To open a mortgage lender and broker's office at 400 Sylvan Avenue, Englewood Cliffs, NJ  
 BAN20020834 Monroe Mortgage Inc. - To relocate mortgage broker's office from 770 Lynnhaven Parkway, Suite 122, Virginia Beach, VA to 184 Business Park Drive, Suite 207, Virginia Beach, VA  
 BAN20020835 Advance America, Cash Advance Centers of Virginia, Inc. d/b/a Advance America, Cash Advance Centers - For a payday lender license  
 BAN20020836 I-net Mortgage Corporation - For a mortgage broker's license  
 BAN20020837 Payday USA of Virginia, LLC d/b/a Payday USA - For a payday lender license  
 BAN20020838 PayDay Advance, L.L.C. - For a payday lender license  
 BAN20020839 Financial Exchange Company of Virginia, Inc. d/b/a Money Mart - For a payday lender license  
 BAN20020840 Econo Tours Inc. - To open a check casher at 944 South Wakefield Street, Suite 201, Arlington, VA  
 BAN20020841 Checkmate Express Corporation d/b/a Checkmate Express - For a payday lender license  
 BAN20020842 CTX Mortgage Company, LLC. - To relocate mortgage lender broker's office from 770 Ritchie Highway, Suite W-18, Severna Park, MD to 877 Baltimore-Annapolis Blvd., Suite 110, Severna Park, MD  
 BAN20020843 All Fund, Inc. d/b/a All Fund Mortgage - To open a mortgage lender and broker's office at 117 Harewood Road, Murfreesboro, NC  
 BAN20020844 NovaStar Home Mortgage, Inc. - To relocate mortgage lender broker's office from 2101 Business Center Drive, Irvine, CA to 2081 Business Center Drive, Suite 245, Irvine, CA  
 BAN20020845 Tidewater Mortgage Services, Inc. - To relocate mortgage lender broker's office from 688 J. Clyde Morris Boulevard, Newport News, VA to 742 Thimble Shoals Boulevard, Newport News, VA  
 BAN20020846 National Penn Bank - To open a branch at 4231 Markham Street, Units F and G, Annandale, VA  
 BAN20020847 Panasia Bank, N.A. - To open a branch at 4321 Markham Street, Units F and G, Annandale, VA  
 BAN20020848 NovaStar Home Mortgage, Inc. - To relocate mortgage lender broker's office from 111 Pacifica, Suite 250, Irvine, CA to 15550 B Rockfield Blvd., Suite 220, NovaStar Plaza, Building B, Irvine, CA  
 BAN20020849 First M & S Mortgage Group, L.L.C. - To open a mortgage broker's office at 4501 Ford Avenue, Suite 300, Alexandria, VA  
 BAN20020850 First Fidelity Mortgage, Inc. - To open a mortgage lender and broker's office at 13 N. Loudoun Street, Winchester, VA  
 BAN20020851 Shore Financial Services, Inc. d/b/a United Wholesale Mortgage - For a mortgage lender's license  
 BAN20020852 Morris E. Sampson - To acquire 25 percent or more of Kenwood Associates, Inc.  
 BAN20020853 Sun Mortgage, Inc. - To relocate mortgage broker's office from 1604 Hilltop West Executive Center, Virginia Beach, VA to 1604 Hilltop West Executive Center, Suite 307, Virginia Beach, VA  
 BAN20020854 Fieldstone Mortgage Company d/b/a Broad Street Mortgage Co. - To open a mortgage lender and broker's office at 1912 Liberty Road, County Village, Building 2, Eldersburg, MD  
 BAN20020855 U. S. Window Finance Corporation, Inc. - For a mortgage broker's license  
 BAN20020856 First NLC Financial Services, LLC - To open a mortgage lender and broker's office at 3501 Frontage Road, Tampa, FL  
 BAN20020857 Columbia National, Incorporated - To relocate mortgage lender broker's office from 1407 York Road, Lutherville, MD to 1300 York Road, Suite 300, Lutherville, MD  
 BAN20020858 Teddy L. Deel, Sr. d/b/a Quick Cash - For a payday lender license  
 BAN20020859 CashNet, Inc. - For a payday lender license  
 BAN20020860 George Melvin Barlow - For a mortgage broker's license  
 BAN20020861 1st Metropolitan Mortgage Co. - To relocate mortgage lender broker's office from 20 Gwynns Mills Court, Owings Mills, MD to 11460 Cronridge Drive, Suite 124, Owings Mills, MD  
 BAN20020862 North State Finance Company of Goldsboro, N.C., Inc. d/b/a Imperial Cash Advance - For a payday lender license  
 BAN20020863 Milton E. Twisdale - To acquire 25 percent or more of Sun Mortgage, Inc.  
 BAN20020864 Realty Mortgage, LLC - For a mortgage lender and broker license  
 BAN20020865 Prime Mortgage Company - For a mortgage broker's license  
 BAN20020866 Anvil Mortgage Corporation, (AMC) - For a mortgage broker's license  
 BAN20020867 Merit Financial, Inc. - For a mortgage lender and broker license  
 BAN20020868 Jerbec Enterprises, Inc. d/b/a Express Money Services - For a payday lender license  
 BAN20020869 Anykind Check Cashing, LC d/b/a Check City - For a payday lender license  
 BAN20020870 Home Mortgage Resources, LLC - For a mortgage lender and broker license  
 BAN20020871 MainStreet Bankshares, Inc. - To acquire Franklin Community Bank, N.A.  
 BAN20020872 Fidelity & Trust Mortgage, Inc. - For additional mortgage authority  
 BAN20020873 Wen-Kong Hugo Fon - To acquire 25 percent or more of Fair East Mortgage, Inc.  
 BAN20020874 NovaStar Home Mortgage, Inc. - To open a mortgage lender and broker's office at 100 S. Beach Street, Suite 210, Daytona Beach, FL  
 BAN20020875 NovaStar Home Mortgage, Inc. - To open a mortgage lender and broker's office at 497 Morgan Highway, Suite 102, Clarks Summit, PA  
 BAN20020876 MortgageDirect Corporation - To relocate mortgage broker's office from 1121 Edward Drive, Great Falls, VA to 1383 Cameron Heath Drive, Reston, VA  
 BAN20020877 Capital Assets Financial, Inc. - To open a mortgage broker's office at 15014 Washington Street, Haymarket, VA  
 BAN20020878 MortgageStar, Inc. - To open a mortgage lender and broker's office at 11454 Corinthia Court, Woodbridge, VA  
 BAN20020879 Buckingham Mortgage Corporation - To open a mortgage broker's office at 1430 Spring Hill Road, Suite 210, McLean, VA  
 BAN20020880 Buckingham Mortgage Corporation - To open a mortgage broker's office at 801 Roeder Road, Suite 300, Silver Spring, MD  
 BAN20020881 U.S. Mortgage Corporation of Virginia (Used in VA by: U.S. Mortgage Corporation) - To relocate mortgage lender broker's office from 468 S. Independence Boulevard, Virginia Beach, VA to 2892 Sugar Maple Drive, Virginia Beach, VA  
 BAN20020882 Guardian Loan Company of Massapequa, Inc. - To relocate mortgage lender's office from 636 Plank Road, Suite 205, Clifton Park, NY to 100 Clifton Corporate Pkwy., Suite 150, Clifton Park, NY  
 BAN20020883 MortgageStar, Inc. - To open a mortgage lender and broker's office at 12345 New Castle Loop, Woodbridge, VA  
 BAN20020884 Coastal Mortgage Services, Inc. d/b/a Coastal Funding Group - To relocate mortgage lender broker's office from 11301 Carmel Commons Boulevard, Charlotte, NC to 11230 Carmel Commons Boulevard, Charlotte, NC

BAN20020885 Coastal Mortgage Services, Inc. d/b/a Coastal Funding Group - To open a mortgage lender and broker's office at 1135 Kildaire Farm Road, Suite 230, Cary, NC

BAN20020886 Coastal Mortgage Services, Inc. d/b/a Coastal Funding Group - To open a mortgage lender and broker's office at 17718-A Kings Point Drive, Cornelius, NC

BAN20020887 Primerica Financial Services Home Mortgages, Inc. - To open a mortgage broker's office at 541 S. Washington Highway, Ashland, VA

BAN20020888 Buckeye Check Cashing of Virginia, Inc. d/b/a Check \$mart - To open a check casher at 7017 A Staples Mill Road, Richmond, VA

BAN20020889 Buckeye Check Cashing of Virginia, Inc. d/b/a Check\$mart - For a payday lender license

BAN20020890 The Cash Store V, LLC - For a payday lender license

BAN20020891 The Cash Store V, LLC - To conduct a payday lending business where a pawn brokering business will also be conducted

BAN20020892 U.S.A. Financial Services, Inc. d/b/a Progressive Mortgage - For additional mortgage authority

BAN20020893 BLS Funding Corp. - For additional mortgage authority

BAN20020894 First Superior Mortgage Corp. - For a mortgage broker's license

BAN20020895 Alliance Bankshares Corporation - To acquire Alliance Bank Corporation, VA

BAN20020896 1st Choice Mortgage/Equity Corporation of Lexington - For a mortgage lender's license

BAN20020897 Fieldstone Mortgage Company d/b/a Broad Street Mortgage Co. - To relocate mortgage lender broker's office from 30 Executive Plaza, Suite 250, Irvine, CA to 2 Executive Circle, Suite 250, Irvine, CA

BAN20020898 Fidelity & Trust Mortgage, Inc. - To open a mortgage lender's office at 3251 Old Lee Highway, Suite 500, Fairfax, VA

BAN20020899 Option One Mortgage Corporation - To open a mortgage lender and broker's office at 4600 Touchton Rd., E Bldg. 200, Suite 100, Jacksonville, FL

BAN20020900 1st Metropolitan Mortgage Co. - To relocate mortgage lender broker's office from 404 W. Franklin Street, Suite 4, Richmond, VA to 3107 Monument Avenue, Suite 4, Richmond, VA

BAN20020901 The White Oak Mortgage Group, LLC - To open a mortgage lender and broker's office at 412 Oakmears Crescent Street, Kempsville Office Park, Suite 203, Virginia Beach, VA

BAN20020902 Universal Trust Mortgage Corporation - To open a mortgage broker's office at 18554 Dettington Court, Leesburg, VA

BAN20020903 Edward D. Jones & Co., L.P. d/b/a EdwardJones - To open a mortgage broker's office at 712 N. Main Street, Blacksburg, VA

BAN20020904 Diversified Financial Services, L.C. d/b/a Diversified Mortgage - To relocate mortgage broker's office from 201 North Loudoun Street, 2nd Floor, Winchester, VA to 831-A South King Street, Leesburg, VA

BAN20020905 Southern Mortgage Services, Inc. - To relocate mortgage broker's office from 730 East Church Street, Suite 7, Martinsville, VA to 916 Brookdale Road, Suite 2, Martinsville, VA

BAN20020906 Equity One Consumer Loan Company, Inc. - To relocate consumer finance office from 505 S. Independence Boulevard, Virginia Beach, VA to 4239 Holland Road, Suite 756, Virginia Beach, VA

BAN20020907 First Mortgage Masters, Inc. - For a mortgage broker's license

BAN20020908 Q. C. & G. Financial, Inc. d/b/a Ace America's Cash Express - For a payday lender license

BAN20020909 Amerigroup Mortgage Corporation (Used in VA by: Mortgage Investors Corporation) - To open a mortgage lender's office at 1990 West Camelback Road, Suite 213, Phoenix, AZ

BAN20020910 Edward C. L. Holt d/b/a Cavalier Mortgage Group - To open a mortgage broker's office at 210 John Wythe Place, Williamsburg, VA

BAN20020911 Nina Goodarjian d/b/a Advance Security Mortgage - To relocate mortgage broker's office from 11420 Jordan Lane, Great Falls, VA to 8230 Old Court House Road, Suite 305, Vienna, VA

BAN20020912 Cash Express of Virginia, Inc. - For a payday lender license

BAN20020913 New Life Mortgage, Inc. - For a mortgage broker's license

BAN20020914 E Z Cash of Virginia, Inc. - For a payday lender license

BAN20020915 Primary Capital Advisors LC - For a mortgage lender's license

BAN20020916 FlexCheck of Virginia, LLC - For a payday lender license

BAN20020917 BRFC LLC - To acquire 25 percent or more of Quicken Loans Inc.

BAN20020918 Allied Mortgage Group, Inc. - For a mortgage lender's license

BAN20020919 Mortgage Access Corp. d/b/a Weichert Financial Services - To open a mortgage lender's office at 4258 Germanna Highway, Locust Grove, VA

BAN20020920 Mortgage Access Corp. d/b/a Weichert Financial Services - To open a mortgage lender's office at 500 East Main Street, Purcellville, VA

BAN20020921 Mortgage Access Corp. d/b/a Weichert Financial Services - To open a mortgage lender's office at 385 Garrisonville Road, Suite 203, Stafford, VA

BAN20020922 Home Loan Corporation - To relocate mortgage lender broker's office from 1103 Eden Way North, Chesapeake, VA to 2005 Greenbriar Road, Suite 101, Chesapeake, VA

BAN20020923 Home Loan Corporation - To open a mortgage lender and broker's office at 3118 N. Croatan, Suite 210, Kill Devil Hills, NC

BAN20020924 Aurora Loan Services Inc. - To relocate mortgage lenders's office from 5235 Westview Drive, Frederick, MD to 400 Professional Drive, Suite 100, Gaithersburg, MD

BAN20020925 Sunshine Mortgage Corporation - To open a mortgage lender and broker's office at 400 Northridge Road, Suite 325, Atlanta, GA

BAN20020926 Cash in Advance, Inc. - To open a check casher at 6107 Sewells Point Road, Norfolk, VA

BAN20020927 Independent Realty Capital Corporation - To open a mortgage lender and broker's office at 6217 Sanstone Way, Clifton, VA

BAN20020928 Sebring Capital Partners, Limited Partnership - To open a mortgage lender's office at 10850 Richmond, Suite 175, Houston, TX

BAN20020929 Community Home Mortgage, LLC d/b/a Community Mortgage Group, LLC - To open a mortgage broker's office at One Wildwood, Parkersburg, WV

BAN20020930 Principal Residential Mortgage, Inc. - To open a mortgage lender and broker's office at 8520 Cliff Cameron Drive, Suite 370, Charlotte, NC

BAN20020931 New Century Mortgage Corporation - To open a mortgage lender and broker's office at 26679 W. Agoura Road, Suite 200, Calabasas, CA

BAN20020932 Intercoastal Mortgage Company - To relocate mortgage lender broker's office from 33 Industrial Park Drive, Waldorf, MD to 11334 Lee Highway, Fairfax, VA

BAN20020933 Edwin Hosier, Jr. - To acquire 25 percent or more of Concorde Acceptance Corporation

BAN20020934 Gilbert Barteau - To acquire 25 percent or more of Concorde Acceptance Corporation

BAN20020935 Community First Financial Corporation - To acquire Highlands Community Bank, VA

BAN20020936 Best Marketing, LLC - For a mortgage broker's license

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BAN20020937 Piedmont Cash Loans, Inc. - For a payday lender license  
 BAN20020938 AEGIS Lending Corporation - For a mortgage lender and broker license  
 BAN20020939 AEGIS Funding Corporation d/b/a AEGIS Home Equity - For a mortgage lender's license  
 BAN20020940 AEGIS Wholesale Corporation - For a mortgage lender's license  
 BAN20020941 EXTOL Corporation, Inc. d/b/a QUICK CHECK: Cash Advance - For a payday lender license  
 BAN20020942 Brown Mortgage Corp. - For a mortgage broker's license  
 BAN20020943 Option One Mortgage Corporation - To relocate mortgage lender broker's office from 36 Technology Drive, Suite 250, Irvine, CA to 8105 Irvine Center Drive, Suite 650, Irvine, CA  
 BAN20020945 Provident Bank of Maryland - To open a branch at 5815 Burke Centre Parkway, Burke, VA  
 BAN20020946 Allfirst Bank - To open a branch at 6832 Old Dominion Drive, McLean, VA  
 BAN20020947 Allfirst Bank - To open a branch at 10254 Main Street, Fairfax, VA  
 BAN20020948 Diamond G, Inc. d/b/a Diamond G Check Advance - For a payday lender license  
 BAN20020949 The Equitable Mortgage Corporation - For a mortgage lender and broker license  
 BAN20020950 AmeriSouth Mortgage Company - To relocate mortgage lender broker's office from 2101 Sardis Road North, Suite 101, Charlotte, NC to 2101 Sardis Road North, Suite 115, Charlotte, NC  
 BAN20020951 New Century Mortgage Corporation - To relocate mortgage lender broker's office from 17701 Cowan, 2nd Floor, Suite 100, Irvine, CA to 210 Commerce, Irvine, CA  
 BAN20020952 American Home Mortgage Holdings, Inc. - To acquire 25 percent or more of Columbia National, Incorporated  
 BAN20020953 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 84 Bensmill Court, Reisterstown, MD  
 BAN20020954 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 11625 Danville Drive, Rockville, MD  
 BAN20020955 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 7631 Coddle Harbor Lane, Potomac, MD  
 BAN20020956 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 5519 Marlboro Pike, Suite 11, Forestville, MD  
 BAN20020957 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 5900 Sonoma Road, Bethesda, MD  
 BAN20020958 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 121 Sandy Beach Drive, Pasadena, MD  
 BAN20020959 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 9431 Belair Road, Baltimore, MD  
 BAN20020960 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 12316 Arrow Park Drive, Fort Washington, MD  
 BAN20020961 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 4 Manor Knoll Court, Baldwin, MD  
 BAN20020962 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 3402 Old Post Drive, Baltimore, MD  
 BAN20020963 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 2 Welbeck Court, Montgomery Village, MD  
 BAN20020964 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 3110 Henderson Avenue, Silver Spring, MD  
 BAN20020965 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 4806 Teal Wing Court, Suite 204, Columbia, MD  
 BAN20020966 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 3706 W. Watersville Road, Mt. Airy, MD  
 BAN20020967 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 2043 East Joppa Road, Suite 308, Baltimore, MD  
 BAN20020968 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 1712 Roland Avenue, Towson, MD  
 BAN20020969 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 500 Giddings Avenue, Annapolis, MD  
 BAN20020970 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 5909 Silent Sun Place, Clarksville, MD  
 BAN20020971 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 1658 Canonade Court, Annapolis, MD  
 BAN20020972 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 5022 56th Place, Hyattsville, MD  
 BAN20020973 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 2824 Fallsmont Drive, Fallston, MD  
 BAN20020974 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 325 Mary Avenue, Westminster, MD  
 BAN20020975 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 1717 Ramblewood Road, Baltimore, MD  
 BAN20020976 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 6310 Montgomery Road, Elkridge, MD  
 BAN20020977 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 822 Elmcroft Boulevard, Rockville, MD  
 BAN20020978 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 660 Powhatan Beach Road, Pasadena, MD  
 BAN20020979 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 38354 Barbara Court, Mechanicsville, MD  
 BAN20020980 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 7 Derwood Court, Baltimore, MD  
 BAN20020981 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 9926 Shelburne Terrace, Suite 407, Gaithersburg, MD  
 BAN20020982 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 4 Trotters Court, Suite 104, Baltimore, MD  
 BAN20020983 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 4400 Stomp Road, Suite 415, Temple Hills, MD  
 BAN20020984 Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 4831 Silver Hill Road, Suitland, MD to 10500 Foxridge Court, Mitchellville, MD  
 BAN20020985 Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 10307 Cherryview Court, Oakton, VA to 11919 Sawhill Boulevard, Spotsylvania, VA  
 BAN20020986 Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 3144 Crestwood Lane, Virginia Beach, VA to 36000 Asbury Farm Circle, Purcellville, VA  
 BAN20020987 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 409 Pennsylvania Avenue, Seaford, DE  
 BAN20020988 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 1607 Foxbower Road, Orlando, FL  
 BAN20020989 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 11700 N 58th Street, Suite C, Temple Terrace, FL  
 BAN20020990 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 250 Spence Avenue, Atlanta, GA  
 BAN20020991 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 1096 Alford Road, Lithonia, GA  
 BAN20020992 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 5055 Garner Court, Davenport, IA  
 BAN20020993 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 5612 Marquette Street, Davenport, IA  
 BAN20020994 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 3414 Mt. Vernon Avenue, Suite A, Evansville, IN  
 BAN20020995 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 12606 Beechfern Lane, Bowie, MD  
 BAN20020996 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 16000 Pennsbury Drive, Bowie, MD  
 BAN20020997 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 18917 Alpenglow Lane, Brookeville, MD  
 BAN20020998 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 660 Powhatan Beach Road, Pasadena, MD  
 BAN20020999 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 6 Shanandale Court, Silver Spring, MD  
 BAN20021000 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 13306 Trumpeter Swan Court, Upper Marlboro, MD  
 BAN20021001 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 2154 Oak Drive, St. Louis, MO  
 BAN20021002 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 110 Grant Street, Sneads Ferry, NC

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BAN20021003 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 3304 S. Haldeman Road, Artesia, NM  
 BAN20021004 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 320 Carleton Avenue, Central Islip, NY  
 BAN20021005 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 42-34 College Point Boulevard, Suite B, Flushing, NY  
 BAN20021006 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 9387 Founders Street, Fort Mill, SC  
 BAN20021007 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 154 Green Acres Circle, Lexington, SC  
 BAN20021008 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 1835C Villa Maison, Mount Pleasant, SC  
 BAN20021009 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 187 N. Church Street, 9th Floor, Spartanburg, SC  
 BAN20021010 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 108 Inview Drive, Suite 105, West Columbia, SC  
 BAN20021011 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 1242 Cobblestone Lane, Clarksville, TN  
 BAN20021012 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 6907 Arco Street, Alexandria, VA  
 BAN20021013 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 7204 Racepoint Way, Alexandria, VA  
 BAN20021014 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 7260 Beverly Manor Drive, Annandale, VA  
 BAN20021015 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 514 North Nelson Street, Arlington, VA  
 BAN20021016 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 4447A Brookfield Corporate Drive, Chantilly, VA  
 BAN20021017 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 245 Edwards Ferry Road, Leesburg, VA  
 BAN20021018 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 8340 Greensboro Drive, Suite 817, McLean, VA  
 BAN20021019 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 5127 E. Virginia Beach Blvd., Suite 101, Norfolk, VA  
 BAN20021020 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 9605 Center Street, Manassas, VA  
 BAN20021021 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 6406 Kelley Street, Salem, VA  
 BAN20021022 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 913 W. 2nd Street, Huntington, WV  
 BAN20021023 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 117 Karnes Lane, Prosperity, WV  
 BAN20021024 D&S United Corporation d/b/a USA First Mortgage - To relocate mortgage broker's office from 6601 Little River Turnpike, Alexandria, VA to 6231 Leesburg Pike, Suite 204, Falls Church, VA  
 BAN20021025 Lincoln Mortgage, LLC - To open a mortgage broker's office at 649 Circle View Road, Luray, VA  
 BAN20021026 Lincoln Mortgage, LLC - To open a mortgage broker's office at 5865 Seminole Trail, Barboursville, VA  
 BAN20021027 Weststar Mortgage, Inc. - To open a mortgage lender and broker's office at 15145 Brandy Road, Suite 1A, Culpeper, VA  
 BAN20021028 Weststar Mortgage, Inc. - To relocate mortgage lender broker's office from 18281 Forest Road, Lynchburg, VA to 15421 Forest Road, Suite C, Forest, VA  
 BAN20021029 Weststar Mortgage, Inc. - To open a mortgage lender and broker's office at 12740 Darby Brooke Court, Woodbridge, VA  
 BAN20021030 The Mortgage Link, Inc. - To open a mortgage broker's office at 5 Park Center Court, Suite 201, Owings Mills, MD  
 BAN20021031 American Standard Mortgage LLC - To open a mortgage broker's office at 1367 Rock Chapel Road, Herndon, VA  
 BAN20021032 American Standard Mortgage LLC - To open a mortgage broker's office at 12825 Framingham Court, Herndon, VA  
 BAN20021033 American Standard Mortgage LLC - To open a mortgage broker's office at 1289 Browns Mill Court, Herndon, VA  
 BAN20021034 Challenge Financial Investors Corp. - To open a mortgage broker's office at 11717 Buckeye Road, Suite A, Cleveland, OH  
 BAN20021035 Independent Realty Capital Corporation - To relocate mortgage lender broker's office from 2401 East Katella Avenue, Suite 500, Anaheim, CA  
 BAN20021036 Primerica Financial Services Home Mortgages, Inc. - To open a mortgage broker's office at 5020 Sunnyside Avenue, Suite 106, Beltsville, MD  
 BAN20021037 Appomattox Financial Services, L.L.C. - For a payday lender license  
 BAN20021038 NovaStar Home Mortgage, Inc. - To open a mortgage lender and broker's office at 140 Broadway, 46th Floor, New York, NY  
 BAN20021039 Home Star Mortgage Services, LLC - To relocate mortgage lenders's office from 1 Paragon Drive, Suite 255, Montvale, NJ to W 115 Century Road, Paramus, NJ  
 BAN20021040 Affinity Mortgage Company, Inc. - To relocate mortgage broker's office from 224 Stephenson Avenue, Suite C, Savannah, GA to 2754 Coquina Drive, Charleston, SC  
 BAN20021041 First Pacific Financial, Inc. - To relocate mortgage lender's office from 74-996 Highway 111, Indian Wells, CA to 74-980 Highway 111 Suite 113, Indian Wells, CA  
 BAN20021042 Bridge Capital Corporation - To open a mortgage lender and broker's office at 26461 Crown Valley Parkway, Suite 201, Mission Viejo, CA  
 BAN20021043 Paula Reynolds Haynes d/b/a Colonial Mortgage Company of Virginia - To relocate mortgage broker's office from 2321 Riverside Drive, Suite 10, Danville, VA to 633 Main Street, Danville, VA  
 BAN20021044 Edward C. L. Holt d/b/a Cavalier Mortgage Group - To open a mortgage broker's office at 522 South Independence Boulevard, Suite 102D, Virginia Beach, VA  
 BAN20021045 Edward C. L. Holt d/b/a Cavalier Mortgage Group - To open a mortgage broker's office at 1157 South Military Highway, Suite 104, Chesapeake, VA  
 BAN20021046 Eastern Financial Mortgage Corporation - For a mortgage broker's license  
 BAN20021047 Casa Blanca Mortgage, Inc. - For a mortgage lender and broker license  
 BAN20021048 Cheque Cashing, Inc. d/b/a Ace America's Cash Express - For a payday lender license  
 BAN20021049 MSEG Mortgage Services, LLC d/b/a Eastern Seaboard Financial - For a mortgage broker's license  
 BAN20021050 National Fidelity Mortgage Corporation d/b/a Fidelity Mortgage Corporation - For a mortgage broker's license  
 BAN20021051 Builders Mortgage, LLC - For a mortgage broker's license  
 BAN20021052 Aclarian, Inc. d/b/a Aclarian Mortgage - For a mortgage broker's license  
 BAN20021053 Mortgage and Equity Funding Corporation - To open a mortgage lender and broker's office at 98 Alexandria Pike, Suite 53, Warrenton, VA  
 BAN20021054 Colonial 1st Mortgage, Inc. - To open a mortgage broker's office at 3709 Tiffany Lane, Virginia Beach, VA  
 BAN20021055 First Bancorp Mortgage Corporation - To relocate mortgage lender broker's office from 1730 George Washington Memorial Hwy., Yorktown, VA to 11818 Rock Landing Drive, Suite 100, Newport News, VA  
 BAN20021056 First Bancorp Mortgage Corporation - To relocate mortgage lender broker's office from 1103 Richmond Road, Williamsburg, VA to 104 Bypass Road, Williamsburg, VA  
 BAN20021057 Edward D. Jones & Co., L.P. d/b/a EdwardJones - To open a mortgage broker's office at 6905 Williamson Road, Roanoke, VA  
 BAN20021058 1st Metropolitan Mortgage Co. - To open a mortgage lender and broker's office at 509 S. Kings Point Road, Virginia Beach, VA

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BAN20021059	Allied Home Mortgage Capital Corporation - To relocate mortgage lender broker's office from 3725 National Drive, Suite 114, Raleigh, NC to 220 N. Boylan, Raleigh, NC
BAN20021060	First Guaranty Mortgage Corporation - To relocate mortgage lender broker's office from 4201 Northview Drive, Suite 103, Bowie, MD to 4201 Northview Drive, Suite 210, Bowie, MD
BAN20021061	Jerry W. Thornton, Sr. d/b/a Jerry's Payday Loans - For a payday lender license
BAN20021062	Virginia United Methodist Conference Credit Union, Inc. - To relocate credit union office from 4016 West Broad Street, Richmond, VA to 10330 Staples Mill Road, Glen Allen, VA
BAN20021063	Eqqus Mortgage of Virginia LLC d/b/a Eqqus Mortgage - For a mortgage broker's license
BAN20021064	Urgent Money Service, Inc. d/b/a Urgent Money Service - For a payday lender license
BAN20021065	UMS, Inc. d/b/a Urgent Money Service - For a payday lender license
BAN20021066	Amerigroup Mortgage Corporation (Used in VA by: Mortgage Investors Corporation) - To open a mortgage lender's office at 3801 Wake Forest Road, Suite 205, Raleigh, NC
BAN20021067	New Century Mortgage Corporation - To open a mortgage lender and broker's office at One Pierce Place, Suite 1200, Itasca, IL
BAN20021068	Mercantile Mortgage Company of Virginia (Used in VA by: Mercantile Mortgage Company) - To open a mortgage lender's office at 1787 Sentry Parkway W., Building 18, Suite 330, Blue Bell, PA
BAN20021069	NovaStar Home Mortgage, Inc. - To open a mortgage lender and broker's office at 100 West Road, Towson, MD
BAN20021070	NovaStar Home Mortgage, Inc. - To open a mortgage lender and broker's office at 30 East Padonia Road, Suite 402, Timonium, MD
BAN20021071	NovaStar Home Mortgage, Inc. - To relocate mortgage lender broker's office from 4411 Wycombe Court, Charlotte, NC to 11229 East Independence Blvd., Suite 100, Matthews, NC
BAN20021072	James D. Wohlford d/b/a Wohlford's - To open a check casher at 6735 Highway 21, Speedwell, VA
BAN20021073	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 982 Deer Chase Court, Stone Mountain, GA
BAN20021074	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 16993 Coral Gables Avenue, Lathrup Village, MI
BAN20021075	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 502 Mountainview Circle, Lymon, SC
BAN20021076	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 512 Belem Drive, Chesapeake, VA
BAN20021077	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 16007 Crest Drive, Woodbridge, VA
BAN20021078	United American Lending, L.P. - For a mortgage broker's license
BAN20021079	Bank of McKenney - To relocate main office from 20718 First Street, McKenney, VA to 20701 First Street, McKenney, VA
BAN20021080	ERA Mortgage Corporation - For a mortgage lender and broker license
BAN20021081	UBS PaineWebber Mortgage Holdings, LLC - To acquire 25 percent or more of PWC Mortgage, LLC
BAN20021082	Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 111 High Street, Mt. Holly, NJ to #2 Pennypacker Village, 224 Pennypacker Drive, Willingboro, NJ
BAN20021083	Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 9328 Hersh Farm Lane, Manassas, VA to 2604 Youngs Drive, Haymarket, VA
BAN20021084	Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 49 Beaver Drive, Hurricane, WV to 1038 Marina Drive, Hurricane, WV
BAN20021085	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 18428 N. 55th Drive, Glendale, AZ
BAN20021086	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 8432 East Nido Avenue, Mesa, AZ
BAN20021087	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 8652 Mossford Drive, Huntington Beach, CA
BAN20021088	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 19255 Raven Hill Road, Middletown, CA
BAN20021089	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 10441 Winterflower Way, Parker, CO
BAN20021090	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 409 Pennsylvania Avenue, Seaford, DE
BAN20021091	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 2713 Oak Run Boulevard, Kissimmee, FL
BAN20021092	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 4191 Aberdeen Lane, Lake Wales, FL
BAN20021093	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 11410 NW 46 Place, Sunrise, FL
BAN20021094	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 5256 N. Arlington Avenue, Indianapolis, IN
BAN20021095	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 3932 Lintonway Street, Portage, IN
BAN20021096	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 11312 SW Carmon Road, Augusta, KS
BAN20021097	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 125 Ridgeway Avenue, Louisville, KY
BAN20021098	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 80 Virginia Street, Portland, ME
BAN20021099	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 1172 Matteson Lake, Bronson, MI
BAN20021100	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 23200 John R Road, Suite 975, Hazel Park, MI
BAN20021101	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 6477 Highway 93 S., Suite 111, Whitefish, MT
BAN20021102	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 313 Ushers Road, Ballston Lake, NY
BAN20021103	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 28 Overlook Avenue, Bayville, NY
BAN20021104	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 120 Mushroom Boulevard, Suite 1, Rochester, NY
BAN20021105	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 7229 Rollingridge Drive, Charlotte, NC
BAN20021106	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 3208 SW 72nd Street, Oklahoma City, OK
BAN20021107	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 148 Lionsgate Drive, Columbia, SC
BAN20021108	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 3409 Northshore Road, Columbia, SC
BAN20021109	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 405 Old Brass Drive, Columbia, SC
BAN20021110	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 2032 Watermark Place, Columbia, SC
BAN20021111	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 502 Mountainview Circle, Lymon, SC
BAN20021112	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 231 Heritage Circle, Mt. Pleasant, SC
BAN20021113	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 105 Inview Drive, Suite 105, West Columbia, SC
BAN20021114	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 169 Valley Road, Lawrenceburg, TN
BAN20021115	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 7463 Towchester Court, Alexandria, VA
BAN20021116	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 2617 S. 1st Place, Arlington, VA
BAN20021117	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 3608 White Chapel Arch, Chesapeake, VA
BAN20021118	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 12808 Sir Scott Terrace, Chester, VA
BAN20021119	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 31225 Green Hill Lane, Fredericksburg, VA
BAN20021120	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 7027 Manahoac Place, Gainesville, VA
BAN20021121	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 45 Huntley Court, Sterling, VA

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BAN20021122 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 43739 Scarlet Square, South Riding, VA  
 BAN20021123 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 2308 Court Circle, Virginia Beach, VA  
 BAN20021124 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 123 Kipawa Court, Beckley, WV  
 BAN20021125 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at Rt. 3, Box 528-5, Elkins, WV  
 BAN20021126 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at RR5, Box 312, Salem, WV  
 BAN20021127 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 739 Winfield Road, St. Albans, WV  
 BAN20021128 Home Loan Corporation - To relocate mortgage lender broker's office from 3118 N. Croatan, Suite 210, Kill Devil Hills, VA to 2400 N. Croatan, Unit 1, Suite D1, Kill Devil Hills, NC  
 BAN20021129 Challenge Financial Investors Corp. - To open a mortgage broker's office at 406 Oakmeads Crescent, Virginia Beach, VA  
 BAN20021130 Tidewater Home Funding, LLC - To open a mortgage lender and broker's office at 733 Thimble Shoals Blvd., Suite 100, Newport News, VA  
 BAN20021131 QC Financial Services, Inc. d/b/a Quik Cash - For a payday lender license  
 BAN20021132 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 31 Tokanel Drive, Londonderry, NH  
 BAN20021133 Independent Realty Capital Corporation - To open a mortgage lender and broker's office at 5622 Columbia Pike, Suite 306, Baileys Crossroads, VA  
 BAN20021134 Option One Mortgage Corporation - To open a mortgage lender and broker's office at 14045 Ballantyne Corporate Place, Suite 100, Charlotte, NC  
 BAN20021135 American Home Mortgage Corp. d/b/a MortgageSelect - To open a mortgage lender and broker's office at 23421 South Point, Laguna Hills, CA  
 BAN20021136 Virginia HomeLoan, L.C. - To open a mortgage lender and broker's office at 310 Central Road, Suite 7, Fredericksburg, VA  
 BAN20021137 Alambry Funding Inc. - To relocate mortgage broker's office from 3333 Street Road, Bensalem, PA to 3333 Street Road, One Greenwood Square, Suite 150, Bensalem, PA  
 BAN20021138 Chesapeake 1st Mortgage Corporation (Used in VA by: Chesapeake Mortgage Corporation) - To relocate mortgage broker's office from 10306 Eaton Place, Suite 200, Fairfax, VA to 7611 Coppermine Drive, Manassas, VA  
 BAN20021139 Citizens Community Bank - To open a branch at 4209 Gasburg Road, Gasburg, VA  
 BAN20021140 Provident Bank of Maryland - To open a branch at 12451 Hedges Run Drive, Woodbridge, VA  
 BAN20021141 Edward D. Jones & Co., L.P. d/b/a EdwardJones - To open a mortgage broker's office at 14 N. Main Street, Chatham, VA  
 BAN20021142 Equity Consultants, LLC - For a mortgage broker's license  
 BAN20021143 Yvette B. Beheler d/b/a PayDay Loans of Virginia - For a payday lender license  
 BAN20021241 Yvette B. Beheler d/b/a PayDay Loans of Virginia - To conduct a payday lending business where a pawn brokering business will also be conducted  
 BAN20021241 Yvette B. Beheler d/b/a PayDay Loans of Virginia - To conduct a payday lending business where a retail sales business will also be conducted  
 BAN20021146 Mortgage Lenders of America, L.L.C. - To relocate mortgage broker's office from 287 Independence Boulevard, Virginia Beach, VA to 281 Independence Boulevard, Pembroke One, Suite 202, Virginia Beach, VA  
 BAN20021147 First Guaranty Mortgage Corporation - To open a mortgage lender and broker's office at 7067 Columbia Gateway Dr., Suite 200, Columbia, MD  
 BAN20021148 Sunset Mortgage Company L.P. - To relocate mortgage lender broker's office from 657 Wilmington Pike, Glen Mills, PA to Mail Drop 3000, 1408 West Baltimore Pike, Franklin Center, PA  
 BAN20021149 Aable Mortgage Services, Inc. d/b/a Aable Mortgage - For a mortgage broker's license  
 BAN20021150 Darrell L. Payne d/b/a Payne's Check Cashing - For a payday lender license  
 BAN20021151 Darrell L. Payne d/b/a Payne's Check Cashing - To conduct a payday lending business where a money transmission business will also be conducted  
 BAN20021152 Barehut, Inc. d/b/a Speedy Cash - For a payday lender license  
 BAN20021153 SAB Partners, LLC - For a mortgage lender and broker license  
 BAN20021154 Universal Credit Corporation of VA d/b/a The Cash Company of Bristol, VA - For a payday lender license  
 BAN20021155 Advanced Call Center Technologies, LLC - To open a mortgage broker's office at 3035 Boones Creek Road, Johnson City, TN  
 BAN20021156 Heritage Mortgage Brokers, L.L.C. - To open a mortgage broker's office at 9450 Shevlin Court, Nokesville, VA  
 BAN20021157 Virginia Mortgage Services, Inc. - To open a mortgage broker's office at 1023 South Main Street, Blackstone, VA  
 BAN20021158 Financial Dynamics Corporation - To open a mortgage broker's office at 555 Grove Street, Suite 104, Herndon, VA  
 BAN20021159 Edward D. Jones & Co., L.P. d/b/a EdwardJones - To open a mortgage broker's office at 57 Mountain Road, Halifax, VA  
 BAN20021160 Sy Cao Nguyen d/b/a American Mortgage Online - For a mortgage broker's license  
 BAN20021161 Household Realty Corporation d/b/a Household Realty Corporation of Virginia - To open a mortgage lender and broker's office at 849 International Drive, Suite 405, Linthicum, MD  
 BAN20021162 Appomattox Financial Services, L.L.C. - To conduct a payday lending business where a money transmission business will also be conducted  
 BAN20021163 1st Metropolitan Mortgage Co. - To open a mortgage lender and broker's office at 1701 Edmondson Avenue, Suite 207, Baltimore, MD  
 BAN20021164 1st Metropolitan Mortgage Co. - To open a mortgage lender and broker's office at 14456 Old Mill Road, Suite 101, Upper Marlboro, MD  
 BAN20021165 1st Metropolitan Mortgage Co. - To open a mortgage lender and broker's office at 3051 Sleepy Hollow Road, Falls Church, VA  
 BAN20021166 1st Metropolitan Mortgage Co. - To open a mortgage lender and broker's office at 2423 Maryland Avenue, Suite 300, Baltimore, MD  
 BAN20021167 New Century Mortgage Corporation - To open a mortgage lender and broker's office at 12801 Worldgate, Suite 503, Herndon, VA  
 BAN20021168 Primera Financial Services Home Mortgages, Inc. - To open a mortgage broker's office at 5568 General Washington Dr., Suite A-211, Alexandria, VA  
 BAN20021169 Primerica Financial Services Home Mortgages, Inc. - To open a mortgage broker's office at 14011 Telegraph Road, Woodbridge, VA  
 BAN20021170 Lowest Monthly, LLC - For a mortgage broker's license  
 BAN20021171 The Carolina Mortgage Group LLC - For a mortgage broker's license  
 BAN20021172 Daniel Bruce Gilbert - To acquire 25 percent or more of Quicken Loans Inc.  
 BAN20021173 New Century Mortgage Corporation - To relocate mortgage lender broker's office from 1 Maynard Drive, Suite 100, Park Ridge, NJ to One Blue Hill Plaza, Pearl River, NY  
 BAN20021174 Advisa Mortgage Corporation - For a mortgage broker's license  
 BAN20021175 King Mortgage Corp. - For a mortgage broker's license

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BAN20021176 Accredited Home Lenders Holding Co. - To acquire 25 percent or more of Accredited Home Lenders, Inc.  
 BAN20021177 Columbia National, Incorporated - To open a mortgage lender and broker's office at 1910 Erickson Avenue, 1st Floor, Harrisonburg, VA

BAN20021178 Greenwich Mortgage Corporation - For a mortgage lender and broker license  
 BAN20021179 Donna F. Bingler - To acquire 25 percent or more of O'Neill Mortgage Corporation  
 BAN20021180 Pilot Mortgage, LLC - To relocate mortgage broker's office from 592 B Reservoir Ridge Road, Charlottesville, VA to 902 Blenheim Avenue, Charlottesville, VA

BAN20021181 1st Metropolitan Mortgage Co. - To open a mortgage lender and broker's office at 8104 Valley Lane, Ellicott City, MD  
 BAN20021182 Check'n Go of Virginia, Inc. d/b/a Check 'n Go - To open a payday lender's office at 5461 Wesleyan Drive, Suite 105, Virginia Beach, VA

BAN20021183 Home Consultants, Inc. - To relocate mortgage lender's office from 15 N. King Street, Suite 103, Leesburg, VA to 7700 Little River Turnpike, Suite 604, Annandale, VA

BAN20021184 NovaStar Mortgage, Inc. - To open a mortgage lender's office at 888 W. Big Beaver, Suite 1290, Troy, MI  
 BAN20021185 Beneficial Virginia Inc. - To conduct consumer finance business where a credit card business will also be conducted  
 BAN20021186 Lawyers Financial Corporation - For a mortgage broker's license  
 BAN20021187 IMA, Inc. d/b/a International Mortgage Association - For a mortgage broker's license  
 BAN20021188 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 5505 York Road, Baltimore, MD  
 BAN20021189 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 4436 Blue Heron Way, Bladensburg, MD  
 BAN20021190 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 16403 Everwood Court, Bowie, MD  
 BAN20021191 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 1508 Kingshill Street, Bowie, MD  
 BAN20021192 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 3060 Mitchellville Road, Suite 218, Bowie, MD  
 BAN20021193 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 7110 Winter Rose Path, Columbia, MD  
 BAN20021194 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 1733 Jones Falls Court, Crofton, MD  
 BAN20021195 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 18002 Mill Creek Drive, Derwood, MD  
 BAN20021196 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 7401 Flag Harbor Drive, District Heights, MD  
 BAN20021197 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 2846 Beckon Drive, Edgewood, MD  
 BAN20021198 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 8167 Main Street, Suite 201, Ellicott City, MD  
 BAN20021199 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 9005 Orbit Lane, Lanham, MD  
 BAN20021200 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 1843 Village Green Drive, Landover, MD  
 BAN20021201 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 1829 York Road, Suite 2A, Lutherville, MD  
 BAN20021202 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 7519 Riverdale Road, Suite 1931, New Carrollton, MD

BAN20021203 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 9104 Thistledown Road, Suite 379, Owings Mills, MD

BAN20021204 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 5801 Sachem Drive, Oxon Hill, MD  
 BAN20021205 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 11022 Marcliff Road, Rockville, MD  
 BAN20021206 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 5704 Colon Terrace, Temple Hills, MD  
 BAN20021207 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 1303 Black Duck Court, Upper Marlboro, MD  
 BAN20021208 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 8502 Grandhaven Avenue, Upper Marlboro, MD  
 BAN20021209 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 2603 Old Washington Road, Westminster, MD  
 BAN20021210 Nations Mortgage Company, Inc. - To relocate mortgage broker's office from 8508 Loch Raven Boulevard, Suite H, Towson, MD to 1410 Jopp Road, Towson, MD

BAN20021211 Challenge Financial Investors Corp. - To open a mortgage broker's office at 8460 Billingsley Road, White Plains, MD  
 BAN20021212 Federal Funding Mortgage Corporation - To relocate mortgage lender broker's office from 8300 Greensboro Drive, Suite 880-A, McLean, VA to 27 West Jubal Early Drive, Winchester, VA

BAN20021213 Prosperity Mortgage Company - To open a mortgage lender's office at 601 Southpark Boulevard, Colonial Heights, VA  
 BAN20021214 Highlands Union Bank - To open a branch at the northwest corner of State Highway 394 and Blountville Boulevard, Bristol, TN  
 BAN20021215 Kensington Financial Services LLC - For a mortgage broker's license  
 BAN20021216 Eastman Credit Union - Out of state credit union to open an in state office  
 BAN20021217 Famous Pawn, Inc. - For a payday lender license  
 BAN20021219 Janis J. Crews d/b/a Gold Star Mortgage Services - To relocate mortgage broker's office from 900 John Randolph Boulevard, South Boston, VA to 164 South Main Street, Halifax, VA

BAN20021220 Platinum Capital Group, Inc. (Used in VA by: Platinum Capital Group) - To open a mortgage lender and broker's office at 13450 Sunrise Valley Drive, Herndon, VA

BAN20021221 HomeGold, Inc. - To open a mortgage lender's office at 2998 Douglas Boulevard, Suite 318, Roseville, CA  
 BAN20021222 Resource Bank - To open a branch at One Columbus Center, Suite 105, Virginia Beach, VA  
 BAN20021223 1st Liberty Mortgage Company - For a mortgage broker's license  
 BAN20021224 Midlothian Mortgage Group, LLC - For a mortgage lender and broker license  
 BAN20021225 Accent Management Group LLC - To acquire 25 percent or more of Accent Mortgage Services, Inc.  
 BAN20021226 Capital Center, L.L.C. d/b/a CapCenter - To open a mortgage lender and broker's office at 10551 Patterson Avenue, Richmond, VA  
 BAN20021227 Family Services of Tidewater, Inc. d/b/a Consumer Financial Counseling of Tidewater - To open an additional debt counseling office at 217A North College Drive, Franklin, VA

BAN20021228 Trusted Advisers Mortgage LLC - To relocate mortgage broker's office from 1146 Walker Road, Suite E, Great Falls, VA to 1881 Campus Commons Drive, Suite 204, Reston, VA

BAN20021229 O'Neill Financial Group, LLC - To relocate mortgage broker's office from 900 S. Washington Street, Suite 209, Falls Church, VA to 2775-B Hartland Road, Second Floor, Falls Church, VA

BAN20021230 Gateway Funding Diversified Mortgage Services, L.P. - To open a mortgage lender's office at 1009 Maitland Center Commons, Suite 207, Maitland, FL

BAN20021231 Federal Funding Mortgage Corporation - To relocate mortgage lender broker's office from 8300 Greensboro Drive, Suite 880-A, McLean, VA to 27 West Jubal Early Drive, Winchester, VA

BAN20021232 Monument Funding Group, Inc. - To open a mortgage broker's office at 401 S. Glebe Road, Arlington, VA  
 BAN20021233 NovaStar Mortgage, Inc. - To open a mortgage lender's office at 65 Enterprise, Suite 335, Aliso Viejo, CA

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BAN20021234 NovaStar Home Mortgage, Inc. - To open a mortgage lender and broker's office at 908 South Main Street, Bel Air, MD  
 BAN20021235 Grayhawk Mortgage Corporation - To relocate mortgage broker's office from 9511 Old Georgetown Road, Bethesda, MD to 3 Metro Bethesda Center, Suite 700, Bethesda, MD  
 BAN20021236 Checque Cashing, Inc. d/b/a Ace America's Cash Express - To conduct a payday lending business where a money transmission business will also be conducted  
 BAN20021238 Checque Cashing, Inc. d/b/a Ace America's Cash Express - To conduct a payday lending business where a prepaid phone service business will also be conducted  
 BAN20021241 Southern Finance Corp. - To conduct consumer finance business where a mortgage brokering business will also be conducted  
 BAN20021242 Express Check Advance of Virginia, LLC d/b/a Express Check Advance - For a payday lender license  
 BAN20021243 Premier Mortgage Group, Ltd., LLC (Used in VA by: Premier Mortgage Group, Ltd.) - For a mortgage lender's license  
 BAN20021244 Aegis Mortgage Corporation d/b/a UC Lending - To open a mortgage lender's office at 3131 Turtle Creek Blvd., Suite 700, Dallas, TX  
 BAN20021245 Aegis Mortgage Corporation d/b/a UC Lending - To open a mortgage lender's office at 8200 Haverstick Road, Suite 102, Indianapolis, IN  
 BAN20021246 Loan Consolidation and Refinancing Company, LLC - To open a mortgage broker's office at 10401 Courthouse Road, Suite E, Spotsylvania, VA  
 BAN20021247 Check into Cash of Virginia, LLC d/b/a Check into Cash - To open a payday lender's office at 113-B Lew Dewitt Boulevard, Waynesboro, VA  
 BAN20021248 Sunset Mortgage Company L.P. - To open a mortgage lender and broker's office at 365 Lane Road, Stantonsburg, NC  
 BAN20021249 DAJ & Associates, Inc. - To relocate mortgage broker's office from 6485 Linleigh Way, Alexandria, VA to 7230 Devereux Ct., Alexandria, VA  
 BAN20021250 River City Mortgage, L.L.C. - To relocate mortgage broker's office from 403 North Robinson, Richmond, VA to Forest Office Park, 1504 Santa Rosa Road, Suite 113, Richmond, VA  
 BAN20021251 MBS Financial Inc. d/b/a Commonwealth Lending - To relocate mortgage broker's office from 11781 Lee Jackson Highway, Suite 310, Fairfax, VA to 21143 Brookside Lane, Suite 100, Potomac Falls, VA  
 BAN20021252 1st Metropolitan Mortgage Co. - To open a mortgage lender and broker's office at 3212 Cutshaw Avenue, Suite 204-A, Richmond, VA  
 BAN20021253 1st Metropolitan Mortgage Co. - To open a mortgage lender and broker's office at 206 Wakely Terrace, Bel Air, MD  
 BAN20021254 Primerica Financial Services Home Mortgages, Inc. - To open a mortgage broker's office at 9510 Iron Bridge Road, Suite 200, Chesterfield, VA  
 BAN20021255 Check into Cash of Virginia, LLC d/b/a Check into Cash - To open a payday lender's office at 1309 Fordham Drive, Suite 104, Virginia Beach, VA  
 BAN20021256 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 7113 24th Place, Adelphi, MD  
 BAN20021257 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 1440 Burke Road, Baltimore, MD  
 BAN20021258 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 1203 Cheshire Lane, Bel Air, MD  
 BAN20021259 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 12 Crossbow Trail, Berlin, MD  
 BAN20021260 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 3804 Idle Court, Bowie, MD  
 BAN20021261 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 11401 Walpole Court, Bowie, MD  
 BAN20021262 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 12204 Quadrille Lane, Bowie, MD  
 BAN20021263 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 5844 Wyndham Circle, Suite 101, Columbia, MD  
 BAN20021264 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 1321 Riverweed Way, Curtis Bay, MD  
 BAN20021265 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 14404 Weathered Barn Court, Earnestown, MD  
 BAN20021266 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 8713 LaSalle Court, Ellicott City, MD  
 BAN20021267 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 6801 Red Maple Court, Forestville, MD  
 BAN20021268 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 19903 Sugar Notch Circle, Gaithersburg, MD  
 BAN20021269 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 11341 Appledowre Way, Germantown, MD  
 BAN20021270 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 6401 Golden Triangle Drive, Suite 450, Greenbelt, MD  
 BAN20021271 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 7509 Harmans Road, Harmans, MD  
 BAN20021272 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 4723 Old Middletown Road, Jefferson, MD  
 BAN20021273 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 9873 Good Luck Road, Suite 10, Lanham, MD  
 BAN20021274 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 1743 Village Green, Landover, MD  
 BAN20021275 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 7816 Aylesford Lane, Laurel, MD  
 BAN20021276 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 11351 Bailey Field Way, Marriottsville, MD  
 BAN20021277 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 10510 Foxlake Drive, Mitchellville, MD  
 BAN20021278 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 2020 Alice Avenue, Suite 101, Oxon Hill, MD  
 BAN20021279 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 1910 Owens Road, Oxon Hill, MD  
 BAN20021280 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 7778 Central Avenue, Pasadena, MD  
 BAN20021281 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 1105 Holespon Drive, Pasadena, MD  
 BAN20021282 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 17108 Oxley Farm Road, Poolesville, MD  
 BAN20021283 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 12201 Village Square Terrace, Suite 202, Rockville, MD  
 BAN20021284 Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 103 North Bowman Terrace, Yorktown, VA to 4108 S. Riverside Drive, Lanexa, VA  
 BAN20021285 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 7509 Ashby Lane, Unit C, Alexandria, VA  
 BAN20021286 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 5946 Monticello Road, Alexandria, VA  
 BAN20021287 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 602 1/2 South Royal Street, Alexandria, VA  
 BAN20021288 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 3312 Wyndham Circle, Suite 307, Alexandria, VA  
 BAN20021289 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 7543 Denver Court, Annandale, VA  
 BAN20021290 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 8235 The Midway, Annandale, VA  
 BAN20021291 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 12000 Thornbrooke Court, Bristow, VA  
 BAN20021292 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 5546 Kendrick Lane, Burke, VA  
 BAN20021293 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 10359 Steamboat Landing Lane, Burke, VA  
 BAN20021294 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 5119 Doyle Lane, Centreville, VA



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BAN20021295 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 4604 Deerwatch Drive, Chantilly, VA  
 BAN20021296 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 10304 Cloverfield Court, Chesterfield, VA  
 BAN20021297 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 6406 Spring House Circle, Clifton, VA  
 BAN20021298 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 1116 Overlook Drive, Covington, VA  
 BAN20021299 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 120 Broad Street, Dublin, VA  
 BAN20021300 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 10965 Adare Drive, Fairfax, VA  
 BAN20021301 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 10800 Fieldwood Drive, Fairfax, VA  
 BAN20021302 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 10411 Layton Hall Drive, Fairfax, VA  
 BAN20021303 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 3615 Prince William Drive, Fairfax, VA  
 BAN20021304 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 7724 Helena Drive, Falls Church, VA  
 BAN20021305 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 102 South Locust Street, Floyd, VA  
 BAN20021306 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 2353 Morgans Mill Road, Goodview, VA  
 BAN20021307 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 108 Shirley Square S.E., Leesburg, VA  
 BAN20021308 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 9116 Center Street, Manassas, VA  
 BAN20021309 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 8122 Cooke Court, Unit 203, Manassas, VA  
 BAN20021310 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 9252 Longstreet Court, Manassas, VA  
 BAN20021311 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 8293 Laurel Meadows Drive, Mechanicsville, VA  
 BAN20021312 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 21067 St. Louis Road, Middleburg, VA  
 BAN20021313 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 2919 Parklawn Court, Oak Hill, VA  
 BAN20021314 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 7316 Walnut Knoll Drive, Springfield, VA  
 BAN20021315 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 6703 Caneel Court, Springfield, VA  
 BAN20021316 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 11730 English Mill Court, Oakton, VA  
 BAN20021317 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 1 Colonel Colin Court, Stafford, VA  
 BAN20021318 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 11860 Sunrise Valley Drive, Suite 201, Reston, VA  
 BAN20021319 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 1409 Brookland Parkway, Richmond, VA  
 BAN20021320 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 21163 Millwood Square, Sterling, VA  
 BAN20021321 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 10 S. Boulevard, Suite 2, Richmond, VA  
 BAN20021322 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 45849 Deb Hill Terrace, Sterling, VA  
 BAN20021323 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 1705 Choate Place, Suite B, Richmond, VA  
 BAN20021324 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 3203 Hull Street, Suite A, Richmond, VA  
 BAN20021325 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 6022 Old Forge Road, Rocky Mount, VA  
 BAN20021326 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 800 West Nettletree Road, Sterling, VA  
 BAN20021327 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 8609 Greeley Boulevard, Springfield, VA  
 BAN20021328 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 319 Center Street N, Vienna, VA  
 BAN20021329 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 2121 Dove Ridge Drive, Virginia Beach, VA  
 BAN20021330 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 193 Shoal Creek, Williamsburg, VA  
 BAN20021331 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 2236 Malraux Drive, Vienna, VA  
 BAN20021332 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 2770 Stone Hollow Drive, Vienna, VA  
 BAN20021333 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 6911 A Atlantic Avenue, Virginia Beach, VA  
 BAN20021334 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 1509 Colbeck Court, Virginia Beach, VA  
 BAN20021335 Destiny Builders, Inc. - For a mortgage broker's license  
 BAN20021336 Optima Funding Group, Inc. - For a mortgage broker's license  
 BAN20021337 The Mortgage Outlet, Inc. - For additional mortgage authority  
 BAN20021338 First Priority Mortgage, L.L.C. - For additional mortgage authority  
 BAN20021339 Dominion Credit Union - To merge into it Akron EOG (No. 1547) Federal Credit Union  
 BAN20021340 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 411 West Conway, Benton, AR  
 BAN20021341 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 48 Wagner Street, Bryant, AR  
 BAN20021342 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 521 N. Murphy Street, Lewisville, AR  
 BAN20021343 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 4323 Jefferson Avenue, Suite 136, Texarkana, AR  
 BAN20021344 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 2120 W. Guadalupe Road, Suite 10, Mesa, AZ  
 BAN20021345 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 3205 W. Cortaro Farms Rd., Suite 108, Tucson, AZ  
 BAN20021346 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 2880 Kalmia Avenue, Suite 306, Boulder, CO  
 BAN20021347 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 505 24th Street, Suite 201, Denver, CO  
 BAN20021348 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 8910 Fox Drive, Suite 16, Thornton, CO  
 BAN20021349 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 1619 Morgans Mill Circle, Orlando, FL  
 BAN20021350 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 1109 Winners Circle, Suite 13, Louisville, KY  
 BAN20021351 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 301 Burnside Street, Suite C303, Annapolis, MD  
 BAN20021352 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 1 Transverse Avenue, Baltimore, MD  
 BAN20021353 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 3800A Wean Drive, Baltimore, MD  
 BAN20021354 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 7401 Westlake Terrace, Suite 406, Bethesda, MD  
 BAN20021355 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 13910 Resin Court, Bowie, MD  
 BAN20021356 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 11233 B Slalom Lane, Columbia, MD  
 BAN20021357 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 1300 Mercantile Lane, Suite 126D, Largo, MD  
 BAN20021358 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 6622 Weaver Court, Laurel, MD  
 BAN20021359 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 12138 Central Avenue, Suite 508, Mitchellville, MD  
 BAN20021360 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 10839 Bucknell Drive, Silver Spring, MD  
 BAN20021361 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 517 Fieldstone Road, Silver Spring, MD  
 BAN20021362 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 6495 New Hampshire Ave., Suite 101B, Takoma Park, MD  
 BAN20021363 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 4803 Woodford Lane, Upper Marlboro, MD  
 BAN20021364 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 10906 Woodland Boulevard, Upper Marlboro, MD  
 BAN20021365 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 10891 Alyssa Lane, Waldorf, MD

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BAN20021366 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 415 Farm Creek Road, Westminster, MD  
 BAN20021367 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 404 B Kensington Park, Jefferson City, MO  
 BAN20021368 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 335 Page Road, Winchester, OR  
 BAN20021369 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 4565 Bassett Hall Drive, Memphis, TN  
 BAN20021370 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 3116 Belle Tower, Memphis, TN  
 BAN20021371 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 2810 Albemarle Drive, Alexandria, VA  
 BAN20021372 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 5610 Iona Way, Alexandria, VA  
 BAN20021373 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 3967 San Leandro Place, Alexandria, VA  
 BAN20021374 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 19488 Blueridge Mountain Road, Bluemont, VA  
 BAN20021375 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 12119 Formby Street, Bristow, VA  
 BAN20021376 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 6087 Deer Hill Court, Centreville, VA  
 BAN20021377 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 220 Melonie Drive, Chesapeake, VA  
 BAN20021378 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 4918 August Road, Chesterfield, VA  
 BAN20021379 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 2001 Meadow Drive, Fredericksburg, VA  
 BAN20021380 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 19624 Evergreen Mill Road, Leesburg, VA  
 BAN20021381 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 10835 Split Rail Drive, Manassas, VA  
 BAN20021382 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 315 King Street, North, Tazewell, VA  
 BAN20021383 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 1324 Cedar Hill Drive, Roanoke, VA  
 BAN20021384 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 3258A Titanic Drive, Stafford, VA  
 BAN20021385 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 919 Truman Road, Suffolk, VA  
 BAN20021386 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 1653 Tappahannock Boulevard, Tappahannock, VA  
 BAN20021387 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 595 Orange Lane, Troutville, VA  
 BAN20021388 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 1473 Northern Neck Drive, Vienna, VA  
 BAN20021389 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 937 Avatar Drive, Virginia Beach, VA  
 BAN20021390 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 5806 N. Cherokee Cluster, Virginia Beach, VA  
 BAN20021391 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 3865 Forest Glen Road, Virginia Beach, VA  
 BAN20021392 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 130 West Main Street, Wakefield, VA  
 BAN20021393 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 3122 Golansky Boulevard, Suite 201, Woodbridge, VA  
 BAN20021394 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 5571 St. Charles Drive, Woodbridge, VA  
 BAN20021395 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 13022 Sturbridge Road, Woodbridge, VA  
 BAN20021396 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 15250 Water Wheel Terrace, Woodbridge, VA  
 BAN20021397 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 3763 Wigan Drive, Woodbridge, VA  
 BAN20021398 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 106 Farmstead Place, Yorktown, VA  
 BAN20021399 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 2370 Hillcrest Road, Mobile, AL  
 BAN20021400 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 2602 Lauderdale Street, Selma, AL  
 BAN20021401 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 214 North Washington, Suite 306, El Dorado, AR  
 BAN20021402 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 2223 Fayetteville Road, Van Buren, AR  
 BAN20021403 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 717 Main Street, Canon City, CO  
 BAN20021404 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 4515 Binkerd Drive, Colorado Springs, CO  
 BAN20021405 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 3831 Riviera Grove, Suite 202, Colorado Springs, CO  
 BAN20021406 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 9089 Black Mountain Drive, Conifer, CO  
 BAN20021407 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 7040 Roaring Springs Avenue, Fountain, CO  
 BAN20021408 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 3312 Dunbar Avenue, Fort Collins, CO  
 BAN20021409 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 1201 Grand Avenue, Grand Junction, CO  
 BAN20021410 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 349 11th Street, Atlantic Beach, FL  
 BAN20021411 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 3500 S. Wadsworth Blvd., Suite 400, Lakewood, CO  
 BAN20021412 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 702 Folklore Avenue, Longmont, CO  
 BAN20021413 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 356 Eldorado Avenue, Nederland, CO  
 BAN20021414 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 6641 Lincoln Street, Hollywood, FL  
 BAN20021415 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 228 Bynum Place, Bear, DE  
 BAN20021416 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 10 Elizabeth Avenue, Dover, DE  
 BAN20021417 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 6914 Sea Turtle Circle, Navarre, FL  
 BAN20021418 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 902 Bayard Avenue, Rehoboth Beach, DE  
 BAN20021419 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 1541 SW 57th Avenue, Plantation, FL  
 BAN20021420 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 741 SE 15th Street, Unit 1, Pompano Beach, FL  
 BAN20021421 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 2209 Amanda Drive, Sarasota, FL  
 BAN20021422 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 11823 Lancashire Drive, Tampa, FL  
 BAN20021423 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 1436 High Street, Bowling Green, KY  
 BAN20021424 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 271 Meadow Court, Bowling Green, KY  
 BAN20021425 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 901 N. Main Street, Elizabethtown, KY  
 BAN20021426 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 3244 Drayton Place, Lexington, KY  
 BAN20021427 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 2974 Montavesta Road, Lexington, KY  
 BAN20021428 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 3789 Sundart Drive, Lexington, KY  
 BAN20021429 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 4023 Landherr Drive, Louisville, KY  
 BAN20021430 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 9204 Marse Henry Drive, Louisville, KY  
 BAN20021431 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 8219 Shelbyville Road, Louisville, KY  
 BAN20021432 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 355 Masters Lane, Taylorsville, KY  
 BAN20021433 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 208 Ashby Circle, Versailles, KY  
 BAN20021434 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 167 Frankfort Street, Versailles, KY  
 BAN20021435 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 128 Hemenway Street, Suite 101, Boston, MA

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BAN20021436 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 395 Center Street, Bellingham, MA

BAN20021437 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 5 MacIntyre Drive, North Reading, MA

BAN20021438 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 14834 Cicotte Avenue, Allen Park, MI

BAN20021439 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 25 Cedar Road, Uniontown, PA

BAN20021440 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 418 Chestnut Lane, Wayne, PA

BAN20021441 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 1007 Fountain Street, Ann Arbor, MI

BAN20021442 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 69 Knowlton Street, Riverside, RI

BAN20021443 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 9204 Concord Road, Brentwood, TN

BAN20021444 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 7189 Amanda Drive, Belleville, MI

BAN20021445 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 138 Migdon Lane, Conasavga, TN

BAN20021446 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 269 Germantown Bend Cove, Suite 206, Cordova, TN

BAN20021447 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 7392 Easterly Lane, Memphis, TN

BAN20021448 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 817 Meadow Lane, Camp Hill, PA

BAN20021449 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 138 Ewing Drive, Nashville, TN

BAN20021450 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 3167 Highmeadow Drive, Memphis, TN

BAN20021451 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 450 Shakespeare Drive, Collegeville, PA

BAN20021452 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 5909 Shelby Oaks Drive, Suite 239, Memphis, TN

BAN20021453 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 5025 Hillsboro Road, Suite 2-C, Nashville, TN

BAN20021454 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 18 Oak Knoll Estates, Elizabethtown, PA

BAN20021455 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 5205 Pennsylvania Avenue, Nashville, TN

BAN20021456 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 2713 Copper Creek Road, Oak Hill, VA

BAN20021457 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 13897 Winterstown Road, Felton, PA

BAN20021458 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at HC 77, Box 281, Ballard, WV

BAN20021459 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at Route 2, Box 58, Buffalo, WV

BAN20021460 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 651 Broadway, Hanover, PA

BAN20021461 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 374 Fairview Drive, Charleston, WV

BAN20021462 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 121 Forest Avenue, Clarksburg, WV

BAN20021463 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 1607 Stanley Avenue, Landisville, PA

BAN20021464 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at RR 2, Box 20-A1, French Creek, WV

BAN20021465 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 125 Strafford Avenue, Suite 300, Strafford, PA

BAN20021466 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 20330 Hall Road, Suite 100, Clinton Township, MI

BAN20021467 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 6322 Lake Drive, Haslett, MI

BAN20021468 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 1717 Maple Ridge, Suite 15, Haslett, MI

BAN20021469 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 2928 Meadowood Drive, Jackson, MI

BAN20021470 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 12717 Inkster Road, Livonia, MI

BAN20021471 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 3639 Winding Pine Drive, Metamora, MI

BAN20021472 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 29212 Fairfax, Southfield, MI

BAN20021473 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 3395 Falcon Crest Court, Bridgeton, MO

BAN20021474 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 614 Lakeview Heights, Jefferson City, MO

BAN20021475 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 1491 Arlington Avenue, St. Louis, MO

BAN20021476 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 1107 West Park, Suite C, Belgrade, MT

BAN20021477 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 1595 Hayes Drive, Missoula, MT

BAN20021478 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 848 Swinging Spear, Roswell, NM

BAN20021479 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 1447 St. Michael's Drive, Santa Fe, NM

BAN20021480 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 360 NW Island Circle, Unit B-6, Beaverton, OR

BAN20021481 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 63 Prospect Avenue, Bryn Mawr, PA

BAN20021482 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 416 N. West Street, Ahoskie, NC

BAN20021483 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 104 Franklin Drive, Raeford, NC

BAN20021484 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 91 Ridgewood Avenue, Keene, NH

BAN20021485 Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 1776 Kozy Court, Interlochen, MI to 2030 Tonawanda Road, Grawn, MI

BAN20021486 Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 30524 Zion Road, Salisbury, MD to 10878 Cabbage Pond Court, Jacksonville, FL

BAN20021487 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 5981 Limerick Lane, Bethel Park, PA

BAN20021488 Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 6415 S.W. Virginia Street, Portland, OR to 6915 S.W. Macadam Avenue, Suite 340, Portland, OR

BAN20021489 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 484 White Oak Lane, Leesport, PA

BAN20021490 Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 4028 S. King Street, Leesburg, VA to 45068 University Drive, Ashburn, VA

BAN20021491 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 1234 Wade Court West, Stroudsburg, PA

BAN20021492 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 1175 W. Pecos Road, Suite 2110, Chandler, AZ

BAN20021493 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 1000 Moonlight Way, Belmont, SC

BAN20021494 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 3614 E. Washington Street, Gilbert, AZ

BAN20021495 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 10120 Two Notch Road, Suite 233, Columbia, SC

BAN20021496 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 6060 W. Royal Palm, Suite 223, Glendale, AZ

BAN20021497 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 857 Dusty Rose Drive, Sedona, AZ

BAN20021498 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 102 Century Oaks Drive, Easley, SC

BAN20021499 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 701 W. Grove Parkway, Suite 185, Tempe, AZ

BAN20021500 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 3556 Centre Circle, Fort Mill, SC

BAN20021501 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 441 Golden Jubilee Road, Gilbert, SC

BAN20021502 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 4255 Kittredge Street, Suite 2118, Denver, CO

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BAN20021503	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 2530 E. North Street, Suite 9A, Greenville, SC
BAN20021504	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 17540 Sage Crest Road, Peyton, CO
BAN20021505	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 1200 Woodruff Road A-3, Suite 147, Greenville, SC
BAN20021506	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 13009 NW 112th Avenue, Alachua, FL
BAN20021507	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 103 Merrimac Court, Lexington, SC
BAN20021508	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 9560 Skillmon Street, Suite 112, Dallas, TX
BAN20021509	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 940 Santa Rosa Blvd., Suite 1524, Ft. Walton Beach, FL
BAN20021510	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 11039 126th Avenue N, Largo, FL
BAN20021511	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 16090 Knob Hill Drive, Flint, TX
BAN20021512	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 18836 SW 28 Court, Minamar, FL
BAN20021513	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 1332 Starlight Cove, Tarpon Springs, FL
BAN20021514	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 6013 Sycamore Creek, Forth Worth, TX
BAN20021515	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 623 Genessee Street, Annapolis, MD
BAN20021516	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 20946 Pioneer Ridge Terrace, Ashburn, VA
BAN20021517	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 952 Woodland Circle, Annapolis, MD
BAN20021518	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 3515 Meadowside Road, Baltimore, MD
BAN20021519	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 1705 Poplar Place, Suite C, Baltimore, MD
BAN20021520	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 205 Griffith Creek Road, Check, VA
BAN20021521	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 15802 Pacific Court, Bowie, MD
BAN20021522	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 8826 Birchwood Way, Jessup, MD
BAN20021523	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 1345 Fairhaven Road, Chesapeake, VA
BAN20021524	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 11505 Amherst Avenue, Suite 203, Wheaton, MD
BAN20021525	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 83 E. Main Street, Westminster, MD
BAN20021526	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 10433 Headly Court, Fairfax, VA
BAN20021527	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 201 Winona Avenue, Highland Park, MI
BAN20021528	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 2565 W. Pembroke Avenue, Hampton, VA
BAN20021529	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 5252 Merritt Road, Ypsilanti, MI
BAN20021530	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 9215 William Street, Manassas, VA
BAN20021531	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 5050 210th Street N., Forest Lake, MN
BAN20021532	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 19413 Busby Road, Vanclave, MS
BAN20021533	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 8034 Mechanicsville Turnpike, Mechanicsville, VA
BAN20021534	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 5902 Acorn Ridge Court, Midlothian, VA
BAN20021535	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 80 Bull Run Trace, Penhook, VA
BAN20021536	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 4609 Camellia Drive, Suffolk, VA
BAN20021537	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 6705 Lake Cove Court, Suffolk, VA
BAN20021538	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 1780 Jonathan's Way B, Reston, VA
BAN20021539	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 1473 Northern Neck Drive, Vienna, VA
BAN20021540	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 233 Missimer Lane, Vinton, VA
BAN20021541	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 407 Lakewood Circle, Virginia Beach, VA
BAN20021542	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 16691 Flotilla Way, Woodbridge, VA
BAN20021543	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 149 Lower Oak Ridge Road, Cool Ridge, WV
BAN20021544	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 2730 2nd Street, Hurricane, WV
BAN20021545	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at Route 12, Box 318A-3, Hurricane, WV
BAN20021546	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 142 High Hill Loop, Raleigh, WV
BAN20021547	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 1308 142nd Street, Lubbock, TX
BAN20021548	Lighthouse Funding Corporation - For a mortgage lender's license
BAN20021549	Cash 'Til Payday, LLC (Used in VA by: Advance, LLC) - For a payday lender license
BAN20021550	Cash & Go, Inc. of Virginia d/b/a Cash-N-Go - To open a payday lender's office at 13 Catocin Circle, S.E., Leesburg, VA
BAN20021551	Allied Home Mortgage Capital Corporation - To open a mortgage lender and broker's office at 7537 A Old Alex Ferry Road, Clinton, MD
BAN20021552	Allied Home Mortgage Capital Corporation - To open a mortgage lender and broker's office at 5302 Water Street, Suite 206A, Upper Marlboro, MD
BAN20021553	First Dominion Mortgage Corporation - To open a mortgage broker's office at 2654 Valley Avenue, Suite C-1, Winchester, VA
BAN20021554	Aegis Mortgage Corporation d/b/a UC Lending - To open a mortgage lender's office at 11800 Sunrise Valley Drive, Suite 1212, Reston, VA
BAN20021555	All Fund, Inc. d/b/a All Fund Mortgage - To open a mortgage lender and broker's office at 2812 Ringgold Court, Woodbridge, VA
BAN20021556	All Fund, Inc. d/b/a All Fund Mortgage - To open a mortgage lender and broker's office at 7027 Manahoac Place, Gainesville, VA
BAN20021557	Southern Trust Mortgage, LLC - To relocate mortgage lender broker's office from 1213 Culbreth Drive, Suite 207, Wilmington, NC to 41838 Highway 12, Suite 205, Avon, NC
BAN20021558	Blue Ridge Mortgage, L.L.C. - To open a mortgage lender and broker's office at 45 N. Main Street, Suite 100, Halifax, VA
BAN20021559	Extol Corporation, Inc. d/b/a QUICK CHECK: Cash Advance - To conduct a payday lending business where a health and personal appearance services business will also be conducted
BAN20021560	Washington Mutual Finance of Virginia, LLC - To open a mortgage lender's office at 2010 W. State Street, Bristol, TN
BAN20021561	Washington Mutual Finance of Virginia, LLC - To open a mortgage lender's office at 1395 Volunteer Parkway, Unit 2, Suite 1, Bristol, TN
BAN20021562	Washington Mutual Finance of Virginia, LLC - To open a mortgage lender's office at 1135 Volunteer Parkway, Suite 2, Bristol, TN
BAN20021563	Washington Mutual Finance of Virginia, LLC - To open a mortgage lender's office at Green Acres Shopping Center, 1137 N. Eastman Road, Kingsport, TN
BAN20021564	Washington Mutual Finance of Virginia, LLC - To open a mortgage lender's office at 1409-H East Stone Drive, Kingsport, TN
BAN20021565	Advanced Mortgage Services, Inc. - To open a mortgage broker's office at 4421 Blackbeard Road, Virginia Beach, VA

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BAN20021566	NovaStar Home Mortgage, Inc. - To relocate mortgage lender broker's office from 100 E. Tarpon Avenue, Suite 9, Tarpon Springs, FL to 118 E. Tarpon Avenue, Suite 208, Tarpon Springs, FL
BAN20021567	NovaStar Home Mortgage, Inc. - To relocate mortgage lender broker's office from 30 East Padonia Road, Suite 402, Timonium, MD to 30 East Padonia Road, Suite 407, Timonium, MD
BAN20021568	NovaStar Home Mortgage, Inc. - To open a mortgage lender and broker's office at 600-A Rowland Drive, Port Deposit, MD
BAN20021569	Second Bank & Trust - To open a branch at 1807 Seminole Trail, Albemarle County, VA
BAN20021570	Fast Cash of Virginia Inc. - For a payday lender license
BAN20021571	T. Byrd, Inc. d/b/a Instant Money Service - To conduct a payday lending business where a money transmission business will also be conducted
BAN20021573	Planner's Capital, LLC - For a mortgage broker's license
BAN20021574	Revex Mortgage Services LLC - For a mortgage broker's license
BAN20021575	New Freedom Mortgage Corporation - To open a mortgage lender and broker's office at 2520 N. University Avenue, Provo, UT
BAN20021576	New Freedom Mortgage Corporation - To open a mortgage lender and broker's office at 522B Arbor Hill Drive, Kernersville, NC
BAN20021577	Homebound Mortgage, Inc. - To relocate mortgage lender broker's office from 19 Roosevelt Highway, Suite 110, Colchester, VT to 150 Water Tower Circle, Colchester, VT
BAN20021578	Blue Ridge Companies, LLC d/b/a Blue Ridge Mortgage Company - For a mortgage broker's license
BAN20021579	Performance Mortgage, Inc. - For additional mortgage authority
BAN20021580	Providence Home Mortgage, LLC - For a mortgage broker's license
BAN20021581	E Z Lending L.L.C. - For a mortgage broker's license
BAN20021582	Highlands Venture Financial, L.L.C. d/b/a Cash America - For a payday lender license
BAN20021583	Integrity Mortgage Funding, L.L.C. - To relocate mortgage broker's office from 2427 Saint Albert Terrace, Brookeville, MD to 4 Professional Drive, Suite 126, Gaithersburg, MD
BAN20021584	East West Mortgage Company, Inc. - To open a mortgage lender and broker's office at 724 Shadowhill Court, Midlothian, VA
BAN20021585	A Money Matter Mortgage Inc. - To open a mortgage broker's office at 6213 Old Keene Mill Court, Suite 14, Springfield, VA
BAN20021586	Bankers Funding Corporation - To open a mortgage broker's office at Storage USA, 11850 Parklawn Drive, Unit 3050, Rockville, MD
BAN20021587	Lincoln Mortgage, LLC - To open a mortgage broker's office at 1445 E. Rio Road, Suite 001, Charlottesville, VA
BAN20021588	All Fund, Inc. d/b/a All Fund Mortgage - To open a mortgage lender and broker's office at 3164 E. La Palma Avenue, Suite 0, Anaheim, CA
BAN20021589	Anykind Check Cashing, LC d/b/a Check City - To conduct a payday lending business where a money transmission business will also be conducted
BAN20021590	Security Financial Corporation - To open a mortgage broker's office at 12 Sycolin Road, Leesburg, VA
BAN20021591	The Funding Group, Inc. - To relocate mortgage broker's office from 1 Wyoming Court, Bethesda, MD to 4900 Auburn Avenue, Suite 203, Bethesda, MD
BAN20021592	Benchmark Mortgage Inc. - To open a mortgage lender and broker's office at 2 Eaton Street, Suite 503-B, Hampton, VA
BAN20021593	Xtreme Equity - To relocate mortgage broker's office from 2025 East Main Street, Suite 204, Richmond, VA to 2025 East Main Street, Suite 212, Richmond, VA
BAN20021594	First Residential Mortgage Corporation - To relocate mortgage broker's office from 185 East Valley Street, Abingdon, VA to 432 East Main Street, Abingdon, VA
BAN20021595	American Financial Corp. of VA - To open a mortgage broker's office at 104 South Park Drive, Suite A, Blacksburg, VA
BAN20021596	Aring Corporation - For a mortgage broker's license
BAN20021597	F & L Marketing Enterprises LLC d/b/a Cash-2-U Payday Loans - For a payday lender license
BAN20021598	New Peoples Bank, Inc. - To open a branch at 157 Tazewell Mall Circle, Tazewell, VA
BAN20021599	Washington Mortgage Services, Inc. - To relocate mortgage broker's office from 4907 Niagara Road, Suite 204, College Park, MD to 4920 Niagara Road, Suite 401, College Park, MD
BAN20021600	GMAC Mortgage Corporation d/b/a Ditech.Com - To open a mortgage lender and broker's office at 5871 Glenridge Drive, Atlanta, GA
BAN20021601	GMAC Mortgage Corporation d/b/a Ditech.Com - To open a mortgage lender and broker's office at 1101 N. Argonne, Spokane, WA
BAN20021602	Primary Residential Mortgage, Inc. - To open a mortgage lender and broker's office at 1725 South Berry Knoll Boulevard, Centennial Park, AZ
BAN20021603	All Fund, Inc. d/b/a All Fund Mortgage - To open a mortgage lender and broker's office at 13100 Cog Hill Way, Orlando, FL
BAN20021604	Aegis Mortgage Corporation d/b/a UC Lending - To relocate mortgage lender's office from 2545 Raven Hill Road, Suite 106, Fayetteville, NC to 2939 Breezewood Avenue, Suite 200, Fayetteville, NC
BAN20021605	Aggressive Mortgage Corp. - To relocate mortgage broker's office from 5250 Challedon Drive, Virginia Beach, VA to 522 S. Independence Blvd., Suite 101, Virginia Beach, VA
BAN20021606	Affordable Mortgage Corporation - For a mortgage broker's license
BAN20021607	Infiniti Mortgage, LLC - For a mortgage broker's license
BAN20021608	First and Citizens Bank - To open a branch at east side of U S Route 220, Mitchelltown, VA
BAN20021609	Michael L. Vaughan d/b/a VIP Lending Services - For a payday lender license
BAN20021610	Mortgage Investors II, LLC - For a mortgage broker's license
BAN20021611	J. & J Cash Corporation d/b/a Check Cashing - To open a check casher at 4710 Columbia Pike, Arlington, VA
BAN20021612	Cash Corporation d/b/a Check Cashing - To open a check casher at 7220 Arlington Boulevard, Falls Church, VA
BAN20021613	Macquarie Mortgages USA Inc. - For a mortgage lender's license
BAN20021614	Progressive Mortgage, L.L.C. - For a mortgage broker's license
BAN20021615	Option One Mortgage Corporation - To relocate mortgage lender broker's office from 25510 Commercentre Drive, Lake Forest, CA to 25521 Commercentre Drive, Suite 100, Lake Forest, CA
BAN20021616	American Cash Exchange Enterprise of Virginia, L.L.C. d/b/a 1st Choice - To open a payday lender's office at 4107 Portsmouth Boulevard, Suite 102, Chesapeake, VA
BAN20021617	American Cash Exchange Enterprise of Virginia, L.L.C. d/b/a 1st Choice - To open a payday lender's office at 2113 College Avenue, Bluefield, VA
BAN20021618	HomeGold, Inc. - To relocate mortgage lender's office from 1021 Briargate Circle, Suite B, Columbia, SC to 113 Reed Avenue, Lexington, SC
BAN20021619	Aegis Mortgage Corporation d/b/a UC Lending - To open a mortgage lender's office at 11818 Rock Landing Drive, Suite 207, Newport News, VA

BAN20021620 Equity One Consumer Loan Company, Inc. - To relocate consumer finance office from 617 Greenville Avenue, Staunton, VA to 623 Greenville Avenue, Staunton, VA

BAN20021621 Mortgage Lenders of America, L.L.C. - For additional mortgage authority

BAN20021622 United Mortgage Corporation - To open a mortgage broker's office at 12150 Monument Drive, Suite 217, Fairfax, VA

BAN20021623 United Capital Inc. - To open a mortgage broker's office at 412 Investors Place, Suite 103, Virginia Beach, VA

BAN20021624 Denis Coakley - To be an exclusive agent for Primerica Financial Services Home Mortgages, Inc.

BAN20021625 SuffolkFirst Bank - To open a bank at 100 Bosley Avenue, Suffolk, VA

BAN20021626 Consumer Credit Counseling Service of Virginia and Southeast Maryland Inc. d/b/a Credit Counselors of Virginia - To open an additional debt counseling office at 5204 Patterson Avenue, Suite B, Richmond, VA

BAN20021627 Janet E. Fraipont d/b/a Cooperative Mortgage - To relocate mortgage broker's office from 708 Cavalier Drive, Virginia Beach, VA to 2308 Mariners Mark Way, Suite 203, Virginia Beach, VA

BAN20021628 First Bancorp Mortgage Corporation - To open a mortgage lender and broker's office at 104 Bypass Road, Williamsburg, VA

BAN20021629 Mortgage First, Inc. d/b/a Mortgage First - To relocate mortgage broker's office from 258 North Witchduck Road, Suite A, Virginia Beach, VA to 154 Newtown Road, Suite B-5, Virginia Beach, VA

BAN20021630 Capitol Commerce Mortgage Co. - For a mortgage lender's license

BAN20021631 Check into Cash of Virginia, LLC d/b/a Check into Cash - To open a payday lender's office at 90 Lee Jackson Highway, Suite 1239, Staunton, VA

BAN20021632 Check into Cash of Virginia, LLC d/b/a Check into Cash - To open a payday lender's office at 1315 Euclid Avenue, Bristol, VA

BAN20021633 Check into Cash of Virginia, LLC d/b/a Check into Cash - To open a payday lender's office at 1437 Sams Drive, Suite 109, Chesapeake, VA

BAN20021634 Financial Advantage Funding Corporation - To open a mortgage broker's office at 6186-B Old Franconia Road, Alexandria, VA

BAN20021635 Multi-Fund of Columbus, Inc. - To open a mortgage broker's office at 9700 Rockside Road, Suite 100, Cleveland, OH

BAN20021636 Fortune Mortgage Company - To relocate mortgage broker's office from 416 Hungerford Drive, Suite 300, Rockville, MD to 416 Hungerford Drive, Suite 300 B and C, Rockville, MD

BAN20021637 Pinnacle Mortgage Group, Inc. - For a mortgage lender's license

BAN20021638 Low Cost Lending, Inc. - For a mortgage broker's license

BAN20021639 1st Millennium Mortgage, LLC - For a mortgage broker's license

BAN20021640 Summit Mortgage Corporation d/b/a Summit Home Mortgage Inc. - For a mortgage lender and broker license

BAN20021641 1st Metropolitan Mortgage Co. - To open a mortgage lender and broker's office at 506 S. Independence Boulevard, Suite 200, Virginia Beach, VA

BAN20021642 Bridge Capital Corporation - To relocate mortgage lender broker's office from 26461 Crown Valley Parkway, Mission Viejo, CA to 26691 Plaza Drive, Suite 170, Mission Viejo, CA

BAN20021643 East West Mortgage Company, Inc. - To relocate mortgage lender broker's office from 7676 New Hampshire Avenue, Suite 418, Hyattsville, MD to 8300 Colesville Road, Suite 100B, Silver Spring, MD

BAN20021644 East West Mortgage Company, Inc. - To relocate mortgage lender broker's office from 302 South Jefferson Street, Lexington, VA to 7 Grover Drive, Lexington, VA

BAN20021645 Primary Residential Mortgage, Inc. - To open a mortgage lender and broker's office at 2671 Daniel Terrace, Winchester, VA

BAN20021646 Fieldstone Mortgage Company d/b/a Broad Street Mortgage Co. - To relocate mortgage lender broker's office from 16071 Comprint Circle, Gaithersburg, MD to 4 Research Place, Suite 160, Rockville, MD

BAN20021647 Fieldstone Mortgage Company d/b/a Broad Street Mortgage Co. - To relocate mortgage lender broker's office from 2215 AB Defense Highway, Crofton, MD to 49 Old Solomons Island Road, Suite 300, Annapolis, MD

BAN20021648 Harbor Bank - To open a branch at 6000 Patriots Colony Drive, James City County, VA

BAN20021649 Bank of McKenney - To open a branch at 3115 Boulevard, Colonial Heights, VA

BAN20021650 FFSI, Inc. (Used in VA by: First Financial Services, Inc.) - To relocate mortgage lender's office from 2700 Coltsgate Road, Charlotte, NC to 6230 Fairview Road, Suite 450, Charlotte, NC

BAN20021651 MortgageStar, Inc. - To open a mortgage lender and broker's office at 2032 Hen House Drive, Virginia Beach, VA

BAN20021652 Fortune Mortgage Company - To open a mortgage broker's office at 451 Hungerford Drive, Suite 515, Rockville, MD

BAN20021653 America's Mortgage Broker, L.L.C. d/b/a Affordable Home Funding - To open a mortgage lender and broker's office at 2508 Chamberlayne Avenue, Richmond, VA

BAN20021654 America's Mortgage Broker, L.L.C. d/b/a Affordable Home Funding - To open a mortgage lender and broker's office at 4833 Eastview Drive, Independence, OH

BAN20021655 Horizon Financial Services Mortgage Inc. - For a mortgage broker's license

BAN20021656 Capital City Mortgage, Inc. - For a mortgage broker's license

BAN20021657 Prosperity Mortgage Company - For additional mortgage authority

BAN20021658 Check into Cash of Virginia, LLC d/b/a Check into Cash - To open a payday lender's office at 1031 Independence Boulevard, Virginia Beach, VA

BAN20021659 Check into Cash of Virginia, LLC d/b/a Check into Cash - To open a payday lender's office at 4001 Virginia Beach Boulevard, Virginia Beach, VA

BAN20021660 Check into Cash of Virginia, LLC d/b/a Check into Cash - To open a payday lender's office at 2346 Virginia Beach Boulevard, Virginia Beach, VA

BAN20021661 Check into Cash of Virginia, LLC d/b/a Check into Cash - To open a payday lender's office at 5622 Portsmouth Boulevard, Portsmouth, VA

BAN20021662 Planters Bank & Trust Company of Virginia - To open a branch at State Route 636 and Parkway Lane, Fishersville, VA

BAN20021663 ATM Mortgage, Inc. - For a mortgage broker's license

BAN20021664 Instafi.com (Inc) (Used in VA by: Instafi.com) - To relocate mortgage lender broker's office from 18301 Von Karman, Suite 200, Irvine, CA to 2600 Michelson, Suite 300, Irvine, CA

BAN20021665 HomeGold, Inc. - To open a mortgage lender's office at 940 S. Frontage Road, Suite 1500, Woodridge, IL

BAN20021666 Sterling Financial Corp. of Virginia - For a mortgage broker's license

BAN20021667 Geneva Mortgage Corp. - For a mortgage lender and broker license

BAN20021668 Money Management By Mail, Inc. d/b/a Money Management International - To open an additional debt counseling office at 211 Roanoke Street, Suite 10, Christiansburg, VA

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BAN20021669	Money Management By Mail, Inc. d/b/a Money Management International - To open an additional debt counseling office at 900 Starling Avenue, Suite B, Martinsville, VA
BAN20021670	Money Management By Mail, Inc. d/b/a Money Management International - To open an additional debt counseling office at 506 Cumberland Street, Bristol, VA
BAN20021671	Money Management By Mail, Inc. d/b/a Money Management International - To open an additional debt counseling office at 6926 Peters Creek Road, Roanoke, VA
BAN20021672	Money Management By Mail, Inc. d/b/a Money Management International - To open an additional debt counseling office at 7000 Peters Creek Road, Roanoke, VA
BAN20021673	NovaStar Home Mortgage, Inc. - To relocate mortgage lender broker's office from 301 Southlake Boulevard, Suite 200, Richmond, VA to 301 Southlake Boulevard, Suite 100, Richmond, VA
BAN20021674	Prosper Mortgage Corporation - To relocate mortgage broker's office from 101 East Holly Avenue, Suite 4, Sterling, VA to 45685 Oakbrook Court, Suite 100, Sterling, VA
BAN20021675	First Residential Mortgage Network, Inc. - To open a mortgage lender and broker's office at 9500 Ormsby Station Road, Louisville, KY
BAN20021676	Homefirst Mortgage Corp. d/b/a MortgageFool.Com - To open a mortgage broker's office at 7420 Damascus Road, Gaithersburg, MD
BAN20021677	Homefirst Mortgage Corp. d/b/a MortgageFool.Com - To open a mortgage broker's office at 9386 Steeple Court, Laurel, MD
BAN20021678	Challenge Financial Investors Corp. - To open a mortgage broker's office at 3212 Cutshaw Avenue, Suite 204A, Richmond, VA
BAN20021680	International Mortgage Corporation - For a mortgage lender and broker license
BAN20021681	Atlantic Pacific Mortgage Corporation - For a mortgage lender's license
BAN20021682	Home 1-2-3 Corp. - For a mortgage lender's license
BAN20021683	NovaStar Home Mortgage, Inc. - To open a mortgage lender and broker's office at 260 Northland Boulevard, Suite 114, Cincinnati, OH
BAN20021684	CMS Mortgage Services, Inc. (Used in VA by: Cooperative Mortgage Services, Inc.) - To relocate mortgage lender's office from One Oakbrook Terrace, Suite 208, Oakbrook, IL to 2441 Warrenville Road, Suite 610, Lisle, IL
BAN20021685	CMS Mortgage Services, Inc. (Used in VA by: Cooperative Mortgage Services, Inc.) - To relocate mortgage lender's office from 30071 Tomas, Rancho Santa Margarita, CA to 15834 Antelope Drive, Chino Hills, CA
BAN20021686	Viking Mortgage Company, LLC - To relocate mortgage broker's office from 642 Humphrey Street, Swampscott, MA to One Salem Green, Salem, MA
BAN20021687	Southwest Check Advance, Inc. - To relocate payday lender's office from 7108 Duffield Pattonville Road, Duffield, VA to 315 Shawnee Avenue, Big Stone Gap, VA
BAN20021688	ETrust Mortgage Corporation - For a mortgage broker's license
BAN20021689	American Mortgage Banc, Inc. - For a mortgage broker's license
BAN20021690	Mini Mart III, Inc. - For a payday lender license
BAN20021691	Flexible Mortgage Corp. - For a mortgage broker's license
BAN20021692	Altabanc Financial Corp. - For a mortgage broker's license
BAN20021693	Pinnacle Financial Corporation d/b/a Tristar Lending Group - For a mortgage lender and broker license
BAN20021694	Mini Mart III, Inc. - To conduct a payday lending business where a money transmission business will also be conducted
BAN20021695	Huntyler Enterprises, Inc. d/b/a Ross Mortgage Corporation - To relocate mortgage broker's office from 8360 W. Oakland Park Boulevard, Sunrise, FL to 2700 Glades Circle, Suite C-128, Weston, FL
BAN20021696	East West Mortgage Company, Inc. - To open a mortgage lender and broker's office at 10210 Greenbelt Road, Suite 300, Lanham, MD
BAN20021697	1st Central Mortgage, Inc. - For a mortgage lender and broker license
BAN20021698	Donald O. King d/b/a Access Mortgage Kod - To relocate mortgage broker's office from 2219 Commerce Parkway, Virginia Beach, VA to 303 34th Street, Virginia Beach, VA
BAN20021699	Check'n Go of Virginia, Inc. d/b/a Check 'n Go - To open a payday lender's office at 3841 E. Little Creek Road, Suite J, Norfolk, VA
BAN20021700	Check'n Go of Virginia, Inc. d/b/a Check 'n Go - To open a payday lender's office at 2217 Kecoughtan Road, Hampton, VA
BAN20021701	Check'n Go of Virginia, Inc. d/b/a Check 'n Go - To open a payday lender's office at 40 Newmarket Square, Newport News, VA
BAN20021702	Check into Cash of Virginia, LLC d/b/a Check into Cash - To open a payday lender's office at 980 J Clyde Morris Boulevard, Suite 117, Newport News, VA
BAN20021703	Crusader Cash Advance of Virginia, LLC - For a payday lender license
BAN20021704	First Community Lending, Inc. - For a mortgage broker's license
BAN20021705	First Choice Lending, Inc. - For a mortgage broker's license
BAN20021706	Harbourton Mortgage Investment Corporation - For a mortgage lender's license
BAN20021707	Ameritrust Mortgage Company, LLC - For a mortgage lender's license
BAN20021708	J&J Cash Corporation - For a payday lender license
BAN20021709	Cash Corporation - For a payday lender license
BAN20021710	UVEST Mortgage Services, LLC - For a mortgage lender's license
BAN20021711	All Fund, Inc. d/b/a All Fund Mortgage - To open a mortgage lender and broker's office at 12917 Broadmore Road, Silver Springs, MD
BAN20021712	Primerica Financial Services Home Mortgages, Inc. - To open a mortgage broker's office at 660 Hunters Place, Suite 102, Charlottesville, VA
BAN20021713	Superior Home Mortgage Corporation (Used in VA by: Superior Mortgage Corporation) - To relocate mortgage lender broker's office from 121 Broad Street, Suite A, Dublin, VA to 500 Newbern Road, Dublin, VA
BAN20021714	Wyndham Capital Mortgage, Inc. - To relocate mortgage broker's office from 4539 Hedgemore Drive, Suite 110, Charlotte, NC to 2815 Coliseum Centre Drive, Suite 100, Charlotte, NC
BAN20021715	Allied Home Mortgage Capital Corporation - To relocate mortgage lender broker's office from 416 Hungerford Drive, Suite 420, Rockville, MD to 1300 Piccard Drive, Suite 207, Rockville, MD
BAN20021716	Check into Cash of Virginia, LLC d/b/a Check into Cash - To open a payday lender's office at 210-B Marshall Drive, Christiansburg, VA
BAN20021717	Check into Cash of Virginia, LLC d/b/a Check into Cash - To open a payday lender's office at 2094 Nickerson Boulevard, Hampton, VA
BAN20021718	Check into Cash of Virginia, LLC d/b/a Check into Cash - To open a payday lender's office at 949 East Stuart Drive, Suite A-1, Galax, VA
BAN20021719	Executive Home Mortgage of DE LLC (Used in VA by: Executive Home Mortgage LLC) - For a mortgage broker's license
BAN20021720	American Dream Homes, Inc. d/b/a American Dream Homes Mortgage - For a mortgage broker's license

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BAN20021721	Aegis Mortgage Corporation d/b/a UC Lending - To open a mortgage lender's office at 7272 Wisconsin Avenue, Suite 313, Bethesda, MD
BAN20021722	American Cash Center, Inc. (Used in VA by: B & L Management, Inc.) - To open a payday lender's office at 21120 Timberlake Road, Lynchburg, VA
BAN20021723	First Greensboro Home Equity, Inc. d/b/a Homeland Capital Group - To open a mortgage lender and broker's office at 9030 Red Branch Road, Suite 110, Columbia, MD
BAN20021724	Advance Mortgage - For additional mortgage authority
BAN20021725	Northeast Financial Corp. - For a mortgage lender and broker license
BAN20021726	Prestige Financial Group, Inc. - For a mortgage broker's license
BAN20021727	Diversified Mortgage Capital, Inc. - For a mortgage broker's license
BAN20021728	Semere Ambaye d/b/a H & R Mortgage & Financial Services - For a mortgage broker's license
BAN20021729	The Page Valley Bank - To open a branch at 9972 Spotswood Trail, McGaheysville, VA
BAN20021730	EZ Loans of Virginia, Inc. - For a payday lender license
BAN20021731	Edward D. Jones & Co., L.P. d/b/a EdwardJones - To open a mortgage broker's office at 1329 Grandin Road, SW, Roanoke, VA
BAN20021732	Edward D. Jones & Co., L.P. d/b/a EdwardJones - To open a mortgage broker's office at 3464 Lauderdale Road, Richmond, VA
BAN20021733	NovaStar Home Mortgage, Inc. - To open a mortgage lender and broker's office at 2700 N. Main, Suite 105, Santa Ana, CA
BAN20021734	NovaStar Home Mortgage, Inc. - To relocate mortgage lender broker's office from 497 Morgan Highway, Suite 102, Clarks Summit, PA to 102 N Blakely Street, Suite 204, Dunmore, PA
BAN20021735	NovaStar Home Mortgage, Inc. - To relocate mortgage lender broker's office from 6015 Morrow Street East, Suite 209, Jacksonville, FL to 6034 Chester Avenue, Suite 109, Jacksonville, FL
BAN20021736	Pinetree Mortgage Company, LLC - To open a mortgage broker's office at 7023 Little River Turnpike, Suite 403, Annandale, VA
BAN20021737	UMS, Inc. d/b/a Urgent Money Service - To open a payday lender's office at 740 Old Franklin Turnpike, Suite 4, Rocky Mount, VA
BAN20021738	First Mortgage Group, Inc. - To open a mortgage broker's office at 6501-A Sydenstricker Road, Burke, VA
BAN20021739	New Century Mortgage Corporation - To open a mortgage lender and broker's office at 200 Commerce, Irvine, CA
BAN20021740	Alliance Mortgage Company - To open a mortgage lender and broker's office at 2625 Corporate Place, 3rd Floor, Monterey Park, CA
BAN20021741	One Source Mortgage, L L C - To open a mortgage lender's office at 1720 S. Edmonds Lane, Suite 8, Lewisville, TX
BAN20021742	Challenge Financial Investors Corp. - To relocate mortgage broker's office from 10202 Christiano Drive, Glen Allen, VA to 1631 Forest Glen Road, Richmond, VA
BAN20021743	Challenge Financial Investors Corp. - To open a mortgage broker's office at 3212 Cutshaw Avenue, Suite 204B, Richmond, VA
BAN20021744	1st Metropolitan Mortgage Co. - To open a mortgage lender and broker's office at 6637 Indian River Road, Virginia Beach, VA
BAN20021745	Fieldstone Mortgage Company d/b/a Broad Street Mortgage Co. - To relocate mortgage lender broker's office from 2901 North Dallas Parkway, Suite 410, Plano, TX to 1700 Legacy Drive, Suite 1000, Frisco, TX
BAN20021746	Advantage Investors Mortgage Corporation - To open a mortgage lender and broker's office at 504 Glen Court, Stafford, VA
BAN20021747	InstantRefi.com LLC d/b/a First Guarantee Mortgage LLC - To open a mortgage broker's office at 21 Congress Street, Suite 201, Saratoga Springs, NY
BAN20021748	Sanghavi Bros, Inc. - To open a check casher at 3339 Glen Carlyn Drive, Falls Church, VA
BAN20021749	Carolina Check Cashing, Inc. - To open a check casher at 22520 Lankford Highway, Accomac, VA
BAN20021750	Genesis Mortgage Company "LLC" - For a mortgage broker's license
BAN20021751	Terrace Mortgage Company - For a mortgage lender's license
BAN20021752	Mountain Home Loans, Inc. - For a mortgage broker's license
BAN20021753	Phoenix Financial Corporation d/b/a Abacus Mortgage - To relocate mortgage broker's office from 522 S. Independence Blvd., Suite 100, Virginia Beach, VA to 3861 LaSalle Drive, Suite 108, Virginia Beach, VA
BAN20021754	All Fund, Inc. d/b/a All Fund Mortgage - To open a mortgage lender and broker's office at 5045 Admiral Wright Road, Suite 107, Virginia Beach, VA
BAN20021755	All Fund, Inc. d/b/a All Fund Mortgage - To open a mortgage lender and broker's office at 700 Baker Road, Suite 105, Virginia Beach, VA
BAN20021756	Mortgage Access Corp. d/b/a Weichert Financial Services - To open a mortgage lender's office at 401 N. Great Neck Road, Suite 103, Virginia Beach, VA
BAN20021757	A.A. Financial & Mortgage, Inc. - For a mortgage broker's license
BAN20021758	Centex Home Equity Company, LLC - To open a mortgage lender and broker's office at Executive Campus 2, Route 70, Suite 325, Cherry Hill, NJ
BAN20021759	Community Home Mortgage, LLC d/b/a Community Mortgage Group, LLC - To open a mortgage broker's office at 6151 Fuller Court, Alexandria, VA
BAN20021760	American Summit Lending Corporation - For a mortgage lender and broker license
BAN20021761	First Advantage Mortgage Company - To relocate mortgage broker's office from 248 Main Street, Suite 300, Gaithersburg, MD to 12126 Darnestown Road, Suite 6, Gaithersburg, MD
BAN20021762	Principal Residential Mortgage, Inc. - To open a mortgage lender and broker's office at 6200 Park Avenue, Des Moines, IA
BAN20021763	NovaStar Home Mortgage, Inc. - To open a mortgage lender and broker's office at 6370 East Thomas Road, Suite 200, Scottsdale, AZ
BAN20021764	Academy Mortgage, L.L.C. - For a mortgage broker's license
BAN20021765	E Source Mortgage, Inc. - For a mortgage lender and broker license
BAN20021766	Orion Pacific Mortgage Investors, Inc. - For a mortgage broker's license
BAN20021767	Kellner Mortgage Investments I, Ltd., L.P. (Used in VA by: Kellner Mortgage Investments I, Ltd.) - For a mortgage lender's license
BAN20021768	Fidelity & Trust Mortgage, Inc. - To open a mortgage lender's office at 226 South Loudoun Street, Winchester, VA
BAN20021769	NovaStar Home Mortgage, Inc. - To open a mortgage lender and broker's office at 4300 North Miller Road, Suite 243, Scottsdale, AZ
BAN20021770	U.S. Tour & Remittance, Inc. - For a money order license
BAN20021771	1st Preference Mortgage Corp. - To relocate mortgage lender broker's office from 610 Madison Street, Alexandria, VA to 2235C Tackett's Mill Drive, Woodbridge, VA
BAN20021772	1st Preference Mortgage Corp. - To relocate mortgage lender broker's office from 9309 Belair Road, Baltimore, MD to 9423 Belair Road, Baltimore, MD
BAN20021773	Hasan Abueznaid - To open a check casher at 900 S. Main Street, Danville, VA
BAN20021774	Edward D. Jones & Co., L.P. d/b/a EdwardJones - To open a mortgage broker's office at Rosewood Office Park, 4905 Brambleton Avenue, Roanoke, VA



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BAN20021775 PHH Mortgage Services Corporation d/b/a Instamortgage.com - To open a mortgage lender and broker's office at 4802 Deer Lake Drive, East, Jacksonville, FL

BAN20021776 LoanCity.Com, Inc. (Used in VA by: LoanCity.Com) - To relocate mortgage lender's office from 6640 Via Del Oro, San Jose, CA to 5671 Santa Teresa Blvd., Suite 100, San Jose, CA

BAN20021777 Danarir Investments, Inc. - For a mortgage broker's license

BAN20021778 Darrell L. Payne d/b/a Payne's Check Cashing - To open a payday lender's office at 1905 Seminole Trail, Charlottesville, VA

BAN20021779 Option One Mortgage Corporation - To open a mortgage lender and broker's office at 6531 Irvine Center Drive, Irvine, CA

BAN20021780 Mortgagebot LLC - To open a mortgage broker's office at W57N14371 Doerr Way, Cedarburg, WI

BAN20021781 1st Priority Mortgage Corp. d/b/a Affordable Mortgage Solutions - To open a mortgage broker's office at 106 Top Tobacco Road, Lake Waccamaw, NC

BAN20021782 Coulbourn Mortgage Inc. - For a mortgage broker's license

BAN20021783 Heritage Mortgage Brokers, L.L.C. - To relocate mortgage broker's office from 4719 King William Road, Richmond, VA to 2007 Grove Avenue, Richmond, VA

BAN20021784 V.B.H. Employees Credit Union, Incorporated - To merge into it Lynchburg General Credit Union, Lynchburg, VA

BAN20021785 Loan Consolidation and Refinancing Company, LLC - To relocate mortgage broker's office from 5001 West Broad Street, Suite 311, Richmond, VA to 5001 West Broad Street, Suite 300, Richmond, VA

BAN20021786 TrustMor Mortgage Company d/b/a Doiquality.Com - To open a mortgage lender and broker's office at 3419 Boulevard, Colonial Heights, VA

BAN20021787 Amerigroup Mortgage Corporation (Used in VA by: Mortgage Investors Corporation) - To open a mortgage lender's office at 5900 Central Avenue, Suites A, B, and C, St. Petersburg, FL

BAN20021788 NovaStar Home Mortgage, Inc. - To open a mortgage lender and broker's office at 17934 Brennan Avenue, Prairieville, LA

BAN20021789 NovaStar Home Mortgage, Inc. - To relocate mortgage lender broker's office from 2129 E. Center Street, Kingsport, TN to 2762 E. Center Street, Suite 104, Kingsport, TN

BAN20021790 Mini Mart III, Inc. - To open a check casher at 4817 Columbia Pike, Arlington, VA

BAN20021791 FFSL, Inc. (Used in VA by: First Financial Services, Inc.) - To relocate mortgage lender's office from 19901 West Catawba Avenue, Cornelius, NC to 7930 West Kenton Circle, Suite 150, Huntersville, NC

BAN20021792 America First Mortgage & Loan Services, LLC - To relocate mortgage broker's office from 450 S. Church Street, Fincastle, VA to 64 Wendover Road, Suite B, Daleville, VA

BAN20021793 First Vantage Bank/Tri-Cities - To relocate main office from 3000 Lee Highway, Bristol, VA to 2973 Lee Highway, Bristol, VA

BAN20021794 NorthStar Mortgage Corp. d/b/a AAXA Discount Mortgage - To relocate mortgage broker's office from 890 S. Kerr Avenue, Wilmington, NC to 6322 Oleander Drive, Wilmington, NC

BAN20021795 Consumer Credit Counseling Service of Virginia and Southeast Maryland Inc. d/b/a Credit Counselors of Virginia - To open an additional debt counseling office at 737 East Market Street, Suite B, Harrisonburg, VA

BAN20021796 Pioneer Mortgage Group, LLC - For a mortgage broker's license

BAN20021797 All Fund, Inc. d/b/a All Fund Mortgage - To open a mortgage lender and broker's office at 10301 N.W. Freeway, Suite 409, Houston, TX

BAN20021798 Certegy Transaction Services, Inc. - To open a check casher at 800 E. Little Creek Road, Norfolk, VA

BAN20021799 BMIC Mortgage, Inc. - For additional mortgage authority

BAN20021800 The Mortgage Store Financial, Inc. - For a mortgage lender's license

BAN20021801 UMS, Inc. d/b/a Urgent Money Service - To open a payday lender's office at 3922 S. Amherst Highway, Madison Heights, VA

BAN20021802 Global Mortgage, Inc. - For a mortgage broker's license

BAN20021803 Primary Residential Mortgage, Inc. - To relocate mortgage lender broker's office from 2671 Daniel Terrace, Winchester, VA to 208 S. Loudoun Street, Winchester, VA

BAN20021804 Tammac Corporation - For a mortgage lender's license

BAN20021805 NovaStar Home Mortgage, Inc. - To open a mortgage lender and broker's office at 17870 Skypark Circle, Suite 105, Irvine, CA

BAN20021806 First International Mortgage Corporation - To relocate mortgage broker's office from 16063 Comprint Circle, Gaithersburg, MD to 16071 Comprint Circle, Gaithersburg, MD

BAN20021807 Advantage Investors Mortgage Corporation - To open a mortgage lender and broker's office at 5205 Captain's Run, Virginia Beach, VA

BAN20021808 Teddy L. Deel, Sr. d/b/a Quick Cash - To relocate payday lender's office from 205 Front Street, Coeburn, VA to 316 Front Street, Coeburn, VA

BAN20021809 Bristol's E-Z Cash Advance, LLC - For a payday lender license

BAN20021810 Franklin American Mortgage Company - To relocate mortgage lender's office from 6565 North MacArthur Boulevard, Irving, TX to 6565 North MacArthur Blvd., Suite 550, Irving, TX

BAN20021811 TransLand Financial Services, Inc. - To open a mortgage lender's office at 1298 Bay Dale Drive, Suite 204, Arnold, MD

BAN20021812 Main Street Mortgage, LLC - For a mortgage broker's license

BAN20021813 NovaStar Home Mortgage, Inc. - To open a mortgage lender and broker's office at 2064 New Hackensack Road, Poughkeepsie, NY

BAN20021814 Master Financial, Inc. - To relocate mortgage lender's office from 333 South Anita Drive, Orange, CA to 505 City Parkway West, Suite 800, Orange, CA

BAN20021815 Bank of Tazewell County - To establish an EFT at 108 Spruce Street, Bluefield, VA

BAN20021816 Liberty Mortgage Company - To acquire 25 percent or more of Kenwood Associates, Inc.

BAN20021817 Capital Financial Services Inc. - For a mortgage lender's license

BAN20021818 Dominion Credit Union - To open a credit union service office at 1201 E. 55th Street, Cleveland, OH

BAN20021819 Mortgage and Equity Funding Corporation - To relocate mortgage lender broker's office from 9 Loudoun Street, S. E., Leesburg, VA to 25 First Street, S.E., Suite 5, Leesburg, VA

BAN20021820 Cash Connection Inc. d/b/a Checks Cashed VA - For a payday lender license

BAN20021821 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 750 Balls Bluff Road, Leesburg, VA

BAN20021822 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 4109 Leisure Drive, Temple Hills, MD

BAN20021823 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 6646 Cambria Terrace, Elkridge, MD

BAN20021824 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 4620 Saron Drive, Lexington, KY

BAN20021825 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 4668 York Road, Baltimore, MD

BAN20021826 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 1811 Wye Mills Lane, Belair, MD

BAN20021827 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 11450 Newport Bay Drive, Berlin, MD

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BAN20021828	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 7272 Wisconsin Avenue, Suite 300, Bethesda, MD
BAN20021829	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 7622 Bear Forest Road, Hanover, MD
BAN20021830	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 6106 42nd Place, Hyattsville, MD
BAN20021831	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 22554 Sweet Leaf Lane, Laytonsville, MD
BAN20021832	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 10506 Taryn Court, Mitchellville, MD
BAN20021833	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 19317 Clubhouse Road, Suite 302, Montgomery Village, MD
BAN20021834	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 4 Carvel Court, Pasadena, MD
BAN20021835	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 12 Village Square Terrace, Suite 202, Rockville, MD
BAN20021836	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 11608 Myrtle Oak Court, Waldorf, MD
BAN20021837	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 800 South Saint Asaph Street, Suite 218, Alexandria, VA
BAN20021838	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 967 San Leandro Place, Alexandria, VA
BAN20021839	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 21015 Powderhorn Court, Ashburn, VA
BAN20021840	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 13916 Baton Rouge Court, Centreville, VA
BAN20021841	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 6444 La Petite Place, Centreville, VA
BAN20021842	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 4749 Gainsborough Drive, Fairfax, VA
BAN20021843	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 32 Henry Sealar Lane, Fredericksburg, VA
BAN20021844	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 7502 Nyland Road, Fredericksburg, VA
BAN20021845	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 312 Manning Lane, Hampton, VA
BAN20021846	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 13405 Burrough Farm Drive, Herndon, VA
BAN20021847	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 2652 Meadow Hall Drive, Herndon, VA
BAN20021848	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 501 Westview Road, Keswick, VA
BAN20021849	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 1632 Warner Avenue, McLean, VA
BAN20021850	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 1131 Wasena Avenue, Roanoke, VA
BAN20021851	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 43197 Center Street, South Riding, VA
BAN20021852	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 309 Tramore Court, Sterling, VA
BAN20021853	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 310 Westview Court, N.E., Vienna, VA
BAN20021854	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 1800 Capel Manor Way, Virginia Beach, VA
BAN20021855	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 6704 Chartwell Drive, Virginia Beach, VA
BAN20021856	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 1064 Commodore Drive, Virginia Beach, VA
BAN20021857	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 106 Candlewick Drive, Winchester, VA
BAN20021858	Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 13460 North 94th Drive, Suite H-1A, Peoria, AZ to 1181 N. Tatum Boulevard, Suite 3031, Phoenix, AZ
BAN20021859	Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 5055 Garner Court, Davenport, IA to 601 Brady Street, Suite 208, Davenport, IA
BAN20021860	Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 5906 Greenfell Loop, Bowie, MD to 1300 Mercantile Lane, Suite 100, Largo, MD
BAN20021861	Carteret Mortgage Corporation - To relocate mortgage lender broker's office from #2 Pennypacker Village, Willingboro, NJ to 18 East 4th Street, Burlington, NJ
BAN20021862	Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 3256 White Barn Court, Herndon, VA to 1002 Monroe Street, Herndon, VA
BAN20021863	Cash Corporation - To conduct a payday lending business where a money transmission business will also be conducted
BAN20021864	J&J Cash Corporation - To conduct a payday lending business where a money transmission business will also be conducted
BAN20021865	Richmond Police Department Credit Union, Incorporated - To relocate credit union office from 501 N. 9th. Street, Suite 205, Richmond, VA to 200 W. Grace Street, Richmond, VA
BAN20021866	Todos Mart, Inc - To open a check casher at 1082 Elden Street, Herndon, VA
BAN20021867	Todos Mart III, Inc. - To open a check casher at 6134-C Arlington Boulevard, Falls Church, VA
BAN20021868	Mios Mart II, Inc. - To open a check casher at 7022-A Commerce Street, Springfield, VA
BAN20021869	Shree Krishna, Inc. - To open a check casher at 5726 Edsall Road, Alexandria, VA
BAN20021870	Shree Krishna Inc. II - To open a check casher at 14420 Jefferson Davis Highway, Woodbridge, VA
BAN20021871	Global Finance Company - For a mortgage broker's license
BAN20021872	Jams-01, Inc. - For a mortgage lender's license
BAN20021873	Peoples' Enterprises, Inc. - For a money order license
BAN20021874	GMT Group, Inc. - To acquire Vigo Remittance Corp.
BAN20021875	NovaStar Home Mortgage, Inc. - To open a mortgage lender and broker's office at 6330 E. 75th Street, Suite 120, Indianapolis, IN
BAN20021876	GMAC Mortgage Corporation d/b/a Ditech.Com - To relocate mortgage lender broker's office from 631 Berkmar Circle, Charlottesville, VA to 620 Woodbrook Drive, Charlottesville, VA
BAN20021877	Check into Cash of Virginia, LLC d/b/a Check into Cash - To open a payday lender's office at 40 South Carlton Street, Harrisonburg, VA
BAN20021878	Check into Cash of Virginia, LLC d/b/a Check into Cash - To open a payday lender's office at 2103-2105 Loudoun Street, Winchester, VA
BAN20021879	Allfirst Bank - To open a branch at corner of Reston Parkway and NewDominion Parkway, Reston, VA
BAN20021880	Community Mortgage Services Corporation - To relocate mortgage broker's office from 19-A Wadsworth Street, Lynchburg, VA to 201 Enterprise Drive, Forest, VA
BAN20021881	NovaStar Mortgage, Inc. - To relocate mortgage lender's office from 1900 W. 47th Place, Westwood, KS to 8140 Ward Parkway, Kansas City, MO
BAN20021882	NovaStar Home Mortgage, Inc. - To relocate mortgage lender broker's office from 1900 W. 47th Place, Suite 205, Westwood, KS to 8140 Ward Parkway, Kansas City, MO
BAN20021883	The Anyloan Company - To open a mortgage lender and broker's office at 18400 Von Karman, Suite 1000, Irvine, CA
BAN20021884	The Anyloan Company - To open a mortgage lender and broker's office at 210 Commerce, Irvine, CA

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BAN20021885	Fieldstone Mortgage Company d/b/a Broad Street Mortgage Co. - To open a mortgage lender and broker's office at 411 Ritchie Highway, Severna Park, MD
BAN20021886	Fieldstone Mortgage Company d/b/a Broad Street Mortgage Co. - To open a mortgage lender and broker's office at 7900 Sudley Road, Suite 614, Manassas, VA
BAN20021887	Dana Capital Group, Inc. - To open a mortgage lender and broker's office at 3210 South Standard, Santa Ana, CA
BAN20021888	Lifetime Mortgage, Inc. - To open a mortgage broker's office at 5137 Gagne Court, Fairfax, VA
BAN20021889	Watermark Financial Partners, Inc. - To relocate mortgage lender's office from 4582 South Ulster Street, Suite 103, Denver, CO to 4582 South Ulster Street, Suite 300, Denver, CO
BAN20021890	All Fund, Inc. d/b/a All Fund Mortgage - To open a mortgage lender and broker's office at 125 Clubhouse Drive, S.W., S-2, Leesburg, VA
BAN20021891	NovaStar Home Mortgage, Inc. - To open a mortgage lender and broker's office at 908 Niagara Falls Boulevard, Suite 222, North Tonawanda, NY
BAN20021892	Debt Reduction Services, Inc. - To open a debt counseling office
BAN20021893	Randolph K. Faulk d/b/a Mortgage Processing Center - For a mortgage broker's license
BAN20021894	AAA Financial Corp. - For a mortgage lender's license
BAN20021895	Advanced Investment Management, LLC - For a mortgage broker's license
BAN20021896	Peoples Trust Mortgage, LLC d/b/a Peoples Choice Mortgage - For a mortgage broker's license
BAN20021897	B & B Enterprises d/b/a 1st American Mortgage - To open a mortgage broker's office at 14 West Market Street, Leesburg, VA
BAN20021898	Cash & Go, Inc. of Virginia d/b/a Cash-N-Go - To open a payday lender's office at 3443 Jefferson Davis Highway, Fredericksburg, VA
BAN20021899	Advance America, Cash Advance Centers of Virginia, Inc. d/b/a Advance America, Cash Advance Centers - To open a payday lender's office at 7119 Staples Mill Road, Richmond, VA
BAN20021900	Crescent Financial Inc. (Used in VA by: Crescent Financial Trust Inc.) - To relocate mortgage broker's office from 9600 River Road, Potomac, MD to 9401 Key West Avenue, 1st Floor, Rockville, MD
BAN20021901	Allied Home Mortgage Capital Corporation - To open a mortgage lender and broker's office at 21351 Ridgetop Circle, Suite 300, Dulles, VA
BAN20021902	Cyber Mortgage Inc. d/b/a Global Mortgage - To relocate mortgage broker's office from 6158 Franconia Station Lane, Alexandria, VA to 7369 McWhorter Place, Suite 420, Annandale, VA
BAN20021903	Taylor, Bean & Whitaker Mortgage Corp. - To open a mortgage lender's office at 1417 N. Magnolia Avenue, Ocala, FL
BAN20021904	Taylor, Bean & Whitaker Mortgage Corp. - To open a mortgage lender's office at 814 Highway A1A North, Suite 205, Ponte Vedra Beach, FL
BAN20021905	Taylor, Bean & Whitaker Mortgage Corp. - To open a mortgage lender's office at 1760 The Exchange SE, Atlanta, GA
BAN20021906	Buckeye Check Cashing of Virginia, Inc. d/b/a Check\$mart - To open a payday lender's office at 3401 S. Crater Road, Petersburg, VA
BAN20021907	Buckeye Check Cashing of Virginia, Inc. d/b/a Check\$mart - To open a payday lender's office at 2007 Victory Boulevard, Portsmouth, VA
BAN20021908	Payday USA of Virginia, LLC d/b/a Payday USA - To open a payday lender's office at 14349 Warwick Boulevard, Warwick Denbigh Shopping Center, Newport News, VA
BAN20021909	Farmers & Merchants Bank - To open a branch at 207 University Boulevard, Suite 100, Harrisonburg, VA
BAN20021910	New Peoples Bank, Inc. - To open a branch at the northeast corner of State Routes 80 and 600, Davenport, VA
BAN20021911	Weststar Mortgage, Inc. - To open a mortgage lender and broker's office at 16525 Booker T. Washington Drive, Moneta, VA
BAN20021912	Weststar Mortgage, Inc. - To open a mortgage lender and broker's office at 20047 Jefferson Davis Highway, Ruther Glen, VA
BAN20021913	Branch Banking and Trust Company of Virginia - To relocate office from 2609 Boulevard, Colonial Heights, VA to .25 miles from the intersection of Southpark Blvd. and Dimmock Parkway, Colonial Heights, VA
BAN20021914	Bank of Clarke County - To open a branch at 3360 Valley Avenue, Frederick County, VA
BAN20021915	Affordable Mortgage of Virginia, Inc. - For a mortgage broker's license
BAN20021916	Mios Mart, Inc. - To open a check casher at 8535 Centreville Road, Manassas Park, VA
BAN20021917	All Fund, Inc. d/b/a All Fund Mortgage - To open a mortgage lender and broker's office at 1940 Suite B, Highway 172, Sneads Ferry, NC
BAN20021918	New Century Mortgage Corporation - To relocate mortgage lender broker's office from 1000 Plaza Drive, 4th Floor, Schaumburg, IL to 1375 E. Woodfield Road, Suites 550 and 550A, Schaumburg, IL
BAN20021919	Frank J. Damiano d/b/a A Discount Mortgage Lending Company - For a mortgage broker's license
BAN20021920	American Cash Exchange Enterprise of Virginia, L.L.C. d/b/a 1st Choice - To open a payday lender's office at 928 Diamond Springs Road, Virginia Beach, VA
BAN20021921	NovaStar Home Mortgage, Inc. - To open a mortgage lender and broker's office at 9801 Greenbelt Road, Suite 313, Lanham, MD
BAN20021922	Check into Cash of Virginia, LLC d/b/a Check into Cash - To open a payday lender's office at 239 South Street, Suite B, Front Royal, VA
BAN20021923	Check into Cash of Virginia, LLC d/b/a Check into Cash - To open a payday lender's office at 1911 Plank Road, Fredericksburg, VA
BAN20021924	Check into Cash of Virginia, LLC d/b/a Check into Cash - To open a payday lender's office at 16697 River Ridge Boulevard, Woodbridge, VA
BAN20021925	Southern Finance Corp. - To conduct consumer finance business where an electronic tax filing business will also be conducted
BAN20021926	Leader Funding, Inc. - For a mortgage lender's license
BAN20021927	All Fund, Inc. d/b/a All Fund Mortgage - To open a mortgage lender and broker's office at 1717 K Street, N.W., Suite 600, Washington, DC
BAN20021928	Edward D. Jones & Co., L.P. d/b/a EdwardJones - To open a mortgage broker's office at 10705 Courthouse Road, Suite 110, Fredericksburg, VA
BAN20021929	American Mortgage and Investment Corporation - To open a mortgage broker's office at 9200 Basil Court, Suite 420, Largo, MD
BAN20021930	Trust One Mortgage Corporation - To relocate mortgage lender's office from 2 Ada, Irvine, CA to 108 Pacifica, Suite 300, Irvine, CA
BAN20021931	Victorian Mortgage, Inc. - To relocate mortgage broker's office from Route 2, Box 4896, Scottsville, VA to 2659 Barracks Road, Suite 3, Charlottesville, VA
BAN20021932	American General Financial Services of America, Inc. - To conduct consumer finance business where a home security business will also be conducted
BAN20021933	Provident Bank of Maryland - To open a branch at 43761 Parkhurst Plaza, Ashburn, VA
BAN20021934	Provident Bank of Maryland - To open a branch at 6335 Multiplex Drive, Centreville, VA

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BAN20021935	Midlothian Mortgage Group, LLC - To open a mortgage lender and broker's office at 9030 Stony Point Parkway, Suite 530, Richmond, VA
BAN20021936	Midlothian Mortgage Group, LLC - To open a mortgage lender and broker's office at Town Point Center, 150 Boush Street, Suite 400, Norfolk, VA
BAN20021937	Trustworthy Mortgage Corporation - To relocate mortgage broker's office from 8212-A Old Courthouse Road, Vienna, VA to 1964 Gallows Road, Suite 280, Vienna, VA
BAN20021938	First Wholesale Mortgage Corporation - For a mortgage broker's license
BAN20021939	American Cash Exchange Enterprise of Virginia, L.L.C. d/b/a 1st Choice - To open a payday lender's office at 3520B Little Creek Road, Suite B, Norfolk, VA
BAN20021940	American Cash Exchange Enterprise of Virginia, L.L.C. d/b/a 1st Choice - To open a payday lender's office at River Park Shopping Center, 1084 Route 24 Bypass, Vinton, VA
BAN20021941	Hae Jong Lee d/b/a Spice & Laundromat - To open a check casher at 9618 Grant Avenue, Manassas, VA
BAN20021942	Cash Connection Inc. d/b/a Checks Cashed VA - To open a check casher at 6332 Springfield Plaza, Springfield, VA
BAN20021943	Cash Connection Inc. d/b/a Checks Cashed VA - To conduct a payday lending business where a money transmission business will also be conducted
BAN20021945	World Lending Group, Inc. - For a mortgage lender and broker license
BAN20021946	Prime Properties of N.C., Inc. - For a mortgage broker's license
BAN20021947	American Fidelity, Inc. - For a mortgage lender's license
BAN20021948	Kenneth L. Daniel d/b/a American Mortgage Center - To open a mortgage broker's office at Old Forest Commercial Center, 3831 Old Forest Road, Suite 6, Lynchburg, VA
BAN20021949	JERBEC Enterprises, Inc. d/b/a Express Money Service - To open a check casher at 1300 Armory Drive, Unit 19, Franklin, VA
BAN20021950	Temple Mortgage, L.L.C. - To relocate mortgage broker's office from 358 West Freemason Street, Norfolk, VA to 5291 Greenwich Road, Virginia Beach, VA
BAN20021951	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 217 Hidden Valley Road, Tracys Landing, MD
BAN20021952	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 11402 Dunloring Place, Upper Marlboro, MD
BAN20021953	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 7 Monarch Drive, Sterling, VA
BAN20021954	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 8302B Old Courthouse Road, Vienna, VA
BAN20021955	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 2210 Savona Quay, Virginia Beach, VA
BAN20021956	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 13316 Fort Washington Road, Fort Washington, MD
BAN20021957	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 15209 WestBridge Court, Henderson, MD
BAN20021958	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 7992 Clipper Court, Frederick, MD
BAN20021959	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 3611 Branch Avenue, Suite 206, Temple Hills, MD
BAN20021960	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 2900 Tallow Lane, Bowie, MD
BAN20021961	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 1400 Rockville Pike, Rockville, MD
BAN20021962	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 11394 Fairway Drive, Reston, VA
BAN20021963	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 2570 Cove Point Place, Virginia Beach, VA
BAN20021964	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 22802 Cox Road, Petersburg, VA
BAN20021965	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 13601 Brandy Oaks Terrace, Chesterfield, VA
BAN20021966	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 8233 Rose Petal Drive, Florence, KY
BAN20021967	Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 601 Brady Street, Suite 208, Davenport, IA to 5055 Garner Court, Davenport, IA
BAN20021968	Integrity Financial Services, Inc. - For a mortgage lender's license
BAN20021969	Atlantic Bay Mortgage Group, L.L.C. - To relocate mortgage lender broker's office from 4419 Pheasant Ridge Road, Roanoke, VA to 3509 Hounds Chase Lane, Suite 101, Roanoke, VA
BAN20021970	Atlantic Bay Mortgage Group, L.L.C. - To relocate mortgage lender broker's office from 12600 Booker T. Washington Highway, Moneta, VA to 16366 Booker T. Washington Highway, Moneta, VA
BAN20021971	Atlantic Bay Mortgage Group, L.L.C. - To relocate mortgage lender broker's office from 430 East Main Street, Wytheville, VA to 184 West Main Street, Wytheville, VA
BAN20021972	Atlantic Bay Mortgage Group, L.L.C. - To relocate mortgage lender broker's office from 12350 Jefferson Avenue, Suite 250, Newport News, VA to 11715 Jefferson Avenue, Newport News, VA
BAN20021973	Guaranty Bank - To open a branch at 124 Main Street, Lovingson, VA
BAN20021974	Beach Mortgage Co., Inc. - For a mortgage broker's license
BAN20021975	Edward A. Cairo - For a mortgage broker's license
BAN20021976	4udirect, Inc. - For a mortgage lender's license
BAN20021977	TransCommunity Bankshares Incorporated - To acquire Bank of Goochland, N. A.
BAN20021978	First Southern Residential Mortgage, Inc. - For a mortgage broker's license
BAN20021979	Aegis Mortgage Corporation d/b/a UC Lending - To relocate mortgage lender's office from 7272 Wisconsin Avenue, Suite 313, Bethesda, MD to 7340 Executive Way, Unit S, Frederick, MD
BAN20021980	Cash & Go, Inc. of Virginia d/b/a Cash-N-Go - To open a payday lender's office at 7290 Centerville Road, Manassas, VA
BAN20021981	The Mortgage Link, Inc. - To relocate mortgage broker's office from 9511 Old Georgetown Road, Bethesda, MD to 800 S. Frederick Avenue, Suite 203, Gaithersburg, MD
BAN20021982	Check into Cash of Virginia, LLC d/b/a Check into Cash - To open a payday lender's office at 309 Aragona Boulevard, Suite 103, Virginia Beach, VA
BAN20021983	Check into Cash of Virginia, LLC d/b/a Check into Cash - To open a payday lender's office at 4750 Valley View Boulevard, NW, Suite 50, Roanoke, VA
BAN20021984	Check into Cash of Virginia, LLC d/b/a Check into Cash - To open a payday lender's office at 700 North Military Highway, Norfolk, VA
BAN20021985	Check into Cash of Virginia, LLC d/b/a Check into Cash - To open a payday lender's office at 2627 Front Street, Richlands, VA
BAN20021986	American Nationwide Mortgage Company, Inc. - For a mortgage lender and broker license
BAN20021987	Bankers Capital Corporation - For a mortgage broker's license
BAN20021988	Fairway Mortgage Corporation - For a mortgage broker's license
BAN20021989	Great Atlantic Mortgage, Inc. - For a mortgage broker's license

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BAN20021990 Homestead Funding Corp. - For additional mortgage authority  
 BAN20021991 Community First Bank - To open a branch at 8509 Timberlake Road, Lynchburg, VA  
 BAN20021992 First Community Bancshares, Inc. - To acquire Monroe Financial, Inc.  
 BAN20021993 UBS PaineWebber Mortgage, LLC - For a mortgage lender and broker license  
 BAN20021994 DBD Creations, Inc. - To open a check casher at 42382 John Mosby Highway, Chantilly, VA  
 BAN20021995 Advantage Investors Mortgage Corporation - To open a mortgage lender and broker's office at 315 S. Salem Street, Bldg. 300, Suite B-3, Apex, NC  
 BAN20021996 Household Realty Corporation D/B/A Household Realty Corporation of Virginia - To open a mortgage lender and broker's office at 636 Grand Regency Boulevard, Brandon, FL  
 BAN20021241 American General Financial Services of America, Inc. - To conduct consumer finance business where an auto club business will also be conducted  
 BAN20021998 East Coast Mortgage and Financial Services, Inc. - To relocate mortgage broker's office from 809 Bethlehem Pike, Building F, Spring House, PA to 455 Pennsylvania Avenue, Suite 230, Fort Washington, PA  
 BAN20021999 Atlantic Coast Mortgage Group Inc. - To relocate mortgage broker's office from 4041 Powder Mill Road, Suite 206, Calverton, MD to 4061 Powder Mill Road, Suite 550, Calverton, MD  
 BAN20022000 Check into Cash of Virginia, LLC d/b/a Check into Cash - To open a payday lender's office at 455 Merrimac Trail, Suite G, Williamsburg, VA  
 BAN20022001 The Anyloan Company - To relocate mortgage lender broker's office from 340 Commerce, Suite 200, Irvine, CA to 200 Commerce, Suite 100, Irvine, CA  
 BAN20022002 Znet Financial, LLC - For additional mortgage authority  
 BAN20022003 Gateway Bank & Trust Co. - To open a branch at 575 Cedar Road, Chesapeake, VA  
 BAN20022004 NovaStar Home Mortgage, Inc. - To relocate mortgage lender broker's office from 21308 Pathfinder Road, Suite 117, Diamond Bar, CA to 595 W. Lambert Road, Suite 200, Brea, CA  
 BAN20022005 NovaStar Home Mortgage, Inc. - To open a mortgage lender and broker's office at 532 Broadhollow Road, Suite 117, Melville, NY  
 BAN20022006 Check into Cash of Virginia, LLC d/b/a Check into Cash - To open a payday lender's office at 5905 High Street, Portsmouth, VA  
 BAN20022007 Check into Cash of Virginia, LLC d/b/a Check into Cash - To open a payday lender's office at 104 East Midland Trail, Lexington, VA  
 BAN20022008 Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 325 Laurel Street, Culpeper, VA to 9455 O'Bannon Lane, Culpeper, VA  
 BAN20022009 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 1870 Dougal Court, Great Falls, VA  
 BAN20022010 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 1212 Tillicum Drive, Worthington, OH  
 BAN20022011 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 124 East Main Street, Havelock, NC  
 BAN20022012 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 1618 Esquire Street, Norfolk, VA  
 BAN20022013 Allied Home Mortgage Capital Corporation - To open a mortgage lender and broker's office at 8114 Harford Road, Baltimore, MD  
 BAN20022014 QC Financial Services, Inc. d/b/a Quik Cash - To open a payday lender's office at 3800 Holland Road, Suite 104, Virginia Beach, VA  
 BAN20022015 Sunset Mortgage Company L.P. - To open a mortgage lender and broker's office at 1993 Moreland Parkway, Suite 104, Annapolis, MD  
 BAN20022016 GuardHill Financial Corp. - To relocate mortgage broker's office from 450 Park Avenue, Suite 2703, New York, NY to 950 3rd Avenue, New York, NY  
 BAN20022017 Crusader Cash Advance of Virginia, LLC - To open a payday lender's office at 220 Amelon Square Plaza, Madison Heights, VA  
 BAN20022018 Crusader Cash Advance of Virginia, LLC - To open a payday lender's office at 1287 Piney Forest Road, Danville, VA  
 BAN20022019 Crusader Cash Advance of Virginia, LLC - To open a payday lender's office at 1415 South Main Street, Danville, VA  
 BAN20022020 Amerisave Mortgage Corporation - For a mortgage broker's license  
 BAN20022021 Express Check Advance of Virginia, LLC d/b/a Express Check Advance - To open a payday lender's office at 250 East Main Street, Marion, VA  
 BAN20022022 Express Check Advance of Virginia, LLC d/b/a Express Check Advance - To open a payday lender's office at 3003 Lee Highway, Suite B, Bristol, VA  
 BAN20022023 TCF Financial Corporation - To acquire MainStreet Bankshares, Inc., Martinsville, VA  
 BAN20022024 Provident Bank of Maryland - To open a branch at 13053 Fair Lakes Shopping Center, Fairfax County, VA  
 BAN20022025 Ronald L. Price, Jr. d/b/a The Mortgage Center - To relocate mortgage broker's office from 1618 Roberts Street, Winchester, VA to 122 Dewberry Drive, Winchester, VA  
 BAN20022026 First Residential Mortgage Network, Inc. - To relocate mortgage lender broker's office from 7231 Forest Avenue, Suite 303, Richmond, VA to 7130 Glen Forest Drive, Suite 101, Richmond, VA  
 BAN20022027 Dung Dinh Tran /b/a US Mortgage & Investment Services - To relocate mortgage broker's office from 966 Hungerford Drive, Suite 11 B, Rockville, MD to 11900 Parklawn Drive, Suite 200, Rockville, MD  
 BAN20022028 Homestead Mortgage, L.C. - To relocate mortgage broker's office from 3877 Plaza Drive, Fairfax, VA to 10400 Eaton Place, Suite 400, Fairfax, VA  
 BAN20022029 North American Home Loans, Inc. - For a mortgage broker's license  
 BAN20022030 Branch Banking and Trust Company of Virginia - To open a branch at 141 Branch Banking Drive, Winchester, VA  
 BAN20022031 Ensign Mortgage, LLC - For a mortgage broker's license  
 BAN20022032 Eve Baldoza-Thomas d/b/a EMB Mortgage Funding - For a mortgage broker's license  
 BAN20022033 Godwin Mortgage Group, Inc. - For a mortgage broker's license  
 BAN20022034 USA Home Loans, Inc. - For a mortgage broker's license  
 BAN20022035 Severn Mortgage Corporation - For additional mortgage authority  
 BAN20022036 Homefirst Mortgage Corp. d/b/a MortgageFool.Com - To open a mortgage broker's office at 609 Diskin Place, Leesburg, VA  
 BAN20022037 Express Capital Lending, Inc. (Used in VA by: Express Capital Lending) - To relocate mortgage lender's office from 1401 Dove Street, Suite 100, Newport Beach, CA to 4000 Westerly Place, 2nd Floor, Newport Beach, CA  
 BAN20022038 Valley Broker Services, Inc. d/b/a VBS Mortgage - To open a mortgage broker's office at 2900 Peters Creek Road, Roanoke, VA  
 BAN20022039 Federal Funding Mortgage Corporation - To relocate mortgage lender broker's office from 440 W. Jubal Early Dr., Suite 110, Winchester, VA to 8133 Leesburg Pike, Suite 380, Vienna, VA  
 BAN20022040 First Equitable Mortgage Corp. - To open a mortgage lender and broker's office at 6213 Old Keene Mill Court, Springfield, VA  
 BAN20022041 First Savings Mortgage Corporation d/b/a Portfolio Funding Group - To open a mortgage lender and broker's office at 6862 Elm Street, Suite 210, McLean, VA

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BAN20022042	Taylor, Bean & Whitaker Mortgage Corp. - To open a mortgage lender's office at 755 Business Center Drive, Suite 150, Horsham Business Center, Horsham, PA
BAN20022043	Taylor, Bean & Whitaker Mortgage Corp. - To open a mortgage lender's office at 950 S Winter Park Drive, Suite 303, Casselberry, FL
BAN20022044	Advantage Home Mortgage, Inc. - To relocate mortgage broker's office from 12829 Lamp Post Lane, Potomac, MD to 12861 Huntsman Way, Potomac, MD
BAN20022045	Challenge Financial Investors Corp. - To open a mortgage broker's office at 1155 Tranquility Via, N.W., Christiansburg, VA
BAN20022046	Fidelity First Mortgage, Inc. - To relocate mortgage broker's office from 13710 Thorngate Road, Midlothian, VA to 13354 Midlothian Turnpike, Suite 206, Midlothian, VA
BAN20022047	Fabian Thomas d/b/a F & T Mortgage - To relocate mortgage broker's office from 5732 Woodmoss Lane, The Colony, TX to 15305 Dallas Parkway, Suite 300, Addison, TX
BAN20022048	All Fund, Inc. d/b/a All Fund Mortgage - To open a mortgage lender and broker's office at 287 Independence Blvd., Pembroke 2, Suite 245, Virginia Beach, VA
BAN20022049	All Fund, Inc. d/b/a All Fund Mortgage - To open a mortgage lender and broker's office at 975 Pontiac Avenue, Cranston, RI
BAN20022050	All Fund, Inc. d/b/a All Fund Mortgage - To open a mortgage lender and broker's office at 201 S. 160th Street, Suite 202, Spanaway, WA
BAN20022051	TriBeCa Lending Corp. - To relocate mortgage lender broker's office from 99 Hudson Street, 2nd Floor, New York, NY to 6 Harrison Street, New York, NY
BAN20022052	NovaStar Home Mortgage, Inc. - To open a mortgage lender and broker's office at 12555 Orange Drive, Suite 215, Davie, FL
BAN20022053	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 8387 F Montgomery Run Road, Ellicott City, MD
BAN20022054	Homefirst Mortgage Corp. d/b/a MortgageFool.Com - To open a mortgage broker's office at 25917 Flintnbridge Drive, South Riding, VA
BAN20022055	Homefirst Mortgage Corp. d/b/a MortgageFool.Com - To open a mortgage broker's office at 7926 Jackson Road, Alexandria, VA
BAN20022056	Homefirst Mortgage Corp. d/b/a MortgageFool.Com - To open a mortgage broker's office at 401-A S. Glebe Road, Arlington, VA
BAN20022057	Network Funding Corporation - For a mortgage lender's license
BAN20022058	Check into Cash of Virginia, LLC d/b/a Check into Cash - To open a payday lender's office at 3822 Kecoughtan Road, Hampton, VA
BAN20022059	Home Capital, Inc. - To relocate mortgage lender broker's office from 7 Dunwoody Park, Suite 104, Atlanta, GA to 9000 Central Park West, Suite 500, Atlanta, GA
BAN20022060	All American Mortgage Corporation - For a mortgage broker's license
BAN20022061	Atlantic Bay Mortgage Group, L.L.C. - To open a mortgage lender and broker's office at 452 Sunset Drive, Suite 4A, Blowing Rock, NC
BAN20022062	Atlantic Bay Mortgage Group, L.L.C. - To open a mortgage lender and broker's office at 7 Corporate Center Court, Suite B, Greensboro, NC
BAN20022063	Atlantic Bay Mortgage Group, L.L.C. - To open a mortgage lender and broker's office at 130 Franklin Street, Mount Airy, NC
BAN20022064	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 1756 Lanier Place, N.W., Washington, DC
BAN20022065	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 327 Soo Line Road, Hudson, WI
BAN20022066	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 2120 Bank Street, Baltimore, MD
BAN20022067	M.M.C.K., Inc. d/b/a Now & Again - To open a check casher at 6516 B Lankford Highway, Oak Hall, VA
BAN20022068	Atlantic Cash Group, Inc. d/b/a Minutemen Payday Loans - To open a check casher at 1814 Todds Lane, Suite J, Hampton, VA
BAN20022069	The Bank of Williamsburg - To relocate office from 610 Thimble Shoals Drive, Suite 102, Newport News, VA to 603 Pilot House Drive, Newport News, VA
BAN20022070	Union Bank and Trust Company - To relocate office from 10469 Atlee Station Road, Ashland, VA to 9665 Sliding Hill Road, Ashland, VA
BAN20022071	AEGIS Wholesale Corporation - To relocate mortgage lender's office from 7272 Wisconsin Avenue, Suite 313, Bethesda, MD to 7340 Executive Way, Unit U, Frederick, MD
BAN20022072	CH Mortgage Company I, Ltd., L.P. (Used in VA by: CH Mortgage Company I, Ltd.) - To open a mortgage lender and broker's office at 7001 N. Scottsdale Road, Suite 1027, Scottsdale, AZ
BAN20022073	Pulte Mortgage LLC - For a mortgage lender's license
BAN20022074	Exclusive Bancorp Inc. - For a mortgage broker's license
BAN20022075	Superior Mortgage Corporation - To relocate mortgage lender broker's office from 320 South Main Street, 3rd Floor, Emporia, VA to 320 South Main Street, 2nd Floor, Emporia, VA
BAN20022076	TransLand Financial Services, Inc. - To open a mortgage lender's office at 2138 Priest Bridge Court, Suite 7, Crofton, MD
BAN20022077	TransLand Financial Services, Inc. - To relocate mortgage lender's office from 13255 SW 137 Avenue, Suite 109, Miami, FL to 5019 Nation's Crossing Road, Suite 218, Charlotte, NC
BAN20022078	AEGIS Lending Corporation - To open a mortgage lender and broker's office at 4130 Oleander Drive, Suite 105, Wilmington, NC
BAN20022079	AEGIS Funding Corporation d/b/a AEGIS Home Equity - To open a mortgage lender's office at 2555 Kingston Road, Suite 260, York, PA
BAN20022080	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 3504 Brannon Drive, Virginia Beach, VA
BAN20022081	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 11805 Carol Avenue, Manassas, VA
BAN20022082	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 4317 Carly's Way, Greensboro, NC
BAN20022083	Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 4612 Sutton Oaks Drive, Chantilly, VA to 4612 Sutton Oaks Drive, Chantilly, VA
BAN20022084	Residential Mortgage Solutions, Inc. - For additional mortgage authority
BAN20022085	Check Advance of Virginia, LLC d/b/a Pay Day USA - For a payday lender license
BAN20022086	Ruben D. Pena - To be an exclusive agent for Primerica Financial Services Home Mortgages, Inc.
BAN20022087	Allpointe, LLC - For a mortgage broker's license
BAN20022088	Pinnacle Direct Funding Corporation - For a mortgage lender's license
BAN20022089	New Providence Mortgage, LLC - For a mortgage lender and broker license
BAN20022090	Atlantic Cash Group, Inc. d/b/a Minutemen Payday Loans - For a payday lender license
BAN20022091	CTS Electronic Filing, Inc. - To open a check casher at 2335 Sewells Point Road, Norfolk, VA
BAN20022092	Atlantic Cash Group, Inc. d/b/a Minutemen Payday Loans - To conduct a payday lending business where a tax preparation business will also be conducted

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BAN20022093 The Trust Company of Virginia - To open a new independent trust company branch at 8000 Towers Crescent Dr., Suite 640, Vienna, VA

BAN20022094 Sunset Mortgage Company L.P. - To relocate mortgage lender broker's office from 14001-C Saint Germain Drive, Centreville, VA to 6121 Occoquan Forest Drive, Manassas, VA

BAN20022095 Macquarie Mortgages USA Inc. - To relocate mortgage lender's office from 3238 Players Club Drive, Memphis, TN to 5125 Elmoro Road, Suite 6, Memphis, TN

BAN20022096 Tosh, Inc. - For a payday lender license

BAN20022097 Mortgage Group, USA Inc. - For a mortgage broker's license

BAN20022098 Cooper & Shein, LLC d/b/a C.S. Mortgage - To relocate mortgage broker's office from 10015 Old Columbia Road, Suite B-215, Columbia, MD to 6 Reservoir Circle, Unit 203, Baltimore, MD

BAN20022099 Buckeye Check Cashing of Virginia, Inc. d/b/a Check\$mart - To open a payday lender's office at 6620 E. Virginia Beach Boulevard, Norfolk, VA

BAN20022100 Buckeye Check Cashing of Virginia, Inc. - d/b/a Check\$mart - To open a payday lender's office at 467 Denbigh Boulevard, Newport News, VA

BAN20022101 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 2092 Schurbert Drive, Virginia Beach, VA

BAN20022102 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 9938 Capperton Drive, Oakton, VA

BAN20022103 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 287 Edgewood Drive, Mineral, VA

BAN20022104 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 304 1/2 Meadow Lane, Jackson, MI

BAN20022105 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 46751 Vermont Maple Terrace, Sterling, VA

BAN20022106 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 221 S. Division Street, Suffolk, VA

BAN20022107 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 1329 Welsh Run Road, Ruckersville, VA

BAN20022108 Jams-01, Inc. - To relocate mortgage lenders's office from 11758 Valley Ridge Circle, Fairfax, VA to 13800 Coppermine Road, Herndon, VA

BAN20022109 Jams-01, Inc. d/b/a Home Savings & Trust Mortgage - For additional mortgage authority

BAN20022110 The Marathon Bank - To open a branch at 199 Front Royal Pike, Frederick County, VA

BAN20022111 The Marathon Bank - To open a branch at 1725 N. Shenandoah Avenue, Front Royal, VA

BAN20022112 Gateway Funding Diversified Mortgage Services, L.P. - To relocate mortgage lender's office from 1009 Maitland Center Commons, Suite 207, Maitland, FL to 800 Concourse Parkway South, Suite 125, Maitland, FL

BAN20022113 The Milamar Corporation d/b/a Global Mortgage Resources - To relocate mortgage broker's office from 1268 Magnolia Lane, Herndon, VA to 40433 Milford Drive, Ashburn, VA

BAN20022114 AEGIS Funding Corporation d/b/a AEGIS Home Equity - To open a mortgage lender's office at 21700 East Copley Drive, Suite 320, Diamond Bar, CA

BAN20022115 K. Hovnanian Mortgage, Inc. - To open a mortgage lender and broker's office at Iron Mountain, 3501 Electronics Way, W. Palm Beach, FL

BAN20022116 Southern Financial Bank - To open a branch at 2208 Ivy Road, Charlottesville, VA

BAN20022117 American Mortgage Solutions, LLC - For a mortgage lender and broker license

BAN20022118 Check 'n Go of Virginia, Inc. d/b/a Check 'n Go - To open a payday lender's office at 522 N. Main Street, Emporia, VA

BAN20022119 Check 'n Go of Virginia, Inc. d/b/a Check 'n Go - To open a payday lender's office at 1159 West Ocean View Avenue, Suite B, Norfolk, VA

BAN20022120 Check 'n Go of Virginia, Inc. d/b/a Check 'n Go - To open a payday lender's office at 8100 George Washington Memorial Highway, Suite I, Yorktown, VA

BAN20022121 AEGIS Lending Corporation - To open a mortgage lender and broker's office at 675 Peter Jefferson Pkwy., Suite 100, Charlottesville, VA

BAN20022122 Aegis Mortgage Corporation d/b/a UC Lending - To open a mortgage lender's office at 675 Peter Jefferson Pkwy., Suite 100, Charlottesville, VA

BAN20022123 Dillon H. Lee - For a mortgage broker's license

BAN20022124 SAI Mortgage, Inc. - For a mortgage broker's license

BAN20022125 Commonsense Mortgage, Inc. - For a mortgage broker's license

BAN20022126 Royal Crown Bancorp - For a mortgage lender and broker license

BAN20022127 Barehut, Inc. d/b/a Speedy Cash - To open a check casher at 853 West Stuart Drive, Hillsville, VA

BAN20022128 UVEST Mortgage Services, LLC - To relocate mortgage lender's office from 128 South Tryon Street, 13th Floor, Charlotte, NC to 200 South College Street, 21st Floor, Charlotte, NC

BAN20022129 AEGIS Funding Corporation d/b/a AEGIS Home Equity - To relocate mortgage lender's office from 6160 Kempsville Circle, Suite 200B, Norfolk, VA to 885 Kempsville Road, Suite 313, Norfolk, VA

BAN20022130 Home Star Mortgage Services, LLC - To open a mortgage lender's office at 2055 Sugarloaf Circle, Suite 200, Duluth, GA

BAN20022131 Home Star Mortgage Services, LLC - To open a mortgage lender's office at One Paragon Drive, Suite 255, Montvale, NJ

BAN20022132 Home Star Mortgage Services, LLC - To open a mortgage lender's office at 1000 Bridgeport Avenue, Shelton, CT

BAN20022133 Home Star Mortgage Services, LLC - To open a mortgage lender's office at 609 Castle Ridge Road, Suite 200, Austin, TX

BAN20022134 Check into Cash of Virginia, LLC d/b/a Check into Cash - To open a payday lender's office at 2544 Bainbridge Boulevard, Chesapeake, VA

BAN20022135 Valley Team Mortgage, Inc. - To open a mortgage broker's office at 1601 Wilbur Road, Roanoke, VA

BAN20022136 Michael O. Crawford d/b/a Michael O. Crawford Financial Resources - To relocate mortgage broker's office from 9420 Developers Drive, Manassas, VA to 9358 Main Street, Manassas, VA

BAN20022137 Skyline Mortgage Group, L.C. - To open a mortgage broker's office at 7361 McWorther Place, Suite 320, Annandale, VA

BAN20022138 Option One Mortgage Corporation - To relocate mortgage lender broker's office from 15310 Barranca Parkway, Irvine, CA to 6561 Irvine Center Drive, Irvine, CA

BAN20022139 Tosh, Inc. - To conduct a payday lending business where a money transmission business will also be conducted

BAN20022140 Challenge Financial Investors Corp. - To open a mortgage broker's office at 374 Market Street, Elmwood Park, NJ

BAN20022141 Cornerstone Mortgage, Inc. - To open a mortgage broker's office at 9774 Lakepointe Drive, Burke, VA

BAN20022142 Cornerstone Mortgage, Inc. - To open a mortgage broker's office at 3607 Crest Drive, Annandale, VA

BAN20022143 Farmers Bank, Windsor, Virginia - To open a branch at southeast corner of Route 10 and Hillpoint Boulevard, North, Suffolk, VA

BAN20022144 Donald O. King d/b/a Access Mortgage Kod - To open a mortgage broker's office at 110 Maycox Avenue, Suite 4, Norfolk, VA

BAN20022145 Center for Child & Family Services, Inc. d/b/a Consumer Credit Counseling Service of Hampton Roads - To open an additional debt counseling office at 312 Waller Mill Road, Williamsburg, VA

BAN20022146 AmerUs Home Equity, Inc. - To relocate mortgage lender's office from 1901 Bell Avenue, Suite 15, Des Moines, IA to 4101 NW Urbandale Drive, Urbandale, IA

BAN20022147 Plaza Izalico, Inc. - To open a check casher at 50 S. Picket Street #7164, Alexandria, VA

BAN20022148 NovaStar Home Mortgage, Inc. - To open a mortgage lender and broker's office at 911 Paverstone Drive, Raleigh, NC

BAN20022149 Crusader Cash Advance of Virginia, LLC - To open a payday lender's office at 1796 Apperson Drive, Salem, VA

BAN20022150 Crusader Cash Advance of Virginia, LLC - To open a payday lender's office at 7623 Granby Street, Norfolk, VA

BAN20022151 Crusader Cash Advance of Virginia, LLC - To open a payday lender's office at 6157 Virginia Beach Boulevard, Norfolk, VA

BAN20022152 Priority Mortgage, Inc. - For additional mortgage authority

BAN20022153 Amigo Supermarket Inc. - To open a check casher at 4609 Jefferson Davis Highway, Richmond, VA

BAN20022154 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 1022 Rensselaer Court, Fredericksburg, VA

BAN20022155 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 1118 Marlene Lane, Suite 100, Great Falls, VA

BAN20022156 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 813 Tavern Green Road, Glen Allen, VA

BAN20022157 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 11 Stewart Place, Fairfield, NJ

BAN20022158 Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 10 S. Boulevard, Suite 2, Richmond, VA to 4107 Sunset Avenue, Chester, VA

BAN20022159 Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 1321 Riverweed Way, Curtis Bay, MD to One Corporate Center, 10451 Mill RunCircle, Owings Mills, MD

BAN20022160 Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 13237 Custom House Court, Fairfax, VA to 40736 Red Hill Road, Leesburg, VA

BAN20022161 Harvest Mortgage, LLC - For a mortgage broker's license

BAN20022162 Penn Mortgage Bank Corp. - For a mortgage broker's license

BAN20022163 Planters Bank & Trust Company of Virginia - To open a branch at 390 University Boulevard, Harrisonburg, VA

BAN20022164 CH Mortgage Company I, Ltd., L.P. (Used in VA by: CH Mortgage Company I, Ltd.) - To open a mortgage lender and broker's office at 1370 Piccard Drive, Suite 230, Rockville, MD

BAN20022165 NovaStar Home Mortgage, Inc. - To relocate mortgage lender broker's office from 17934 Brennan Avenue, Prairieville, LA to 11550 New Castle, Baton Rouge, LA

BAN20022166 The Carolina Mortgage Group LLC - To relocate mortgage broker's office from 1183 Sunset Boulevard, West, Columbia, SC to 950 Sunset Boulevard, West, Columbia, SC

BAN20022167 Approval One Mortgage LLC - For a mortgage broker's license

BAN20022168 United Standard Mortgage Corporation - For a mortgage broker's license

BAN20022169 First Trust Mortgage Company, LLC - For a mortgage broker's license

BAN20022170 Columbia National, Incorporated - To open a mortgage lender and broker's office at 12801 Darby Booke Court, Suite 101, Woodbridge, VA

BAN20022171 Pennwest Home Equity Services Corporation - To relocate mortgage lender broker's office from 141 Church Street, Hooversville, PA to 700 Liberty Avenue, Johnstown, PA

BAN20022172 Branch Banking and Trust Company of Virginia - To relocate office from 34 Franklin Street, Petersburg, VA to 117 West Washington Street, Petersburg, VA

BAN20022173 Madison Funding, Inc. - To relocate mortgage broker's office from 2513 N. Charles Street, Baltimore, MD to 2530 N. Charles Street, Suite 200, Baltimore, MD

BAN20022174 Washington Capitol Financial Corp. - To relocate mortgage broker's office from 5103 Crossfield Court, Suite 12, Rockville, MD to 8150 Leesburg Pike, Suite 710, Vienna, VA

BAN20022175 Primary Residential Mortgage, Inc. - To relocate mortgage lender broker's office from 7726 Williamson Road, Roanoke, VA to 5229 Wipledale Avenue, Roanoke, VA

BAN20022176 RateOne Home Loans, LLC - To relocate mortgage lender's office from 6850 Bermuda Road, Suite 140, Las Vegas, NV to 7660 South Industrial Road, Suite 201B, Las Vegas, NV

BAN20022177 Alambry Funding Inc. - To relocate mortgage broker's office from 611 Moorefield Park Drive, Suite C, Richmond, VA to 711 Moorefield Park Drive, Suite E, Richmond, VA

BAN20022178 Independent Realty Capital Corporation - To open a mortgage lender and broker's office at 1001 W. 17th Street, Unit W, Costa Mesa, CA

BAN20022179 Check 'n Go of Virginia, Inc. d/b/a Check 'n Go - To open a payday lender's office at 4416 Portsmouth Boulevard, Suite D, Chesapeake, VA

BAN20022180 Sunset Mortgage Company L.P. - To relocate mortgage lender broker's office from 1400 Chestnut Drive, Christiansburg, VA to 2211 Lake Vista Drive, Christiansburg, VA

BAN20022181 Resource Mortgage Banking, Ltd. - To relocate mortgage lender's office from 565 Taxter Road, Suite 620, Elmsford, NY to 560 White Plains Road, Suite 400, Tarrytown, NY

BAN20022182 A. Anderson Scott Mortgage Group, Incorporated - To relocate mortgage broker's office from 1734 Elton Road, Suite 207, Silver Spring, MD to 1738 Elton Road, Suite 318, Silver Spring, MD

BAN20022183 A. Anderson Scott Mortgage Group, Incorporated - To relocate mortgage broker's office from 7700 Leesburg Pike, Suite 400, Falls Church, VA to 7702 Leesburg Pike, Suite 400, Falls Church, VA

BAN20022184 Justin Enterprises, Inc. d/b/a Cash To Payday - To open a payday lender's office at 120 Monroe Street, Narrows, VA

BAN20022185 BSM Financial, L.P. - For a mortgage lender's license

BAN20022186 Brooke Enterprises, Inc. d/b/a Cash Today - To open a payday lender's office at 121 North Johnson Drive, Pennington Gap, VA

BAN20022187 Brooke Enterprises, Inc. d/b/a Cash Today - To open a payday lender's office at 935 North Main Street, Marion, VA

BAN20022188 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 8798 DeBlanc Place, Manassas, VA

BAN20022189 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 5809 Justina Drive, Lanham, MD

BAN20022190 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 5552 April Journey, Columbia, MD

BAN20022191 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 940 Erich Road, Richmond, VA

BAN20022192 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 2042 Somerville Road, Annapolis, MD

BAN20022193 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 1110 Rosehill Drive, Suite 101, Charlottesville, VA



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BAN20021571	Universal Credit Corporation of VA d/b/a The Cash Company of Bristol, VA - To conduct a payday lending business where a tax preparation business will also be conducted
BAN20022195	Gulfport Financial, L.L.C. - For a payday lender license
BAN20022196	Security Mortgage Corporation of Virginia (Used in VA by: Security Federal Mortgage Corporation) - For a mortgage broker's license
BAN20022197	Paramount Capital Mortgage Corp. - For a mortgage broker's license
BAN20022198	Harbor Bank - To open a branch at 1100 William Styron Square South, Suite C, Newport News, VA
BAN20022199	Nations Lending, L.L.C. - For a mortgage broker's license
BAN20022200	Landmark Funding LLC - For a mortgage lender and broker license
BAN20022201	Primary Residential Mortgage, Inc. - To open a mortgage lender and broker's office at 3508 Mare Lane, Virginia Beach, VA
BAN20022202	Encore Credit Corp. - To open a mortgage lender and broker's office at 1901 Butterfield Road, Suite 1010, Downers Grove, IL
BAN20022203	Encore Credit Corp. - To open a mortgage lender and broker's office at 5850 Canoga Avenue, Suite 400, Woodland Hills, CA
BAN20022204	CH Mortgage Company I, Ltd., L.P. (Used in VA by: CH Mortgage Company I, Ltd.) - To open a mortgage lender and broker's office at 3949 Browning Place, Suite 101, Raleigh, NC
BAN20022205	CH Mortgage Company I, Ltd., L.P. (Used in VA by: CH Mortgage Company I, Ltd.) - To open a mortgage lender and broker's office at 411-J Parkway Drive, Greensboro, NC
BAN20022206	Piedmont Cash Loans, Inc. - To open a payday lender's office at 825 West Danville Street, South Hill, VA
BAN20022207	Piedmont Cash Loans, Inc. - To open a payday lender's office at 806 East Main Street, Suite 1C, Bedford, VA
BAN20022208	Fidelity & Trust Mortgage, Inc. - To open a mortgage lender's office at 8121 Woodmont Avenue, Suite 850, Bethesda, MD
BAN20022209	Fidelity & Trust Mortgage, Inc. - To relocate mortgage lender's office from 6828 Commerce Street, Suite 102, Springfield, VA to 13562 Jefferson Davis Hwy., Suite 100, Woodbridge, VA
BAN20022210	Affinity Mortgage Company, Inc. - To relocate mortgage broker's office from 2754 Coquina Drive, Charleston, SC to 1466 Cloy Shawnee Road, Cloy, GA
BAN20022211	Fidelity & Trust Mortgage, Inc. - To relocate mortgage lender's office from 12800 Middlebrook Road, Suite 1, Germantown, MD to 200 Orchard Ridge Drive, Gaithersburg, MD
BAN20022212	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 141 Old Orange Park Road, Suite 281, Orange Park, FL
BAN20022213	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 403 Sugarland Run Drive, Sterling, VA
BAN20022214	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 509 Tolbert Court, Stafford, VA
BAN20022215	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 739 Richwil Drive, Salisbury, MD
BAN20022216	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 1002 Dalebrook Drive, Alexandria, VA
BAN20022217	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 2905 Franklin's Chance Drive, Fallston, MD
BAN20022218	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 6843 Stone Maple Terrace, Centreville, VA
BAN20022219	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 9613 Fireside Drive, Glen Allen, VA
BAN20022220	Shree Ganpati, Inc. - To open a check casher at 338 Amaret Street, Fredericksburg, VA
BAN20022221	Cashworks, Inc. - To open a check casher at 4648 Jefferson Davis Highway, Richmond, VA
BAN20022222	First Virginia Bank-Colonial - To open a branch at 600 East Main Street, Richmond, VA
BAN20022223	Royal Mortgage Bankers, Inc. - For a mortgage broker's license
BAN20022224	Foundation Funding Group, LLC - For a mortgage broker's license
BAN20022225	Bright Savings Mortgage Corporation - For a mortgage broker's license
BAN20022226	Revex Mortgage Services LLC - For additional mortgage authority
BAN20022227	NFS Loans, Inc. - For a mortgage broker's license
BAN20022228	Capitol Financial Services, Inc. d/b/a Capitol Home Mortgage - To open a mortgage lender and broker's office at 7 North 25th Street, Suite 200, Richmond, VA
BAN20022229	Jim K. Chang d/b/a T & B Mortgage Enterprises - To relocate mortgage broker's office from 5866 Old Centreville Road, Centreville, VA to 12015 Lee Jackson Highway, Suite 540, Fairfax, VA
BAN20022230	Fairfax Mortgage, Inc. d/b/a Mortgage Design - To relocate mortgage broker's office from 14233 Caroline Street, Woodbridge, VA to 829 Woodbine Court, Purcellville, VA
BAN20022231	NorthStar Mortgage Corp. d/b/a AAXA Discount Mortgage - To relocate mortgage broker's office from 890 S. Kerr Avenue, Wilmington, NC to 6322 Oleander Drive, Wilmington, NC
BAN20022232	ADCO Financial Mortgage Services, Inc. - To relocate mortgage lender's office from 8909 Deer Run Drive, Copper Hill, VA to 311 Day Avenue, Roanoke, VA
BAN20022233	First Fidelity Mortgage, Inc. - To relocate mortgage lender broker's office from 13 N. Loudoun Street, Winchester, VA to 117 E. Piccadilly Street, Suite 100-B, Winchester, VA
BAN20022234	Capital Mortgage Corp. - To relocate mortgage broker's office from 505 S. Independence Boulevard, Virginia Beach, VA to 372 S. Independence Boulevard, Suite 106, Virginia Beach, VA
BAN20022235	1st Atlas Mortgage Corporation - To relocate mortgage broker's office from 407 Oakmeads Crescent, Suite 101, Virginia Beach, VA to 5690 Greenwich Road, Virginia Beach, VA
BAN20022236	Choice Capital Funding, Inc. - To relocate mortgage lender's office from 221 Roswell Street, Suite 150, Alpharetta, GA to 223 Roswell Street, Suite 100, Alpharetta, GA
BAN20022237	BNC Mortgage, Inc. - To relocate mortgage lender broker's office from 1063 McGaw Avenue, Irvine, CA to 1901 Main Street, Irvine, CA
BAN20022238	Prosper Mortgage Corporation - To open a mortgage broker's office at 2444 Harpoon Drive, Stafford, VA
BAN20022239	American Mortgage Network, Inc. - To open a mortgage lender's office at 9020 Stoney Point Parkway, 4th Floor, Richmond, VA
BAN20022240	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 620 Baybush Drive, Raleigh, NC
BAN20022241	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 691 N. Central Drive, Chandler, AZ
BAN20022242	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 944 South Wakefield Street, Suite 200, Arlington, VA
BAN20022243	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 1326 South Main Street, Phillipsburg, NJ
BAN20022244	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 1740 Dressage Drive, Reston, VA
BAN20022245	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 2971 Ouray Street, Springdale, AZ
BAN20022246	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 4611 Winding Stone Circle, Olney, MD
BAN20022247	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 4732 Neptune Drive, Alexandria, VA

## ANNUAL REPORT OF THE STATE CORPORATION COMMISSION

BAN20022248 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 5126 Myrtle Leaf Drive, Fairfax, VA  
 BAN20022249 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 6801-B Backlick Road, Springfield, VA  
 BAN20022250 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 7700 Heatherside Lane, Ellicott City, MD  
 BAN20022251 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 10107 Tummel Falls Drive, Bristow, VA  
 BAN20022252 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 11353 Ledge Lane, Windermere, FL  
 BAN20022253 Advance America, Cash Advance Centers of Virginia, Inc. d/b/a Advance America, Cash Advance Centers - To open a payday lender's office at 3424 Orange Avenue, NE, Roanoke, VA  
 BAN20022254 Option One Mortgage Corporation - To open a mortgage lender and broker's office at 1600 Parkwood Circle, S.E., Suite 615, Atlanta, GA  
 BAN20022256 SequoiaBank - To open a branch at 1960 Gallows Road, Suite 100, Vienna, VA  
 BAN20022257 Extol Corporation, Inc. d/b/a QUICK CHECK: Cash Advance - To conduct a payday lending business where a retail sales and rental business will also be conducted  
 BAN20022258 Accel Mortgage Inc. - For a mortgage broker's license  
 BAN20022259 Lawrence A Rao - For a mortgage broker's license  
 BAN20022260 Harbor Bank - To open a branch at 6515 George Washington Memorial Highway, Yorktown, VA  
 BAN20022261 Universal Mortgage & Finance, Inc. - For a mortgage broker's license  
 BAN20022262 First Midland Mortgage Company, L.L.C. - For additional mortgage authority  
 BAN20022263 Triad Financial Services, Inc. - For a mortgage lender's license  
 BAN20022264 First Virginia Bank-Hampton Roads - To open a branch at southwest corner of U.S. Route 17 and Business Route 17, Gloucester, VA  
 BAN20022265 BancNet LLC - For a mortgage broker's license  
 BAN20022266 Cornerstone Mortgage Services, Inc. - For a mortgage broker's license  
 BAN20022267 Principal Residential Mortgage, Inc. - To open a mortgage lender and broker's office at 316 Burnside Street, Suite 503, Annapolis, MD  
 BAN20022268 First Home Mortgage Corporation - To open a mortgage lender and broker's office at 13800 Coppermine Road, 1st Floor, Herndon, VA  
 BAN20022269 Empire Equity Group, Inc. d/b/a 1st Metropolitan Mortgage - To open a mortgage broker's office at 2214 Route 37, East, Toms River, NJ  
 BAN20022270 Gateway Funding Diversified Mortgage Services, L.P. - To relocate mortgage lender's office from One High Street Court, Morristown, NJ to 8 High Street, Morristown, NJ  
 BAN20022271 RateOne Home Loans, LLC - To relocate mortgage lender's office from 21650 Oxnard Street, 3rd Floor, Woodland Hills, CA to 10990 Wilshire Boulevard, 9th Floor, Los Angeles, CA  
 BAN20022272 Allied Home Mortgage Capital Corporation - To relocate mortgage lender broker's office from 4715 Cordell Avenue, 2nd Floor, Bethesda, MD to 4927 Auburn Avenue, Bethesda, MD  
 BAN20022273 United California Systems International, Inc. - To open a mortgage lender's office at 3122 Golansky Boulevard, Woodbridge, VA  
 BAN20022274 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 3504 Regret Lane, Virginia Beach, VA  
 BAN20022275 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 13800 Rampant Lion Court, Centreville, VA  
 BAN20022276 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 13801 Exhall Drive, Chester, VA  
 BAN20022277 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 2001 Buggy Drive, Richmond, VA  
 BAN20022278 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 1940 Falling Sun Circle, Virginia Beach, VA  
 BAN20022279 Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 1910 Owens Road, Oxon Hill, MD to 10706 Featherstone Drive, Fort Washington, MD  
 BAN20022280 Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 2570 Cove Point Place, Virginia Beach, VA to 2535 Regan Avenue, Virginia Beach, VA  
 MortgageStar, Inc. - To open a mortgage lender and broker's office at 3209 Purvis Road, Richmond, VA  
 BAN20022281 Penguin Mortgage Company, Inc. - To open a mortgage broker's office at 1836 Fairfield Road, Bedford, VA  
 BAN20022282 Edward D. Jones & Co., L.P. d/b/a EdwardJones - To open a mortgage broker's office at 801 Volvo Parkway, Unit 128, Chesapeake, VA  
 BAN20022283 Center for Child & Family Services, Inc. d/b/a Consumer Credit Counseling Service of Hampton Roads - To open an additional debt counseling office at 12644 Jefferson Avenue, Newport News, VA  
 BAN20022284 NovaStar Home Mortgage, Inc. - To open a mortgage lender and broker's office at 417 Oealla Avenue, 1st Floor, Catonsville, MD  
 BAN20022285 Pennwest Home Equity Services Corporation - To open a mortgage lender and broker's office at 610 Thimble Shoals Boulevard, Suite 302 B, Newport News, VA  
 BAN20022287 Cornerstone Mortgage Group Inc. - To relocate mortgage broker's office from 610 Thimble Shoals Boulevard, Newport News, VA to 610 Thimble Shoals Boulevard, Suite 402B, Newport News, VA  
 BAN20022288 PayRite Mortgage, LLC - For a mortgage broker's license  
 BAN20022289 Oceana Cash Advance, LLC - For a payday lender license  
 BAN20022290 James C. Dotson - For a payday lender license  
 BAN20022291 Cavalier Mortgage Group, L.L.C. - For a mortgage broker's license  
 BAN20022292 Molton, Allen & Williams Mortgage Company, L.L.C. - To open a mortgage lender and broker's office at 105 N. Virginia Avenue, Suite 307, Falls Church, VA  
 BAN20022293 Home Loan Center, Inc. - To relocate mortgage lender broker's office from 2010 Main Street, Suite 850, Irvine, CA to 18191 Von Karman Avenue, Suite 300, Irvine, CA  
 BAN20022294 Express Mortgage Corp. of Virginia (Used in VA by: American Mortgage Express Corp.) - To open a mortgage lender and broker's office at 18000 Horizon Way, Suite 100, Mount Laurel, NJ  
 BAN20022295 Express Mortgage Corp. of Virginia (Used in VA by: American Mortgage Express Corp.) - To open a mortgage lender and broker's office at 1415 Route 70 East, Suite 311, Cherry Hill, NJ  
 BAN20022296 Express Mortgage Corp. of Virginia (Used in VA by: American Mortgage Express Corp.) - To open a mortgage lender and broker's office at 377 Route 17 South, Suite 410, Hasbrouck Heights, NJ  
 BAN20022297 Express Mortgage Corp. of Virginia (Used in VA by: American Mortgage Express Corp.) - To open a mortgage lender and broker's office at 10800 Main Street, Suite 150, Fairfax, VA  
 BAN20022298 Express Mortgage Corp. of Virginia (Used in VA by: American Mortgage Express Corp.) - To open a mortgage lender and broker's office at 262 Chapman Road, Suite 104, Newark, DE  
 BAN20022299 Express Mortgage Corp. of Virginia (Used in VA by: American Mortgage Express Corp.) - To open a mortgage lender and broker's office at 1075 Cranbury-South River Rd., Suite 9, Jamesburg, NJ

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BAN20022300 The White Oak Mortgage Group, LLC - To relocate mortgage lender broker's office from Roslyn III - Executive, Suite 320, Colonial Heights, VA to 206 Temple Avenue, Colonial Heights, VA

BAN20022301 American Residential Funding, Inc. - To relocate mortgage lender broker's office from 1191 King Edwards Way, Harrisonburg, VA to 165 S. Main Street, Suite E, Harrisonburg, VA

BAN20022302 Advance Financial Services, LLC - For a payday lender license

BAN20022303 Community Mortgage Centers, LLC d/b/a The Mortgage Store U.S.A. (Richmond Only) - To relocate mortgage broker's office from 1455 Old Bridge Road, Suite 206, Woodbridge, VA to 1529 Old Bridge Road, Suite 9, Woodbridge, VA

BAN20022304 Mortgage and Equity Funding Corporation - To relocate mortgage lender broker's office from 444 N. Frederick Avenue, Suite 306, Gaithersburg, MD to 24 Montgomery Village Ave., Suite D, Gaithersburg, MD

BAN20022305 Allied Home Mortgage Capital Corporation - To open a mortgage lender and broker's office at 2450 Riva Road, Suite B, Annapolis, MD

BAN20022306 Allied Home Mortgage Capital Corporation - To open a mortgage lender and broker's office at 4201 Northview Drive, Suite 103, Bowie, MD

BAN20022307 Allied Home Mortgage Capital Corporation - To open a mortgage lender and broker's office at 4201 Northview Drive, Suite 507, Bowie, MD

BAN20022308 Allied Home Mortgage Capital Corporation - To open a mortgage lender and broker's office at 5823 Allentown Way, Camp Springs, MD

BAN20022309 New Century Mortgage Corporation - To relocate mortgage lender broker's office from 12801 Worldgate, Suite 503, Herndon, VA to 11730 Plaza America Drive, Suite 650, Reston, VA

BAN20022310 Primerica Financial Services Home Mortgages, Inc. - To relocate mortgage broker's office from 13592 Minnieville Road, Woodbridge, VA to 12608 A Lake Ridge Drive, Woodbridge, VA

BAN20022311 Kastle Mortgage Services, Inc. - For a mortgage broker's license

BAN20022312 Crusader Cash Advance of Virginia, LLC - To open a payday lender's office at 9624 Warwick Boulevard, Newport News, VA

BAN20022313 Crusader Cash Advance of Virginia, LLC - To open a payday lender's office at 3082 Airline Boulevard, Portsmouth, VA

BAN20022314 Crusader Cash Advance of Virginia, LLC - To open a payday lender's office at 13771 Warwick Boulevard, Newport News, VA

BAN20022315 Crusader Cash Advance of Virginia, LLC - To open a payday lender's office at 2036 Victory Boulevard, Portsmouth, VA

BAN20022316 Crusader Cash Advance of Virginia, LLC - To open a payday lender's office at 6083 High Street, Portsmouth, VA

BAN20022317 Southeast Funding, Inc. d/b/a Chesapeake Bay Mortgage Funding - To relocate mortgage broker's office from 1023 Laskin Road, Suite 103, Virginia Beach, VA to 1520 Stone Moss Court, Suite 303, Virginia Beach, VA

BAN20022318 A Money Matter Mortgage Inc. - To relocate mortgage broker's office from 8433 Euclid Avenue, Manassas Park, VA to 7353 McWhorter Place, Suite 210, Annandale, VA

BAN20022319 Atlantic Bay Mortgage Group, L.L.C. - To open a mortgage lender and broker's office at 1508 Military Cut Off #204, Wilmington, NC

BAN20022320 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 8633 Terrace Garden Way, Bethesda, MD

BAN20022321 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 6621 Rockglen Way, Suite 205, Raleigh, NC

BAN20022322 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 4613 Old Smith Valley Road, Greenwood, IN

BAN20022323 Sharon L. Borst - For a mortgage broker's license

BAN20022324 Girosol Corp. - For a money order license

BAN20022325 H&R Block Mortgage Corporation - To relocate mortgage lender broker's office from 6678 Owens Drive, Pleasanton, CA to 4256 Hacienda Lakes Drive, Suite 100, Pleasanton, CA

BAN20022326 Weststar Mortgage, Inc. - To open a mortgage lender and broker's office at 408 Oakmeads Crescent Suite 202, Virginia Beach, VA

BAN20022327 1st Nations Mortgage Corporation - To open a mortgage broker's office at 106 South Street, Charlottesville, VA

BAN20022328 Weststar Mortgage, Inc. - To open a mortgage lender and broker's office at 14890 Washington Street, Haymarket, VA

BAN20022329 America's Mortgage Broker, L.L.C. d/b/a Affordable Home Funding - To open a mortgage lender and broker's office at 2505 Evelyn Byrd Avenue, Suite B, Harrisonburg, VA

BAN20022330 CH Mortgage Company I, Ltd., L.P. (Used in VA by: CH Mortgage Company I, Ltd.) - To open a mortgage lender and broker's office at 12357 Riata Trace Parkway, Suite C150, Austin, TX

BAN20022331 All Fund, Inc. d/b/a All Fund Mortgage - To open a mortgage lender and broker's office at 27205 148th Avenue, SE, Suite 107, Kent, WA

BAN20022332 Key Financial Corporation - For a mortgage broker's license

BAN20022333 Sunny K Sim d/b/a Rogerson Brothers Grocery - To open a check casher at 3014 Jefferson Avenue, Newport News, VA

BAN20022334 Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 1522 Plantation Lakes Circle, Chesapeake, VA to 414 Oakmeads Crescent, Suite 101, Virginia Beach, VA

BAN20022335 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 16 Rhodes Place, Lutherville, MD

BAN20022336 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 1605 Maurice Drive, Woodbridge, VA

BAN20022337 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 3706 Crondall Lane Suite 100, Owings Mill, MD

BAN20022338 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 7901 Keech Road, Charlotte Hall, MD

BAN20022339 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 10616 Cobblestone Drive, Spotsylvania, VA

BAN20022340 Benchmark Community Bank - To open a branch at 410 Church Street, Blackstone, VA

BAN20022341 East West Mortgage Company, Inc. - To open a mortgage lender and broker's office at 5653 Columbia Pike, Suite 201, Falls Church, VA

BAN20022342 Southern Trust Mortgage, LLC - To open a mortgage lender and broker's office at 690 Berkmar Crossing, Charlottesville, VA

BAN20022343 Franklin Mortgage Corporation - To open a mortgage broker's office at 1019 Glendale Road, Charlottesville, VA

BAN20022344 Advantage Mortgage Services, Inc. - To relocate mortgage broker's office from 20 West Main Street, Christiansburg, VA to 16 East Main Street, Christiansburg, VA

BAN20022345 Phyllis W. Rupprecht - To be an exclusive agent for Primerica Financial Services Home Mortgages, Inc.

BAN20022346 Big Tiger, Inc. d/b/a Food Tiger - To open a check casher at 2115 Jefferson Avenue, Newport News, VA

BAN20022347 Cash & Go, Inc. - To open a check casher at 6230 A North King Highway, Alexandria, VA

BAN20022348 MortgageIT, Inc. d/b/a MIT Lending (Rockville, Md. only) - To relocate mortgage lender broker's office from 1065 Old Country Road, Westbury, NY to 1000 Woodbury Road, Woodbury, NY

BAN20022349 MorEquity of Nevada, Inc. (Used in VA by: MorEquity, Inc.) - To relocate mortgage lender broker's office from 600 North Royal Avenue, Evansville, IN to 5010 Carriage Drive, Evansville, IN

BAN20022350 All Fund, Inc. d/b/a All Fund Mortgage - To open a mortgage lender and broker's office at 3506 Chamberlayne Avenue, Richmond, VA

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BAN20022351 1st Liberty Mortgage Company - To open a mortgage broker's office at 7816 South Valley Drive, Fairfax Station, VA  
 BAN20022352 Maryland Residential Lending LLC - For a mortgage broker's license  
 BAN20022353 Old Town Funding of Occoquan - For a mortgage broker's license  
 BAN20022354 Guardian Mortgage Services, Inc. - For a mortgage broker's license  
 BAN20022355 Allied Home Mortgage Capital Corporation - To open a mortgage lender and broker's office at 7918 Jones Branch Drive, Suite 600, McLean, VA  
 BAN20022356 Oceana Cash Advance, LLC - To conduct a payday lending business where a tile installation business will also be conducted  
 BAN20022357 Cash Express of Virginia, Inc. - To open a check casher at 606 West City Point Road, Hopewell, VA  
 BAN20022358 Money Management International, Inc. - To open a debt counseling office  
 BAN20022359 Elite Funding Corporation - To open a mortgage lender and broker's office at 2120 L Street, N.W. Suite 530, Washington, DC  
 BAN20022360 InterBay Funding, LLC - To relocate mortgage lender's office from 2601 South Bayshore Drive, Suite 400, Miami, FL to 4425 Ponce De Leon Boulevard, 4th Fl., Coral Gables, FL  
 BAN20022361 Primary Residential Mortgage, Inc. - To open a mortgage lender and broker's office at 1368 Rockfish Valley Highway, Nellysford, VA  
 BAN20022362 Mortgage Processing Incorporated - For a mortgage broker's license  
 BAN20022363 Check into Cash of Virginia, LLC d/b/a Check into Cash - To open a payday lender's office at 4908 West Mercury Boulevard, Hampton, VA  
 BAN20022364 Check into Cash of Virginia, LLC d/b/a Check into Cash - To open a payday lender's office at 3972 Holland Road, Virginia Beach, VA  
 BAN20022365 Ruby Cash, Corp. - To open a check casher at 114 West Broad Street, Falls Church, VA  
 BAN20022366 Eagle Financial, Incorporated - For a payday lender license  
 BAN20022367 Chawky Bourtos Jabaly - For a mortgage broker's license  
 BAN20022368 Century 21 Mortgage Corporation - For a mortgage lender and broker license  
 BAN20022369 EMMCO Credit Corp. - For a mortgage lender and broker license  
 BAN20022370 First Military Mortgage, Inc. - For a mortgage broker's license  
 BAN20022371 Chancellor Mortgage and Funding Company, LC - For a mortgage lender and broker license  
 BAN20022372 Equity Ventures Group, Ltd. - For a mortgage broker's license  
 BAN20022373 Loan Consolidation and Refinancing Company, LLC - To relocate mortgage broker's office from 5001 West Broad Street, Suite 311, Richmond, VA to 5001 W. Broad Street, Suite 300, Richmond, VA  
 BAN20022374 D & D Mortgage Corporation - To relocate mortgage broker's office from 9295 Shannon Road, Mechanicsville, VA to 9245 Shady Grove Road, 2nd Floor, Mechanicsville, VA  
 BAN20022375 Sentry Investments, Inc. - To relocate mortgage lender broker's office from 8180 Greensboro Drive, Suite 525, McLean, VA to 8180 Greensboro Drive, Suite 180, McLean, VA  
 BAN20022376 Sterling Financial Corp. of Virginia - To relocate mortgage broker's office from 4717 Garst Mill Road, Roanoke, VA to 3536 Brambleton Avenue, Suite 5, Roanoke, VA  
 BAN20022377 MortgageStar, Inc. - To open a mortgage lender and broker's office at 2924 Mary Beth Lane, Glen Allen, VA  
 BAN20022378 1st American Mortgage, Inc. - To relocate mortgage lender broker's office from 8150 Leesburg Pike, Suite 300, Vienna, VA to 8615 Westwood Center Drive, Suite 400B, Vienna, VA  
 BAN20022379 Primary Residential Mortgage, Inc. - To open a mortgage lender and broker's office at 53 Summer East, Williamsburg, VA  
 BAN20022380 All Fund, Inc. d/b/a All Fund Mortgage - To open a mortgage lender and broker's office at 5201 Appleleaf Court, Richmond, VA  
 BAN20022381 NovaStar Home Mortgage, Inc. - To open a mortgage lender and broker's office at 1425 E. Lincoln Avenue, Suite #L, Anaheim, CA  
 BAN20022382 NovaStar Home Mortgage, Inc. - To relocate mortgage lender broker's office from 1505 E. 17th Street, Suite 225, Santa Ana, CA to 1666 N Main Street, Second Floor, Santa Ana, CA  
 BAN20022383 CTX Mortgage Company, LLC - To open a mortgage lender and broker's office at 4975 Preston Park Boulevard, Suite 450, Plano, TX  
 BAN20022384 TransLand Financial Services, Inc. - To open a mortgage lender's office at 1320 DeKalb Pike, 2nd Floor, Blue Bell, PA  
 BAN20022385 Affinity Mortgage LLC - To relocate mortgage lender's office from 6808 Gaston Avenue, Dallas, TX to 1401 South Lamar, Dallas, TX  
 BAN20022386 American General Financial Services (DE), Inc. (Used in VA by: American General Financial Services, Inc.) - To relocate mortgage lender broker's office from 418 First Street, S.W., Roanoke, VA to 3739 Franklin Road, S.W., Roanoke, VA  
 BAN20022387 American General Financial Services of America, Inc. - To relocate consumer finance office from 418 First Street, SW, Roanoke, VA to 3741 Franklin Road, SW, Roanoke, VA  
 BAN20022388 In Su Chang d/b/a JD Supermarket - To open a check casher at 3600 Jefferson Davis Highway, Richmond, VA  
 BAN20022389 Ryan W. O'Barr - For a mortgage broker's license  
 BAN20022390 Bankers First Mortgage, Inc. - For a mortgage lender's license  
 BAN20022391 Advantage First Mortgage Corp. - To relocate mortgage broker's office from 3213 Corporate Court, Ellicott City, MD to 3240 Corporate Court, Unit D, Ellicott City, MD  
 BAN20022392 Homefirst Mortgage Corp. d/b/a MortgageFool.Com - To open a mortgage broker's office at 9294 Cardinal Forest Lane, Suite 301, Lorton, VA  
 BAN20022393 Homefirst Mortgage Corp. d/b/a MortgageFool.Com - To open a mortgage broker's office at 11781 Hollyview Drive, Great Falls, VA  
 BAN20022394 Homefirst Mortgage Corp. d/b/a MortgageFool.Com - To open a mortgage broker's office at 47793 Scots Borough Square, Potomac Falls, VA  
 BAN20022395 Homefirst Mortgage Corp. d/b/a MortgageFool.Com - To open a mortgage broker's office at 10516 Wickens Road, Vienna, VA  
 BAN20022396 Homefirst Mortgage Corp. d/b/a MortgageFool.Com - To open a mortgage broker's office at 7118 Marine Drive, Alexandria, VA  
 BAN20022397 The Mortgage Centre, Inc. - For a mortgage lender and broker license  
 BAN20022398 Madison Investment Advisors, LLC - For a mortgage broker's license  
 BAN20022399 Port City Mortgage, LLC - For a mortgage broker's license  
 BAN20022400 J.T. Ferrick Mortgage LLC - For a mortgage broker's license  
 BAN20022401 Express Check Advance of Virginia, LLC d/b/a Express Check Advance - To open a payday lender's office at 1931 Victory Boulevard, Portsmouth, VA  
 BAN20022402 Edward D. Jones & Co., L.P. d/b/a EdwardJones - To open a mortgage broker's office at 101-2 Hyde Court, Stephens City, VA  
 BAN20022403 River City Mortgage, L.L.C. - To relocate mortgage broker's office from Forest Office Park, Richmond, VA to 8002 Discovery Drive, Campbell Bldg., Suite 125, Richmond, VA  
 BAN20022404 CBSK Financial Group, Inc. d/b/a American Home Loans - To relocate mortgage lender broker's office from 2230 Gallows Road, Suite 200, Dunn Loring, VA to 2230 Gallows Road, Suite 380, Dunn Loring, VA  
 BAN20022406 Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 24333 Southfield Road, Suite 100, Southfield, MI

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BAN20022407	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 1805 Black Angus Court, Virginia Beach, VA
BAN20022408	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 16464 Country Creek Lane, Amisville, VA
BAN20022409	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 9732 Shenandoah Path, Catlett, VA
BAN20022410	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 6709 Hanson Lane, Lorton, VA
BAN20022411	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 5401 Lomax Way, Woodbridge, VA
BAN20022412	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 529 N. George Mason Drive, Arlington, VA
BAN20022413	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 1609 Hunt Meadow Drive, Annapolis, MD
BAN20022414	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 15900 Edgewood Drive, Chester, VA
BAN20022415	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 118 Leigh Street, Cameron, NC
BAN20022416	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 204 Robin Drive, Newport News, VA
BAN20022417	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 6009 Surrey Square Lane, Forestville, MD
BAN20022418	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 7147 Redlac Drive, Clifton, VA
BAN20022419	Carteret Mortgage Corporation - To open a mortgage lender and broker's office at 21489 Southern Magnolia Square, Sterling, VA
BAN20022420	Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 40 Hideway Road, Linden, VA to #3 Phoenix Mill Place, Alexandria, VA
BAN20022421	Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 7316 Walnut Knoll Drive, Springfield, VA to 3032 Platten Drive, Fairfax, VA
BAN20022422	Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 5946 Monticello Road, Alexandria, VA to 6216 Thomas Drive, Springfield, VA
BAN20022423	Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 22-1 Florence Tollgate, Florence, NJ to 18 E. 14th Street, Burlington, NJ
BAN20022424	Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 120 Mushroom Boulevard, Suite 1, Rochester, NY to 472 Alexander Street, Rochester, NY
BAN20022425	Carteret Mortgage Corporation - To relocate mortgage lender broker's office from 6405 Creek Bed Court, Centreville, VA to 41536 Spring Valley Lane, Leesburg, VA
BFI-2002-00001	Donald W. Tidd - Alleged violation of VA Code § 6.1-416.1
BFI-2002-00002	Marilyn Swerdlow t/a Moneyline Mortgage Company - Alleged violation of VA Code § 6.1-413
BFI-2002-00003	Southland Log Homes - For reinstatement of license
BFI-2002-00004	Ex Parte: Regulation - Proposed regulation relating to examination and investigation of mortgage lender and broker licensees
BFI-2002-00005	Bingham Financial Services Corporation - Alleged violation of VA Code § 6.1-416.1
BFI-2002-00009	Apple Tree Mortgage - Alleged violation of VA Code § 6.1-413
BFI-2002-00010	Brice A. Halbrook - Alleged violation of VA Code § 6.1-416.1
BFI-2002-00011	Equity One Consumer Loan Company Inc. - Alleged violation of VA Code § 6.1-301
BFI-2002-00012	Proposed payday lending regulations
BFI-2002-00014	Proposed regulation relating to bank acquisitions of real estate brokerage subsidiaries
BFI-2002-00015	Virginia Bankers Association - Disputing the Determination of the Bureau of Financial Institutions to Permit DuPont Community Credit Union to Expand its Field of Membership
BFI-2002-00016	American Mortgage Bankers, Inc. - Alleged violation of VA Code § 6.1-413
BFI-2002-00017	West End Mortgage, Inc. - Alleged violation of VA Code § 6.4-413
BFI-2002-00018	Accent Mortgage Services, Inc. - Alleged violation of VA Code § 6.1-416
BFI-2002-00019	Home Loan Corporation - Alleged violation of VA Code § 6.1-416 B
BFI-2002-00020	CMS Holding, LLC - Alleged violation of VA Code § 6.1-416.1
BFI-2002-00021	F M Trust Company - For cancellation of certificate of authority
BFI-2002-00022	Morris E. Sampson - Alleged violation of VA Code § 6.1-416.1
BFI-2002-00024	Edwin E. Hosier, Jr. - Alleged violation of VA Code § 6.1-416.1
BFI-2002-00025	Gilbert J. Barteau - Alleged violation of VA Code § 6.1-416.1
BFI-2002-00026	Community Home Mortgage Corporation - Alleged violation of VA Code § 6.1-413
BFI-2002-00028	East Coast Funding, Inc. - Alleged violation of VA Code § 6.1-413
BFI-2002-00030	Household International, Inc. - For settlement of consumer complaints relating to alleged violations of Lending Practices
BFI-2002-00031	CBSK Financial Group, Inc. d/b/a American Home Loans - Alleged violation of VA Code §§ 6.1-408, et seq.
BFI-2002-00034	Americorp Credit Corporation - Alleged violation of 10 VAC 5-160-50

**CLK:****CLERK'S OFFICE**

CLK-2002-00001	Statoil Energy, Inc. - For order nullifying merger
CLK-2002-00002	Election of Chairman Pursuant to VA Code § 12.1-7
CLK-2002-00003	Guard Hill Meats Inc. - For involuntary dissolution of corporate status pursuant to VA Code § 13.1-749
CLK-2002-00004	In the matter of repealing certain regulations relating to the regulation of motor carriers

**INS:****BUREAU OF INSURANCE**

INS-2002-00001	Omni Insurance Company, Omni Indemnity Company and Trumbull Insurance Company - Alleged violation of VA Code §§ 38.2-610 A, et al.
INS-2002-00002	Ex Parte: Rules - In the matter of Repealing Certain of the Rules Governing Variable Life Insurance
INS-2002-00003	Kimberly Jo Smith - Alleged violation of VA Code §§ 38.2-1819 and 38.2-1826
INS-2002-00004	Avenue Settlement Corporation - Alleged violation of VA Code §§ 6.1-2.21 et al.
INS-2002-00005	Target Underwriting Management Corporation - Alleged violation of VA Code § 38.2-4806 D
INS-2002-00006	Fidelity Security Life Insurance Company - Alleged violation of VA Code §§ 38.2-3407.15 B, et al.
INS-2002-00007	Mega Life & Health Insurance Company - Alleged violation of VA Code §§ 38.2-3407.15 B, et al.
INS-2002-00008	Central Reserve Life Insurance Company - Alleged violation of VA Code §§ 38.2-3407.15 B 1, et al.
INS-2002-00009	Continental General Insurance Company - Alleged violation of VA Code §§ 38.2-3407.15 B 1, et al.
INS-2002-00010	Liberty Title & Escrow Company - Alleged violation of VA Code § 6.1-2.23

INS-2002-00011 JustDental of Delmarva, Inc. - Alleged violation of VA Code §§ 38.2-3407.15 B 7, et al.  
 INS-2002-00012 Mere State Insurance Company - Alleged violation of VA Code §§ 38.2-1822, et al.  
 INS-2002-00013 ETC Title Company - Alleged violations of VA Code § 6.1-2.23 and 14 VAC 5-395-60  
 INS-2002-00014 Steuart Title d/b/a Atlantic Coast Title Inc. - Alleged violation of VA Code § 6.1-2.23  
 INS-2002-00015 C. Bryan Lewellyn - Alleged violation of VA Code § 38.2-1822  
 INS-2002-00016 World Insurance Company - Alleged violation of VA Code §§ 38.2-3407.15 B1, et al.  
 INS-2002-00017 Alta Health & Life Insurance Company - Alleged violation of VA Code §§ 38.2-3407.15 B 1, et al.  
 INS-2002-00018 Jefferson Pilot Financial Insurance Co. - Alleged violation of VA Code § 38.2-3407.15 B  
 INS-2002-00019 Mid-West National Life Insurance Company of Tennessee - Alleged violation of VA Code §§ 38.2-3407.15 B 1, et al.  
 INS-2002-00020 New York Life Insurance Co. - Alleged violation of VA Code §§ 38.2-3407.15 B 1, et al.  
 INS-2002-00021 The George Washington University Health Plan, Inc. - Alleged violation of VA Code §§ 38.2-3407.15 B 1, et al.  
 INS-2002-00022 Newark Insurance Company - Alleged violation of VA Code § 38.2-1040  
 INS-2002-00023 Title Source, Inc. - Alleged violation of 14 VAC 5-395-30  
 INS-2002-00024 Home Warranty Plans, Inc. - Alleged violation of VA Code § 38.2-2603  
 INS-2002-00025 Fee Simple Escrow & Title, LLC - Alleged violation of VA Code § 6.1-2.21, 14 VAC 5-395-30 and 14 VAC 5-395-40  
 INS-2002-00026 Heritage Title Company Inc. - Alleged violation of VA Code § 6.1-2.23  
 INS-2002-00027 Columbian Life Insurance Co. - Alleged violation of VA Code §§ 38.2-3407.15 B 2, et al.  
 INS-2002-00028 Smart Choice Settlements, LC - Alleged violation of §§ 6.1-2.23, et al.  
 INS-2002-00029 Provident Life and Accident Insurance Company – For refund of premium license tax for tax year 2000 due to Guaranty Fund Association credit  
 INS-2002-00031 Connecticut General Life Insurance Company – Alleged violation of VA Code § 38.2-3407.4  
 INS-2002-00032 Principal Life Insurance Co. - Alleged violation of VA Code § 38.2-316 C  
 INS-2002-00033 Great-West Life & Annuity Insurance Company - Alleged violation of VA Code §§ 38.2-3407.15 B 7, et al.  
 INS-2002-00034 George Washington University - Alleged violation of VA Code §§ 38.2-316 B, et al.  
 INS-2002-00035 Educators Mutual Life Insurance Company - Alleged violation of VA Code §§ 38.2-3407.15 B 1, et al.  
 INS-2002-00036 Insurance Corporation of Hannover – For refund of overpayment of the assessment for the Virginia Flood Prevention and Protection Assistance Fund for tax year 2000  
 INS-2002-00037 Lawrenceville Property and Casualty Company – Alleged violation of VA Code § 38.2-1802  
 INS-2002-00038 United Healthcare of Virginia, Inc. - Alleged violation of VA Code §§ 38.2-510 A 5, et al.  
 INS-2002-00039 John R. Shupe - Alleged violation of VA Code § 38.2-512 and 14 VAC 5-200-110  
 INS-2002-00040 Centennial Homes, Inc. t/a Trendmaker Homes - For review of HOW Insurance Company, et al. Deputy Receiver's Determination of Appeal  
 INS-2002-00041 Federated Mutual Insurance Co. - Alleged violation of VA Code §§ 38.2-3407.15 B 1, et al.  
 INS-2002-00042 Partners National Health Plans of North Carolina, Inc. - Alleged violation of VA Code §§ 38.2-3407.15 B 1, et al.  
 INS-2002-00043 Highmark Life Insurance Company - Alleged violation of VA Code § 38.2-3407.15 B 1  
 INS-2002-00044 Liberty Abstract and Closings and Sonji R. Rudolph - Alleged violation of 14 VAC 5-395-70  
 INS-2002-00045 Mennonite Mutual Aid Association - Alleged violation of VA Code §§ 38.2-3407.15 B 1, et al.  
 INS-2002-00046 MMA Insurance Company - Alleged violation of VA Code §§ 38.2-3407.15 B 1, et al.  
 INS-2002-00047 Metropolitan Life Insurance Company - Alleged violation of VA Code §§ 38.2-3407.15 B 1, et al.  
 INS-2002-00048 United American Insurance Company - Alleged violation of VA Code § 38.2-3407.14  
 INS-2002-00049 Peninsula Health Care, Inc. - Alleged violation of VA Code §§ 38.2-503, et al.  
 INS-2002-00050 Fidelity & Guaranty Life Insurance Company – Alleged violation of VA Code § 38.2-610  
 INS-2002-00051 Ex Parte, In re: Approval of a regulatory settlement agreement by and between Life Insurance Company of Georgia and Southland Life Insurance Company, and the Insurance Commissioner for the State of Georgia, for and on behalf of the State of Georgia and the Virginia Bureau of Insurance, among others  
 INS-2002-00053 Kaiser Foundation Health Plan - Alleged violation of VA Code §§ 38.2-3407.14, et al.  
 INS-2002-00055 Piedmont Community Healthcare - Alleged violation of VA Code § 38.2-3407.15 B 7  
 INS-2002-00057 John C. Yesbeck, Jr. - Alleged violation of VA Code §§ 38.2-512, et al.  
 INS-2002-00059 New York Life and Health Insurance Company – Alleged violation of VA Code § 38.2-1040  
 INS-2002-00060 Ex Parte: Rules - In the matter of Adopting Revisions to the Rules Governing the Implementation of the Individual Accident and Sickness Insurance Minimum Standards Act  
 INS-2002-00062 Doubletree Condominium Association, Inc. - For review of HOW Insurance Company, et al. Deputy Receiver's Determination of Appeal  
 INS-2002-00063 Ronald L. Bain - Alleged violation of VA Code § 38.2-512  
 INS-2002-00064 Laura Lee Booth - Alleged violation of VA Code §§ 38.2-512, et al.  
 INS-2002-00065 New England Life Insurance Company - Alleged violation of 14 VAC 5-234-40 C  
 INS-2002-00066 Unicare Life & Health Insurance Company - Alleged violation of 14 VAC 5-234-40 C  
 INS-2002-00067 The George Washington University Health Plan, Inc. - Alleged violation of VA Code 14 VAC 5-234-40 C  
 INS-2002-00068 Kaiser Foundation Health Plan of the Mid-Atlantic States, Inc. - Alleged violation of VA Code §§ 38.2-3407.15 B 1, et al.  
 INS-2002-00069 PUC Midwest Acquisition Corporation - Alleged violation of VA Code § 38.2-1802  
 INS-2002-00070 SourceOne Group, Inc. - Alleged violation of 14 VAC 5-410-40 A and 14 VAC 5-410-40 B  
 INS-2002-00071 Affinity Insurance Services of Washington, Inc. – Alleged violation of VA Code § 38.2-4806 D  
 INS-2002-00072 Melissa Lynn Davis - Alleged violation of VA Code § 38.2-4806 D  
 INS-2002-00073 American National Insurance Company, American National Life Insurance Company of Texas, American Republic Insurance Company, et al.- Alleged violation of VA Code §§ 38.2-3407.15 B 1, et al.  
 INS-2002-00074 Boston Mutual Life Insurance Company - Alleged violation of VA Code §§ 38.2-3419.1, et al.  
 INS-2002-00075 GE Group Life Assurance Company - Alleged violation of VA Code § 38.2-3407.15 B 1  
 INS-2002-00076 Trustmark Insurance Co., The Guardian Life Insurance Co. of America, General American Life Insurance Co. & GE Group Life Assurance Co. - Alleged violation of VA Code §§ 38.2-3407.15 B 1, et al.  
 INS-2002-00077 Avemco Insurance Company - Alleged violation of VA Code §§ 38.2-3407.15 B 1, et al.  
 INS-2002-00078 Reassure America Life Insurance Company - Alleged violation of VA Code §§ 38.2-3419.1, et seq.  
 INS-2002-00079 Guardian Life Insurance Company - Alleged violation of VA Code §§ 38.2-3407.15 B 1, et al.

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INS-2002-00080 New England Life Insurance Company - Alleged violation of VA Code §§ 38.2-3407.15 B 1, 38.2-3407.15 B 2, et al.

INS-2002-00081 John Alden Life Insurance Company - Alleged violation of VA Code §§ 38.2-3407.15 B 1, et al.

INS-2002-00082 Fortis Insurance Company, Fortis Benefits Insurance Company and John Alden Life Insurance Company - Alleged violation of VA Code §§ 38.2-3407.15 B 1, et al.

INS-2002-00083 Fortis Benefits Insurance Company - Alleged violation of VA Code §§ 38.2-3407.15 B 1, et al.

INS-2002-00084 State Capital Insurance Company - Alleged violation of VA Code § 38.2-1040

INS-2002-00085 Northwestern National Casualty Company - Alleged violation of VA Code § 38.2-1036

INS-2002-00086 Payroll Services of Virginia, Inc. - Alleged violation of 14 VAC 5-410-40 A and 14 VAC 5-410-40 B

INS-2002-00087 SourceOne, Inc. - Alleged violation of 14 VAC 5-410-40 A and 14 VAC 5-410-40 B

INS-2002-00088 Combined Insurance Company of America - Alleged violation of VA Code §§ 38.2-502, et al.

INS-2002-00089 Prudential Health Care Plan, Inc. - Alleged violation of VA Code §§ 38.2-3407.15 B, et al.

INS-2002-00090 Chicago Insurance Company - Alleged violation of VA Code § 38.2-5020

INS-2002-00091 Fremont Industrial Indemnity - Alleged violation of VA Code § 38.2-5020 E

INS-2002-00092 General Casualty Co. of Wisconsin - Alleged violation of VA Code § 38.2-5020

INS-2002-00093 Grocers Insurance Company - Alleged violation of VA Code § 38.2-5020 E

INS-2002-00094 Medmarc Casualty Insurance Company - Alleged violation of VA Code § 38.2-5020 E

INS-2002-00095 Regent Insurance Company - Alleged violation of VA Code § 38.2-5020

INS-2002-00096 Royal Insurance Company of America - Alleged violation of VA Code § 38.2-5020

INS-2002-00097 State National Insurance Company, Inc. - Alleged violation of VA Code § 38.2-5020

INS-2002-00098 Union Insurance Company - Alleged violation of VA Code § 38.2-5020

INS-2002-00099 Combined Specialty Insurance Company (formerly) Virginia Surety Company, Inc.) - Alleged violation of VA Code § 38.2-5020

INS-2002-00100 Winterthur International America Insurance Company - Alleged violation of VA Code § 38.2-5020

INS-2002-00101 Frontier Insurance Company - Alleged violation of VA Code § 38.2-5020 E

INS-2002-00102 Aetna U.S. Healthcare, Inc., Aetna Life Insurance Co., Prudential Health Care Plan, Inc. and The Prudential Insurance Co. of America - Alleged violation of VA Code §§ 38.2-3407.15 B 1, et al.

INS-2002-00103 Benchmark Insurance Company - Alleged violation of VA Code § 38.2-3407.15 B 1

INS-2002-00104 United Wisconsin Life Insurance Company – Alleged violation of VA Code sections 38.2-3407.15 B 1

INS-2002-00105 American Bankers Life Assurance Company of Florida - Alleged violation of VA Code § 38.2-503

INS-2002-00106 Sound Settlement, Inc. – Alleged violation of VA Code section 38.2-1809 and 14 VAC 5-395-70

INS-2002-00107 Ex Parte: Rules – In the matter of Adopting Revisions to the Rules Governing Settlement Agents

INS-2002-00108 Mutual of Omaha Insurance Company, United of Omaha Life Insurance Company, and United World Life Insurance Company - Alleged violation of VA Code §§ 38.2-3407.15 B 1, et al.

INS-2002-00111 J. W. Finnie - For review of Allstate Insurance Company's claims handling practices

INS-2002-00112 Employers Health Insurance Company – Alleged violation of VA 38.2-3407.15 B 1 et al.

INS-2002-00113 MD-Individual Practice Association, Inc. – Alleged violation of VA Code § 38.2-316 B et al.

INS-2002-00114 William J. Bryan, Jr. - Alleged violation of VA Code §§ 38.2-502, et al.

INS-2002-00115 Gid Brackett, Jr. - Alleged violation of VA Code §§ 38.2-512, et al.

INS-2002-00116 Charles Henry Miller, Jr. - Alleged violation of VA Code §§ 38.2-512, et al.

INS-2002-00117 Ex Parte: Rules - In the matter of Adopting Revisions to the Rules Governing Accelerated Benefits Provisions

INS-2002-00118 Ex Parte: Rules - In the matter of Adopting Revisions to the Rules Governing Long-Term Care Insurance

INS-2002-00120 Ex Parte: Rules - In the matter of Adopting Rules Governing Aboveground Storage Tank and Pipeline Operators Group Self-Insurance Pools

INS-2002-00121 Marianne and Charles Anderson - For review of HOW Insurance Company, et al. Deputy Receiver's Determination of Appeal

INS-2002-00122 New England Life Insurance Company - Alleged violation of 14 VAC 5-234-40 B

INS-2002-00123 GE Group Life Assurance Company - Alleged violation of 14 VAC 5-234-40 B

INS-2002-00124 Phoenix Life Insurance Company - Alleged violation of 14 VAC 5-234-40 B

INS-2002-00125 Augusta Mutual Insurance Company - Alleged violation of VA Code §§ 38.2-604 A 1 and 38.2-2517

INS-2002-00126 Ex Parte: Regulatory settlement agreement - Approval of a regulatory settlement agreement by and between Union National Life Insurance Co., United Insurance Co. of America, and The Reliable Life Insurance Co. and the Insurance Commissioner for the State of Illinois, for and on behalf of the State of Illinois, the Virginia Bureau of Insurance and the Insurance Regulators of each of the states in the United States and the District of Columbia

INS-2002-00127 Highlands Insurance Company - Alleged violation of VA Code § 38.2-1040

INS-2002-00128 George Floyd Wyatt - Alleged violation of VA Code § 38.2-1813

INS-2002-00131 Anthem, Inc. and Trigon Healthcare, Inc. - For approval of acquisition of control by Anthem of Trigon Insurance Company d/b/a Trigon Blue Cross Blue Shield, Trigon Health and Life Insurance Company

INS-2002-00133 Legion Insurance Co. - For suspension of defendant's license pursuant to VA Code § 38.2-1040

INS-2002-00134 Villanova Insurance Co. - For suspension of defendant's license pursuant to VA Code § 38.2-1040

INS-2002-00135 David W. Schneider - Alleged violation of VA Code § 38.2-512

INS-2002-00136 Billy Wayne Petty - Alleged violation of VA Code §§ 38.2-310 and 38.2-512

INS-2002-00137 North Central Life Insurance Company - Alleged violation of VA Code § 38.2-610

INS-2002-00139 Allstate Insurance Company - Alleged violation of VA Code § 38.2-604

INS-2002-00140 Lane Potkin - Alleged violation of 14 VAC 5-395-30

INS-2002-00142 Settlers Life Insurance Company - Alleged violation of VA Code § 38.2-316 A

INS-2002-00143 Principal Life Insurance Company - Alleged violation of VA Code §§ 38.2-3407.15 B 1, et al.

INS-2002-00145 Unicare Life & Health Insurance Company - Alleged violation of VA Code §§ 38.2-3407.15 B 4, et al.

INS-2002-00146 Dusty D. Edwards - Alleged violation of VA Code § 38.2-1813

INS-2002-00147 Five Star Title, LLC - Alleged violation of VA Code § 6.1-2.26 and 14 VAC 5-395-30

INS-2002-00148 American Title Services, LLC - Alleged violation of VA Code § 6.1-2.26 and 14 VAC 5-395-30

INS-2002-00149 Golden Rule Insurance Company - Alleged violation of VA Code §§ 38.2-3407.15 B 1, et al.

INS-2002-00150 Ex Parte: Refunds - In the matter of refunding overpayments of the Fire Programs Fund assessment based on direct gross premium income of insurance companies for the assessable year 2001

INS-2002-00151	Ex Parte: Refunds - In the matter of refunding overpayments of the Flood Prevention and Protection Assistance Fund assessment based on direct gross premium income of insurance companies for the assessable year 2001
INS-2002-00152	Ex Parte: Refunds - In the matter of refunding overpayments of the Help Eliminate Automobile Theft (HEAT) Fund assessment based on direct gross premium income of insurance companies for the assessable year 2001
INS-2002-00153	Ex Parte: Refunds - In the matter of refunding overpayments of the Virginia State Police, Insurance Fraud Fund assessment based on direct gross premium income of insurance companies for the assessable year 2001
INS-2002-00154	Ex Parte: Refunds - In the matter of refunding overpayments of the assessment for the maintenance of the Bureau of Insurance on direct gross premium income of surplus lines brokers for the assessable year 2001
INS-2002-00155	Ex Parte: Refunds - In the matter of refunding overpayments of the premium license tax on direct gross premium income of surplus lines brokers for the taxable year 2001
INS-2002-00156	Epolicy.Com Insurance Services, Inc. - Alleged violation of VA Code § 38.2-4806 D
INS-2002-00158	Ervin Arnold Kranberg - Alleged violation of VA Code § 38.2-4806 D
INS-2002-00159	James Robert Lawrence - Alleged violation of VA Code § 38.2-4806 D
INS-2002-00160	Shawn Sarah Allicock - Alleged violation of VA Code § 38.2-4806 D
INS-2002-00161	J. W. Terrill, Inc. - Alleged violation of VA Code § 38.2-4806 D
INS-2002-00162	The Young Insurance Agency Group, Inc. - Alleged violation of VA Code § 38.2-4806 D
INS-2002-00163	The Charter Oak Fire Insurance Co., The Travelers Indemnity Co., The Travelers Indemnity Co. of America, The Travelers Indemnity Co. of Connecticut, The Travelers Indemnity Co. of Illinois and The Phoenix Insurance Co. - Alleged violation of VA Code § 38.2-231 A
INS-2002-00167	Ex Parte: Rules - In the matter of Adopting Revisions to the Rules Governing Viatical Settlement Providers and Viatical Settlement Brokers
INS-2002-00170	Ex Parte: Rules - In the matter of Adopting Revisions to the Rules Governing Health Maintenance Organizations
INS-2002-00171	2-10 Home Buyers Warranty of Virginia, Inc. - Alleged violation of VA Code §§ 38.2-305 A, et al.
INS-2002-00172	SAFECO Insurance Company of America, First National Insurance Company of America, and General Insurance Company of America - Alleged violation of VA Code §§ 38.2-304, et al.
INS-2002-00173	Ex Parte: Rules - In the matter of Adopting Revisions to the Rules Governing Minimum Standards for Medicare Supplement Policies
INS-2002-00174	Jon Stuart Belinkie - Alleged violation of VA Code § 38.2-1813
INS-2002-00175	Morell Bilingual Settlements, Inc. - Alleged violation of VA Code § 6.1-2.21
INS-2002-00176	First Colony Life Insurance Company - Alleged violation of VA Code §§ 38.2-316 A, et al.
INS-2002-00177	Javier and Veronica Loredo - For review of HOW Insurance Company, et al. Deputy Receiver's Determination of Appeal
INS-2002-00178	Bok S. Cortez - For review of HOW Insurance Company, et al. Deputy Receiver's Determination of Appeal
INS-2002-00179	Guardian Title & Escrow, LC - Alleged violation of VA Code § 6.1-2.23
INS-2002-00180	Southside Settlements, LLC t/a Southside Title & Escrow - Alleged violation of VA code §§ 6.1-2.23, 6.1-2.26 and 38.2-1822
INS-2002-00181	Lawrence J. O'Donohue and Total Insurance Marketing, LLC - Alleged violation of VA Code §§ 38.2-1804 and 38.2-1813
INS-2002-00182	National Council on Compensation Insurance, Inc. - For revisions of advisory loss costs and assigned risk workers' compensation insurance rates
INS-2002-00183	Potomac Settlement Services, Inc. - Alleged violation of VA Code §§ 6.1-2.23, et al.
INS-2002-00184	IPS Incorporated - Alleged violation of VA Code § 38.2-4806 D
INS-2002-00185	American Home Shield of Virginia, Inc. - Alleged violation of VA Code §§ 38.2-1318 C and 38.2-1408
INS-2002-00186	Douglas C. Shelton - Alleged violation of VA Code § 38.2-502
INS-2002-00187	Ex Parte: Rules - In the matter of Adopting Revisions to the Rules Governing Surplus Lines Insurance
INS-2002-00188	Prudential Health Care Plan, Inc. - Alleged violation of VA Code §§ 38.2-510 A 5, et al.
INS-2002-00189	New Hampshire Insurance Company - Alleged violation of VA Code § 38.2-2608
INS-2002-00190	All-Star Title & Escrow, LLC - Alleged violation of VA Code § 6.1-2.21
INS-2002-00191	Cornerstone Title Co. d/b/a Ryland Title - Alleged violation of VA Code § 6.1-2.23
INS-2002-00192	American Heritage Life Insurance Company - Alleged violation of VA Code §§ 38.2-606 and 38.2-3724 C
INS-2002-00193	Pioneer Life Insurance Company - Alleged violation of VA Code § 38.2-3407.14
INS-2002-00194	U.S. Property & Appraisal Services - Alleged violation of VA Code § 6.1-2.21
INS-2002-00195	Express Financial Services - Alleged violation of VA Code § 6.1-2.21
INS-2002-00196	USA Settlements, Inc. - Alleged violation of VA Code § 6.1-2.23
INS-2002-00197	Trigon Insurance Company - Alleged violation of 14 VAC 5-90-60
INS-2002-00198	Anthony W. March - Alleged violation of VA Code § 38.2-512
INS-2002-00199	Community Title & Escrow, Inc. - Alleged violation of VA Code § 6.1-2.21
INS-2002-00200	John T. Barton, Jr. - Alleged violation of VA Code § 38.2-1813
INS-2002-00201	Penn Mutual Insurance Company - Alleged violation of VA Code § 38.2-1030
INS-2002-00202	Universal Bonding Insurance Company - Alleged violation of 14 VAC 5-270-50
INS-2002-00203	London Pacific Life & Annuity Company - Alleged violation of VA Code §§ 38.2-1301 and 14 VAC 5-270-50
INS-2002-00204	William F. Smith, Jr. - Alleged violation of VA Code §§ 38.2-512 and 38.2-1804
INS-2002-00205	Jefferson W. Johnson, Jr. - Alleged violation of VA Code § 38.2-1813
INS-2002-00208	Security-Connecticut Life Insurance Company - Alleged violation of VA Code § 38.2-610
INS-2002-00211	State Farm Mutual Automobile Insurance Company - Alleged violation of VA Code §§ 38.2-1812 A and 38.2-1822 A
INS-2002-00212	Lenders Title & Escrow, LLC - Alleged violation of VA Code §§ 6.1-2.21 and 6.1-2.23
INS-2002-00213	Millennium Title & Abstract Company, Inc. - Alleged violation of VA Code § 6.1-2.26 and 14 VAC 5-395-30
INS-2002-00214	Heavyweight Title Company - Alleged violation of VA Code § 6.1-2.21
INS-2002-00215	Mid-Atlantic Vision Service Plan, Inc. - Alleged violation of VA Code §§ 38.2-3407.15 B 1, et al.
INS-2002-00217	John M. Jansen - Alleged violation of VA Code § 38.2-512 and 14 VAC 5-30-40
INS-2002-00220	New Dimensions Underwriting Group, Inc. - Alleged violation of VA Code § 38.2-4806 D
INS-2002-00222	Swett & Crawford - Alleged violation of VA Code § 38.2-4806 D
INS-2002-00223	James Albert Young - Alleged violation of VA Code § 38.2-4806 D
INS-2002-00224	Commonwealth Land Title Insurance Company - For refund of additional retaliatory costs incurred during 2001 taxable year
INS-2002-00225	Markel American Insurance Company - For refund pursuant to VA Code § 58.1-2510 D
INS-2002-00226	Scott Arthur Blanc - Alleged violation of VA Code § 38.2-4806 D



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INS-2002-00227	Pacific Specialty Insurance Company - Alleged violation of VA Code §§ 38.2-1812 and 38.2-1822
INS-2002-00228	James Carter Moses, Jr. - Alleged violation of VA Code §§ 38.2-1804, et al.
INS-2002-00229	The McGraw Company t/a McGraw Insurance Services – Alleged violation of VA Code §§ 38.2-1812 and 38.2-1822
INS-2002-00230	RGS Title LLC - Alleged violation of VA Code § 6.1-2.21
INS-2002-00231	Marshall Insurance Agency, Inc. - Alleged violation of VA Code §§ 38.2-512 and 38.2-1812.2
INS-2002-00232	National Real Estate Information Services, Inc. – Alleged violation of VA Code § 6.1-2.21
INS-2002-00233	Pamela K. Scites - Alleged violation of VA Code §§ 38.2-512 and 38.2-1812.2
INS-2002-00234	Ex Parte: Refunds – In the matter of refunding overpayment by General Eastern Ski Insurance Risk Retention Group, Inc.
INS-2002-00235	Ex Parte, In re: Approval of a regulatory settlement agreement by and between Metropolitan Life Insurance Company, and the Insurance Superintendent for the State of New York, for and on behalf of the State of New York, the Virginia Bureau of Insurance and the Insurance Regulators of each of the states in the United States and the District of Columbia
INS-2002-00236	Brewer Land Title, Ltd., LLC - Alleged violation of VA Code § 6.1-2.21
INS-2002-00238	Metropolitan Washington Council of Governments – Alleged violation of VAC 5-410-40 D
INS-2002-00239	EML Group Insurance Trust - Alleged violation of 14 VAC 5-410-40 D
INS-2002-00240	American Veterinary Medical Association Group Health and Life Insurance Trust - Alleged violation of 14 VAC 5-410-40 D
INS-2002-00241	Staunton, Augusta, Waynesboro Consortium – Alleged violation of 14 VAC 5-410-40 D
INS-2002-00243	Ex Parte: Refunds - In the matter of refunding overpayments of premium license tax on direct gross premium income and retaliatory tax of insurance companies for taxable year 1999
INS-2002-00244	Ex Parte: Refunds - In the matter of refunding overpayments of premium license tax on direct gross premium income and retaliatory tax of insurance companies for taxable year 2000
INS-2002-00245	Ex Parte: Refunds - In the matter of refunding overpayments of premium license tax on direct gross premium income and retaliatory tax of insurance companies for taxable year 2001
INS-2002-00246	Ex Parte: Refunds - In the matter of refunding overpayments of assessment for maintenance of the Bureau of Insurance on direct gross premium income of insurance companies for assessable year 2001
INS-2002-00247	American Benefits and Insurance Group - Alleged violation of 14 VAC 5-370-30
INS-2002-00253	Maha A. Abdalla - Alleged violation of VA Code § 38.2-5020
INS-2002-00256	Fathy A. Abdou - Alleged violation of VA Code § 38.2-5020
INS-2002-00258	Mustapha Abdul-Rahman - Alleged violation of VA Code § 38.2-5020
INS-2002-00261	Abucar A. Abdulle - Alleged violation of VA Code § 38.2-5020
INS-2002-00263	George A. Abraham - Alleged violation of VA Code § 38.2-5020
INS-2002-00266	Nina J. Abramson - Alleged violation of VA Code § 38.2-5020
INS-2002-00268	Robert J. Accetola - Alleged violation of VA Code § 38.2-5020
INS-2002-00270	Tonya L. Adams - Alleged violation of VA Code § 38.2-5020
INS-2002-00272	Melissa F. Adaniel - Alleged violation of VA Code § 38.2-5020
INS-2002-00273	Therese J. Addison - Alleged violation of VA Code § 38.2-5020
INS-2002-00276	Mohammed A. Adegbite - Alleged violation of VA Code § 38.2-5020
INS-2002-00278	Akintoye K. Adelokun - Alleged violation of VA Code § 38.2-5020
INS-2002-00279	Mehdi N. Adham - Alleged violation of VA Code § 38.2-5020
INS-2002-00281	Madhulika J. Agarwal - Alleged violation of VA Code § 38.2-5020
INS-2002-00283	Frederick A. Agisim - Alleged violation of VA Code § 38.2-5020
INS-2002-00285	Sharad Agrawal - Alleged violation of VA Code § 38.2-5020
INS-2002-00286	Mohammad M. Aijaz - Alleged violation of VA Code § 38.2-5020
INS-2002-00288	Uduak E. Akan-Etuk - Alleged violation of VA Code § 38.2-5020
INS-2002-00291	Homayoon M. Akbari - Alleged violation of VA Code § 38.2-5020
INS-2002-00300	Esma A. Akin - Alleged violation of VA Code § 38.2-5020
INS-2002-00304	Ravi S. Akula - Alleged violation of VA Code § 38.2-5020
INS-2002-00306	Firas Al-Ali - Alleged violation of VA Code § 38.2-5020
INS-2002-00308	Nilda Z. Alcasabas-Yadao - Alleged violation of VA Code § 38.2-5020
INS-2002-00311	Jose A. Alemparte - Alleged violation of VA Code § 38.2-5020
INS-2002-00313	Gordon M. Alexander - Alleged violation of VA Code § 38.2-5020
INS-2002-00315	Mohammad K. Ali - Alleged violation of VA Code § 38.2-5020
INS-2002-00316	Mohammad R. Ali - Alleged violation of VA Code § 38.2-5020
INS-2002-00317	Ayman Alibrahim - Alleged violation of VA Code § 38.2-5020
INS-2002-00318	Benjamin R. Allen - Alleged violation of VA Code § 38.2-5020
INS-2002-00319	Kaye R. Allen - Alleged violation of VA Code § 38.2-5020
INS-2002-00320	Gregory A. Alouf - Alleged violation of VA Code § 38.2-5020
INS-2002-00321	Diane M. Amalfitano - Alleged violation of VA Code § 38.2-5020
INS-2002-00322	Bijan Amirghassemi - Alleged violation of VA Code § 38.2-5020
INS-2002-00323	Akwasi A. Amponsah - Alleged violation of VA Code § 38.2-5020
INS-2002-00324	Jonathan C. Anderson - Alleged violation of VA Code § 38.2-5020
INS-2002-00326	Carol R. Angle - Alleged violation of VA Code § 38.2-5020
INS-2002-00328	Spiro B. Antoniadis - Alleged violation of VA Code § 38.2-5020
INS-2002-00330	Muhammad Anwar - Alleged violation of VA Code § 38.2-5020
INS-2002-00332	Cletus C. Aralu - Alleged violation of VA Code § 38.2-5020
INS-2002-00333	John S. Archer, Jr. - Alleged violation of VA Code § 38.2-5020
INS-2002-00334	Shahwali Arezo - Alleged violation of VA Code § 38.2-5020
INS-2002-00335	Paul W. Arezzo - Alleged violation of VA Code § 38.2-5020
INS-2002-00336	Fernando E. Ariza - Alleged violation of VA Code § 38.2-5020
INS-2002-00337	Niti S. Armistead - Alleged violation of VA Code § 38.2-5020
INS-2002-00338	Mark T. Armitage - Alleged violation of VA Code § 38.2-5020
INS-2002-00339	Richard E. Arnold - Alleged violation of VA Code § 38.2-5020
INS-2002-00340	Nasim Ashraf - Alleged violation of VA Code § 38.2-5020

INS-2002-00341 Ali R. Assefi - Alleged violation of VA Code § 38.2-5020  
INS-2002-00342 Sawsan J. Asterbadi - Alleged violation of VA Code § 38.2-5020  
INS-2002-00343 Samuel W. Atkins, Jr. - Alleged violation of VA Code § 38.2-5020  
INS-2002-00344 Kumudini K. Attanagoda - Alleged violation of VA Code § 38.2-5020  
INS-2002-00346 Janet Avery - Alleged violation of VA Code § 38.2-5020  
INS-2002-00347 Akinlawon O. Ayeni - Alleged violation of VA Code § 38.2-5020  
INS-2002-00348 Stephen M. Ayres - Alleged violation of VA Code § 38.2-5020  
INS-2002-00349 Rida N. Azer - Alleged violation of VA Code § 38.2-5020  
INS-2002-00350 Mariapaz S. Babcock - Alleged violation of VA Code § 38.2-5020  
INS-2002-00351 Joseph C. Babrowicz, Jr. - Alleged violation of VA Code § 38.2-5020  
INS-2002-00352 Salah A. Bahralilom - Alleged violation of VA Code § 38.2-5020  
INS-2002-00353 Roger P. Baird, III - Alleged violation of VA Code § 38.2-5020  
INS-2002-00354 Harjit S. Bajaj - Alleged violation of VA Code § 38.2-5020  
INS-2002-00355 William B. Baker - Alleged violation of VA Code § 38.2-5020  
INS-2002-00356 Virat Bakhshi - Alleged violation of VA Code § 38.2-5020  
INS-2002-00357 Monroe G. Baldwin - Alleged violation of VA Code § 38.2-5020  
INS-2002-00358 Faye T. Banks - Alleged violation of VA Code § 38.2-5020  
INS-2002-00359 Marshall D. Banks - Alleged violation of VA Code § 38.2-5020  
INS-2002-00360 Karen P. Barr - Alleged violation of VA Code § 38.2-5020  
INS-2002-00361 William J. Barrish - Alleged violation of VA Code § 38.2-5020  
INS-2002-00362 Donald E. Bartlett - Alleged violation of VA Code § 38.2-5020  
INS-2002-00363 Ranjy C. Basa - Alleged violation of VA Code § 38.2-5020  
INS-2002-00364 Durgada Y. Basavaraj - Alleged violation of VA Code § 38.2-5020  
INS-2002-00366 Thomas E. Basco - Alleged violation of VA Code § 38.2-5020  
INS-2002-00367 Allison J. Batchelder - Alleged violation of VA Code § 38.2-5020  
INS-2002-00369 Kim N. Baten - Alleged violation of VA Code § 38.2-5020  
INS-2002-00371 Judy K. Battle - Alleged violation of VA Code § 38.2-5020  
INS-2002-00374 Sharon L. Baucom - Alleged violation of VA Code § 38.2-5020  
INS-2002-00376 Bryan P. Baugh - Alleged violation of VA Code § 38.2-5020  
INS-2002-00378 Antonia L. Baum - Alleged violation of VA Code § 38.2-5020  
INS-2002-00380 Iris D. Bazing - Alleged violation of VA Code § 38.2-5020  
INS-2002-00382 Gary H. Beachum - Alleged violation of VA Code § 38.2-5020  
INS-2002-00383 Richard J. Beargie - Alleged violation of VA Code § 38.2-5020  
INS-2002-00385 Margaret H. Bell - Alleged violation of VA Code § 38.2-5020  
INS-2002-00386 Cheryl M. Belle - Alleged violation of VA Code § 38.2-5020  
INS-2002-00392 Mario O. Belledonne - Alleged violation of VA Code § 38.2-5020  
INS-2002-00393 Roland M. Bercasio - Alleged violation of VA Code § 38.2-5020  
INS-2002-00395 Kaaren N. Bergquist - Alleged violation of VA Code § 38.2-5020  
INS-2002-00396 Larry W. Berman - Alleged violation of VA Code § 38.2-5020  
INS-2002-00398 Edward L. Best - Alleged violation of VA Code § 38.2-5020  
INS-2002-00399 Rasikbhai M. Bhagat - Alleged violation of VA Code § 38.2-5020  
INS-2002-00401 Narinder P. Bhalla - Alleged violation of VA Code § 38.2-5020  
INS-2002-00402 Helen S. Bidawid - Alleged violation of VA Code § 38.2-5020  
INS-2002-00403 Michael J. Bigg - Alleged violation of VA Code § 38.2-5020  
INS-2002-00404 Rodney Biglow - Alleged violation of VA Code § 38.2-5020  
INS-2002-00405 Steven R. Black - Alleged violation of VA Code § 38.2-5020  
INS-2002-00406 Leon P. Bloodworth - Alleged violation of VA Code § 38.2-5020  
INS-2002-00408 Bernard G. Boka - Alleged violation of VA Code § 38.2-5020  
INS-2002-00410 Farhat J. Bokhari - Alleged violation of VA Code § 38.2-5020  
INS-2002-00418 Francis J. Bourgeois - Alleged violation of VA Code § 38.2-5020  
INS-2002-00419 Patrick J. Bowen - Alleged violation of VA Code § 38.2-5020  
INS-2002-00420 Valerie L. Bowman - Alleged violation of VA Code § 38.2-5020  
INS-2002-00421 Robin C. Brannigan - Alleged violation of VA Code § 38.2-5020  
INS-2002-00422 Harry R. Brashear - Alleged violation of VA Code § 38.2-5020  
INS-2002-00423 Gail S. Brook - Alleged violation of VA Code § 38.2-5020  
INS-2002-00424 John A. Bruno - Alleged violation of VA Code § 38.2-5020  
INS-2002-00429 John L. Bulette - Alleged violation of VA Code § 38.2-5020  
INS-2002-00431 Lenora Y. Bullock - Alleged violation of VA Code § 38.2-5020  
INS-2002-00433 Robert C. Burns - Alleged violation of VA Code § 38.2-5020  
INS-2002-00436 Emily A. Burns - Alleged violation of VA Code § 38.2-5020  
INS-2002-00438 Albert A. Burton - Alleged violation of VA Code § 38.2-5020  
INS-2002-00440 Joyce M. Busch - Alleged violation of VA Code § 38.2-5020  
INS-2002-00442 Gary E. Bush - Alleged violation of VA Code § 38.2-5020  
INS-2002-00443 Y. M. Bushan - Alleged violation of VA Code § 38.2-5020  
INS-2002-00455 Bruce N. Butler - Alleged violation of VA Code § 38.2-5020  
INS-2002-00456 Bruce K. Butler - Alleged violation of VA Code § 38.2-5020  
INS-2002-00457 Domingo E. Cabinum, Jr. - Alleged violation of VA Code § 38.2-5020  
INS-2002-00458 Antonio J. Cachay - Alleged violation of VA Code § 38.2-5020  
INS-2002-00459 Daniel M. Calhoun - Alleged violation of VA Code § 38.2-5020  
INS-2002-00460 Kenneth D. Call - Alleged violation of VA Code § 38.2-5020  
INS-2002-00461 Robert M. Campbell - Alleged violation of VA Code § 38.2-5020  
INS-2002-00462 Glenn C. Campbell - Alleged violation of VA Code § 38.2-5020

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INS-2002-00463 David W. Campbell - Alleged violation of VA Code § 38.2-5020  
 INS-2002-00464 Jennifer O. Cancino - Alleged violation of VA Code § 38.2-5020  
 INS-2002-00465 Christopher E. Cannon - Alleged violation of VA Code § 38.2-5020  
 INS-2002-00466 Thomas J. Cantwell - Alleged violation of VA Code § 38.2-5020  
 INS-2002-00467 Robert M. Cardinale - Alleged violation of VA Code § 38.2-5020  
 INS-2002-00468 John E. Carlton - Alleged violation of VA Code § 38.2-5020  
 INS-2002-00469 Michael F. Carnuccio - Alleged violation of VA Code § 38.2-5020  
 INS-2002-00470 Rogelio L. Carrera - Alleged violation of VA Code § 38.2-5020  
 INS-2002-00471 Britt-Marie A. Carsjo - Alleged violation of VA Code § 38.2-5020  
 INS-2002-00472 Stephanie D. Carter - Alleged violation of VA Code § 38.2-5020  
 INS-2002-00473 Brenda W. Carter - Alleged violation of VA Code § 38.2-5020  
 INS-2002-00474 B. N. Carter - Alleged violation of VA Code § 38.2-5020  
 INS-2002-00475 Albert C. Casabona - Alleged violation of VA Code § 38.2-5020  
 INS-2002-00485 Paul H. Cauley - Alleged violation of VA Code § 38.2-5020  
 INS-2002-00489 Brandon W. Chan - Alleged violation of VA Code § 38.2-5020  
 INS-2002-00491 Renu Chandra - Alleged violation of VA Code § 38.2-5020  
 INS-2002-00492 Brent W. Chapman - Alleged violation of VA Code § 38.2-5020  
 INS-2002-00494 James A. Chappell - Alleged violation of VA Code § 38.2-5020  
 INS-2002-00496 George E. Chappell - Alleged violation of VA Code § 38.2-5020  
 INS-2002-00497 Nazir A. Chaudhary - Alleged violation of VA Code § 38.2-5020  
 INS-2002-00499 Ashok Chauhan - Alleged violation of VA Code § 38.2-5020  
 INS-2002-00500 Ping-Hsin Chen - Alleged violation of VA Code § 38.2-5020  
 INS-2002-00502 Francis P. Chiramonte - Alleged violation of VA Code § 38.2-5020  
 INS-2002-00504 Cynthia S. Chin - Alleged violation of VA Code § 38.2-5020  
 INS-2002-00506 Ronald L. Chio - Alleged violation of VA Code § 38.2-5020  
 INS-2002-00507 Julian P. Choe - Alleged violation of VA Code § 38.2-5020  
 INS-2002-00509 Peter J. Chopivsky - Alleged violation of VA Code § 38.2-5020  
 INS-2002-00510 Imtiaz A. Choudhary - Alleged violation of VA Code § 38.2-5020  
 INS-2002-00511 Manjit S. Chowdhary - Alleged violation of VA Code § 38.2-5020  
 INS-2002-00512 Douglas M. Christenson - Alleged violation of VA Code § 38.2-5020  
 INS-2002-00513 Michael S. Chung - Alleged violation of VA Code § 38.2-5020  
 INS-2002-00514 Emma Ciafaloni - Alleged violation of VA Code § 38.2-5020  
 INS-2002-00515 Andrew T. Clark - Alleged violation of VA Code § 38.2-5020  
 INS-2002-00516 Freeman L. Clark - Alleged violation of VA Code § 38.2-5020  
 INS-2002-00517 Donovan D. Clark - Alleged violation of VA Code § 38.2-5020  
 INS-2002-00518 William T. Clarke - Alleged violation of VA Code § 38.2-5020  
 INS-2002-00519 Leeroy M. Clarke - Alleged violation of VA Code § 38.2-5020  
 INS-2002-00520 F. M. Claytor - Alleged violation of VA Code § 38.2-5020  
 INS-2002-00521 Derrick O. Clunis - Alleged violation of VA Code § 38.2-5020  
 INS-2002-00522 Sylvie I. Cohen - Alleged violation of VA Code § 38.2-5020  
 INS-2002-00523 Peter R. Coleman - Alleged violation of VA Code § 38.2-5020  
 INS-2002-00524 Lawrence B. Colen - Alleged violation of VA Code § 38.2-5020  
 INS-2002-00525 John J. Connor - Alleged violation of VA Code § 38.2-5020  
 INS-2002-00526 Debra D. Conrad - Alleged violation of VA Code § 38.2-5020  
 INS-2002-00527 William C. Constable - Alleged violation of VA Code § 38.2-5020  
 INS-2002-00528 Robert A. Copeland - Alleged violation of VA Code § 38.2-5020  
 INS-2002-00529 Timothy W. Corbett - Alleged violation of VA Code § 38.2-5020  
 INS-2002-00531 Michael W. Corbin - Alleged violation of VA Code § 38.2-5020  
 INS-2002-00532 Philip C. Corcoran - Alleged violation of VA Code § 38.2-5020  
 INS-2002-00533 Sandra C. Corp - Alleged violation of VA Code § 38.2-5020  
 INS-2002-00534 Steven W. Coutras - Alleged violation of VA Code § 38.2-5020  
 INS-2002-00535 Catherine C. Crone - Alleged violation of VA Code § 38.2-5020  
 INS-2002-00536 Jordan J. Crovatin - Alleged violation of VA Code § 38.2-5020  
 INS-2002-00538 Kevin E. Crutchfield - Alleged violation of VA Code § 38.2-5020  
 INS-2002-00543 Laszlok K. Csatory - Alleged violation of VA Code § 38.2-5020  
 INS-2002-00547 Frederick K. Cune - Alleged violation of VA Code § 38.2-5020  
 INS-2002-00548 David H. Cyr - Alleged violation of VA Code § 38.2-5020  
 INS-2002-00551 Laura F. Dabney - Alleged violation of VA Code § 38.2-5020  
 INS-2002-00552 Salim A. Dahlvani - Alleged violation of VA Code § 38.2-5020  
 INS-2002-00553 Gerald M. Daiuto - Alleged violation of VA Code § 38.2-5020  
 INS-2002-00554 Nader A. Dakak - Alleged violation of VA Code § 38.2-5020  
 INS-2002-00555 Randall E. Dalton - Alleged violation of VA Code § 38.2-5020  
 INS-2002-00556 Rosario G. Dancel - Alleged violation of VA Code § 38.2-5020  
 INS-2002-00557 Iradj Darvish - Alleged violation of VA Code § 38.2-5020  
 INS-2002-00558 Roxanne R. Davenport - Alleged violation of VA Code § 38.2-5020  
 INS-2002-00565 Stuart L. Davidson - Alleged violation of VA Code § 38.2-5020  
 INS-2002-00566 Gina G. Davis - Alleged violation of VA Code § 38.2-5020  
 INS-2002-00567 David M. Davis - Alleged violation of VA Code § 38.2-5020  
 INS-2002-00568 Gerri L. Davis - Alleged violation of VA Code § 38.2-5020  
 INS-2002-00569 Miryam M. Davis - Alleged violation of VA Code § 38.2-5020  
 INS-2002-00570 Chinmayee Debnath - Alleged violation of VA Code § 38.2-5020  
 INS-2002-00572 Raghuveer Dendi - Alleged violation of VA Code § 38.2-5020

INS-2002-00574	Parimal C. Desai - Alleged violation of VA Code § 38.2-5020
INS-2002-00575	James P. Devney - Alleged violation of VA Code § 38.2-5020
INS-2002-00577	Thomas M. Dewire - Alleged violation of VA Code § 38.2-5020
INS-2002-00578	Victor A. Dewyea - Alleged violation of VA Code § 38.2-5020
INS-2002-00579	Jagdev S. Dhillon - Alleged violation of VA Code § 38.2-5020
INS-2002-00580	Satish V. Dholakia - Alleged violation of VA Code § 38.2-5020
INS-2002-00581	Aruna D. Dhru - Alleged violation of VA Code § 38.2-5020
INS-2002-00582	Anas Diab - Alleged violation of VA Code § 38.2-5020
INS-2002-00583	John W. Dickerson - Alleged violation of VA Code § 38.2-5020
INS-2002-00584	Margretta M. Diemer - Alleged violation of VA Code § 38.2-5020
INS-2002-00585	Trang U. Do - Alleged violation of VA Code § 38.2-5020
INS-2002-00589	Mark A. Doloresco - Alleged violation of VA Code § 38.2-5020
INS-2002-00709	Kelco Viatical Services, Inc. - For suspension of license pursuant to VA Code § 38.2-5701
INS-2002-00841	Reeva J. Crawford - Alleged violation of VA Code § 38.2-1813
INS-2002-00863	Amica Mutual Insurance Company - Alleged violation of VA Code §§ 38.2-305 B, 38.2-317 A, et al.
INS-2002-01273	Charlene M. Britt - Alleged violation of VA Code § 38.2-5020
INS-2002-01274	John E. Carroll - Alleged violation of VA Code § 38.2-5020
INS-2002-01275	Dan Dan - Alleged violation of VA Code § 38.2-5020
INS-2002-01284	Prudential Insurance Company of America - Alleged violation of VA Code § 38.2-610
INS-2002-01285	JustDental of Delmarva, Inc. - Alleged violation of VA Code §§ 38.2-510 A 10, 38.2-510 A 14, et al.
INS-2002-01286	Casualty Reciprocal Exchange - To eliminate impairment and restore surplus to minimum amount required by law
INS-2002-01287	Brian Title Company, Inc. - Alleged violation of VA Code §§ 6.1-2.26, et al.
INS-2002-01288	Judith Dianne Bomar t/a Bomar Insurance Agency – Alleged violation of VA Code §§ 38.2-1804, et al.
INS-2002-01289	Jennifer W. Mason – For revocation of license pursuant to VA Code § 38.2-1813
INS-2002-01290	John W. Webster, III - Alleged violation of VA Code §§ 38.2-512, 38.2-1801, et al.
INS-2002-01292	Home Security Association of Virginia, Inc. – Alleged violation of VA Code §§ 38.2-1323, et al.
INS-2002-01293	BMS Consulting Group, LLC - Alleged violation of VA Code § 38.2-512
INS-2002-01294	Ex Parte: Assessments - Assessment upon certain companies and surplus lines brokers to pay the expense of the Bureau of Insurance for the calendar year 2003
INS-2002-01295	Ex Parte: Assessments - Assessment upon certain insurers, health maintenance organizations, health services plans, and dental and optometric services plans to pay the expense of the Bureau of Insurance for the calendar year 2003
INS-2002-01296	Nonprofits Insurance Company - Alleged violation of VA Code § 38.2-1028
INS-2002-01297	The George Washington University Health Plan, Inc. - Alleged violation of VA Code § 38.2-4316
INS-2002-01298	Robert E. Watson, III – Alleged violation of VA Code §§ 38.2-503 and 38.2-1804
INS-2002-01299	James F. Lapinski - For review of the Bureau of Insurance's approval of certain rate increases filed by Penn Treaty Network America Insurance Company
INS-2002-01300	Centennial Homes Inc. d/b/a Trendmaker Homes - For review of HOW Insurance Company, et al. Deputy Receiver's Determination of Appeal
INS-2002-01301	Shea Homes Limited Partnership - For review of HOW Insurance Company, et al. Deputy Receiver's Determination of Appeal
INS-2002-01303	John Deere Health Plan, Inc. - Alleged violation of VA Code § 38.2-502 et al.
INS-2002-01304	Jessie Lee Bales - Alleged violation of VA Code § 38.2-1826
INS-2002-01305	Marcus J. Dennis - Alleged violation of VA Code §§ 38.2-1804 and 38.2-1822
INS-2002-01306	Heritage Title Company, Inc. - Alleged violation of VA Code §§ 6.1-2.23, et al.
INS-2002-01308	Great American Title, Inc. - Alleged violation of VA Code §§ 38.2-1809, et al.
INS-2002-01311	Commonwealth Land Title Insurance Company - For refund of retaliatory tax for year 2001
INS-2002-01312	Provident Indemnity Life Insurance Company - For approval of an assumption reinsurance agreement with Lincoln Heritage Life Insurance Company
INS-2002-01313	Lincoln Heritage Life Insurance Company - For approval of an assumption reinsurance agreement pursuant to VA Code § 38.2-136 C

**PST: DIVISION OF PUBLIC SERVICE TAXATION**

PST-2002-00003	ALLTEL Communications, Inc., et al. - For review and correction of items of certification to Dept. of Taxation - Tax Year 2001 and For correction of assessment of special regulatory revenue tax and for a refund - Tax Year 2001
PST-2002-00043	Level 3 Communications, Inc - For review and correction of the assessment of the value of property subject to local taxation – Tax Year 2002
PST-2002-00044	KMC Telecom of Virginia, Inc. - For Review and Correction of Determination of Value of Items of Tangible Personal Property of a Telecommunications Company - Tax Year 2002
PST-2002-00046	Gordonsville Energy, LP – For review and correction of assessment
PST-2002-00047	Commonwealth Atlantic, LP – For review and correction of assessment

**PUA: DIVISION OF PUBLIC UTILITY ACCOUNTING**

PUA-2001-00046	Onestar Communications, LLC, OneStar Long Distance, Inc. and CRG International, Inc. - For approval of transfer of assets and control to OneStar Communications, LLC
PUA-2001-00079	Adelphia Business Solutions of Virginia, LLC - For approval of an indirect pro forma transfer of control
PUA-2001-00080	Adelphia Business Solutions of Virginia, LLC, ACC Telecommunications of Virginia, LLC and Adelphia Business Solutions Investment East, LLC - For approval to transfer assets as part of pro forma corporate restructuring
PUA-2002-00001	Columbia Gas of Virginia, Inc., Ni Source Inc. and other Ni Source Inc. affiliates - For approval of certain affiliate transactions under Chapter 4, Title 56 of the Code of Virginia
PUA-2002-00002	Virginia Electric and Power Company, Dominion Nuclear Marketing, II, Inc., Pleasants Energy, LLC, Armstrong Energy Limited Partnership, L.L.L.P. and Troy Energy, LLC – For approval of changes to wholesale power service agreements under Chapter 4 of Title 56 of the Code of Virginia and for an exemption of new wholesale power service agreements from the prior approval

- requirements of Chapter 4 of Title 56 of the Code of Virginia or, in the alternative, for approval of wholesale power service agreements and for expedited consideration
- PUA-2002-00003 Winstar Wireless of Virginia, LLC and Winstar of Virginia, LLC – For grant of the authority necessary to consummate a Chapter 11 "re-emergence" plan
- PUA-2002-00005 Allied Riser of Virginia, Inc. and Cogent Communications Group, Inc. - For approval of transfer of control
- PUA-2002-00006 MediaOne Telecommunications Corp., AT&T Corp. and AT&T Broadband Phone, LLC - For approval of intra-corporate transfers of ownership and control of MediaOne Telecommunications of Virginia, Inc., under the Utility Transfers Act
- PUA-2002-00008 Stephens Consulting of VA, Inc. (f/k/a The Tides Golf Lodge, Inc.), The Tides Inn, Inc., New Tides, LLC and The Tide Utilities, LLC - For authority to transfer utility assets pursuant to the Utility Transfer Act and for retroactive approval of certain transactions
- PUA-2002-00009 South Anna Service Corporation and County of Hanover, Virginia - For approval of sale of assets to Hanover County
- PUA-2002-00010 Comcast Business Communications of Virginia, LLC, Jones Telecommunications of Virginia, Inc. and Comcast Corporation - For approval of transfer of ultimate control of Comcast Business Communications
- PUA-2002-00012 AT&T Corp. and AT&T ComCast Corporation - For approval to change control of AT&T Broadband Phone of Virginia, Inc. to AT&T Comcast Corporation
- PUA-2002-00013 Columbia Gas of Virginia, Inc. - For approval pursuant to the Utility Affiliates Act
- PUA-2002-00014 Virginia Electric and Power Company and Dominion Energy Marketing, Inc. - For an exemption of wholesale power contract assignments from the filing and prior approval requirements of § 56-77 of the Code of Virginia or, in the alternative, for approval of assignment of Master Power Purchase and Sale Agreement, Master Power Purchase and Sale Agreement Confirmation Letter and Limited Agency Agreement to Dominion Energy Marketing, Inc., and for expedited consideration
- PUA-2002-00015 Columbia Gas of Virginia, Inc. - For approval of certain affiliate transactions under Chapter 4, of Title 56 of the Code of Virginia
- PUA-2002-00016 CoreComm Virginia, Inc. and ATX Telecommunications Services of Virginia, LLC - For approval of transfers of control
- PUA-2002-00017 Aquasource Utility, Inc. - For authority to dispose of control of certain utility assets known as Cherry Hill Water Company
- PUA-2002-00018 Virginia Electric and Power Company, Pleasants Energy, LLC, Armstrong Energy Limited Partnership, L.L.L.P. and Troy Energy, LLC - For approval of service agreements with affiliates for purchase of test power
- PUA-2002-00019 Delmarva Power & Light Company, Potomac Electric Power Company, Pepco Holdings, Inc. and Conectiv Resource Partners, Inc. - For approval of transactions under Chapter 4 of Title 56 of the Code of Virginia

**PUC:****DIVISION OF COMMUNICATIONS**

- PUC-2001-00184 OneStar Communications, LLC - For certificates to provide local exchange and interexchange telecommunications services; and for interim authority to provide local telecommunications services to customers of CRG International of Virginia, Inc.
- PUC-2001-00219 QX Telecom LLC - For certificate to provide interexchange telecommunications services
- PUC-2001-00227 C3 Networks & Communications Limited Partnership – For certificates to provide local exchange and interexchange telecommunications services
- PUC-2001-00256 United Systems Access Telecom of Virginia, Inc. – For certificates to provide local and interexchange telecommunications services
- PUC-2001-00257 Verizon Virginia Inc. - To consolidate its Lee Exchange into its Cumberland Gap Exchange
- PUC-2001-00260 AT&T Communications of Virginia, Inc. - To discontinue network-controlled coin supervision
- PUC-2001-00261 Verizon Virginia Inc. and MountainNet Telephone Company – For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996
- PUC-2001-00263 Virginia Cellular LLC - For designation as an eligible telecommunications provider under 47 U.S.C. § 214(e) (2)
- PUC-2001-00264 Cable and Wireless of Virginia, Inc. - For approval of the Discontinuance of its Global Card Postpaid Travel Card Service
- PUC-2001-00265 Caronet, Inc., Central Telephone Company of Virginia and United Telephone - Southeast, Inc. (Spring) - For approval of a Master Collocation Agreement under § 252(e) of the Telecommunications Act of 1996
- PUC-2002-00001 Global NAPS South, Inc. - For arbitration pursuant to § 252(b) of the Telecommunications Act of 1996 to establish an interconnection agreement with Verizon Virginia Inc.
- PUC-2002-00002 Cavalier Telephone LLC, Petitioner v. Verizon Virginia Inc. - To suspend and investigate Verizon Virginia's FlexGrow service tariff
- PUC-2002-00003 Cavalier Telephone, LLC and Net2000 Communications of Virginia, LLC - For approval for Net2000 to discontinue local exchange and interexchange telecommunications services, and for authority for Cavalier Telephone, LLC, to provide telecommunications services under the tariffs filed by Net2000 Communications of Virginia, LLC, on an interim basis
- PUC-2002-00005 Cox Virginia Telcom, Inc. - For waivers of the Three-Call Allowance Requirement, price ceilings for directory assistance, directory listings and certain operator services, and request for expedited review
- PUC-2002-00007 MediaOne Telecommunications of Virginia - To cancel existing certificates and issue certificates reflecting new name
- PUC-2002-00008 Access Point of Virginia, Inc. - For certificate to provide local exchange telecommunications services
- PUC-2002-00009 City of Bristol d/b/a Bristol Virginia Utilities Board - For certificate to provide resold and facilities-based local exchange telecommunications services and resold interexchange telecommunications services
- PUC-2002-00010 Winstar of Virginia, LLC - For certificates to provide local and interexchange telecommunications services
- PUC-2002-00011 ACC Telecommunications of Virginia, LLC - For certificates to provide local exchange and interexchange telecommunications services and interim operating authority
- PUC-2002-00012 Adelphia Business Solutions Investment East, LLC – For certificates to provide local exchange and interexchange telecommunications services and interim operating authority
- PUC-2002-00013 Verizon South Inc. - For a change of classification of intraLATA toll service under Plan for Alternative Regulation
- PUC-2002-00014 Verizon Virginia Inc. - For a change of classification of intraLATA toll service under Plan for Alternative Regulation
- PUC-2002-00016 Broadslate Networks of Virginia, Inc. - For emergency authority to discontinue local exchange telecommunications services and cancellation of certificates
- PUC-2002-00017 Sunesys of Virginia, Inc. - For certificate to provide local exchange telecommunications services
- PUC-2002-00018 Central Telephone Co. of Virginia and United Telephone-Southeast, Inc. - To exempt certain services from the provisions of the alternative regulation plan
- PUC-2002-00019 Cavalier Telephone & Verizon Virginia Inc. - Complaint
- PUC-2002-00020 Verizon South Inc. and VoiceStream Wireless Corporation – For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996
- PUC-2002-00022 Central Telephone Company of Virginia, United Telephone-Southeast, Inc. and NPCR, Inc. d/b/a Nextel Partners - For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996

- PUC-2002-00023 Cavalier Telephone, LLC v. Verizon Virginia Inc. – For Emergency Enforcement of Interconnection Agreement and Declaratory Relief
- PUC-2002-00024 United Telephone-Southeast, Inc., Central Telephone Company of Virginia and Caronet, Inc. - For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996
- PUC-2002-00025 Cavalier Telephone, LLC - For approval to discontinue local exchange and interexchange telecommunications services to customers served out of the Bethia wire center
- PUC-2002-00027 Economic Computer Systems, Inc. - For certificates to provide local exchange and interexchange telecommunications services
- PUC-2002-00028 Alltel Communications of Virginia, Inc. f/k/a 360° Communications Company of Charlottesville d/b/a Alltel – For cancellation and reissuance of certificates to reflect corporate name change
- PUC-2002-00029 McLeodUSA Telecommunications of Virginia, Inc. - For cancellation of certificates
- PUC-2002-00030 United Telephone-Southeast, Inc., Central Telephone Company of Virginia and Digital Telecommunications, Inc. d/b/a DTI - For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996
- PUC-2002-00031 United Telephone-Southeast, Inc., Central Telephone Company of Virginia and NOW Communications, Inc. - For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996
- PUC-2002-00032 Epana Networks of Virginia, Inc. - For certificates to provide local exchange and interexchange telecommunications services
- PUC-2002-00033 Edge Connections of Virginia, Inc. - For cancellation of certificates
- PUC-2002-00034 United Telephone-Southeast, Inc. Central Telephone Company of Virginia and Premiere Network Services, Inc. – For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996
- PUC-2002-00035 Verizon Virginia Inc. and VIC-RMTS-DC, L.L.C. d/b/a Verizon Avenue - For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996
- PUC-2002-00036 United Telephone-Southeast, Inc., Central Telephone Company of Virginia and Budget Phone of Virginia, Inc. - For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996
- PUC-2002-00037 Wahoo Broadband, LLC - For a certificate to provide local exchange telecommunications services
- PUC-2002-00039 JATO Communications Corp. of Virginia - For cancellation of certificate
- PUC-2002-00042 Shenandoah Telephone Company and NPCR d/b/a NEXTEL Partners - For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996
- PUC-2002-00045 Verizon South, Inc. and Alltel Communications, Inc. – For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996
- PUC-2002-00046 Verizon Virginia Inc. - To verify compliance with the conditions set forth in 47 U.S.C. § 271(c)
- PUC-2002-00047 Arbros Communications Licensing Company, VA – For cancellation of certificates
- PUC-2002-00049 Verizon South, Inc. and Allegiance Telecom of Virginia, Inc. - For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996
- PUC-2002-00050 Verizon Virginia Inc. - For Extended Local Service from Verizon Virginia Inc.'s Gainesboro Exchange to its Stephens City Exchange
- PUC-2002-00051 Pulaski Exchange Customers - For Extended Local Service from Verizon Virginia Inc.'s Pulaski Exchange to its Blacksburg and Christiansburg Exchanges
- PUC-2002-00053 Davenport Exchange Customers - For Extended Local Service from Verizon Virginia Inc.'s Davenport Exchange to its Clintwood Exchange
- PUC-2002-00054 MAH Communications, Inc. - Alleged violation of VA Code §§ 56-508.15, 56-508.16 and 20 VAC 5-407-40
- PUC-2002-00055 Dimos Roussis T/A DT&T Communications - Alleged violation of VA Code §§ 56-508.15, 56-508.16 and 20 VAC 5-407-40
- PUC-2002-00056 United Telecom Services, Inc. - Alleged violation of VA Code §§ 56-508.15, 56-508.16 and 20 VAC 5-407-40
- PUC-2002-00057 Robert I. Hitching t/a TAO-TEL - Alleged violation of VA Code §§ 56-508.15, 56-508.16 and 20 VAC 5-407-40
- PUC-2002-00058 Torrance J. Lewis - Alleged violation of VA Code §§ 56-508.15, 56-508.16 and 20 VAC 5-407-40
- PUC-2002-00059 Binary Holdings Group, Inc. - Alleged violation of VA Code §§ 56-508.15, 58-508.16 and 20 VAC 5-407-40
- PUC-2002-00060 A.C.K. Communications, LLC - Alleged violation of VA Code §§ 56-508.15, 56-508.16 and 20 VAC 5-407-40
- PUC-2002-00061 Mohammad S. Alam T/A DACCA Payphone Company – Alleged violation of VA Code §§ 56-508.15, 56-508.16 and 20 VAC 5-407-40
- PUC-2002-00062 Thorton Walker T/A Walker Ent. - Alleged violation of VA Code §§ 56-508.15, 56-508.16 and 20 VAC 5-407-40
- PUC-2002-00063 Sargent System, Inc. - Alleged violation of VA Code §§ 56-508.15, 56-508.16 and 20 VAC 5-407-40
- PUC-2002-00064 Ravi Kapoor - Alleged violation of VA Code §§ 56-508.15, 56-508.16 and 20 VAC 5-407-40
- PUC-2002-00065 Peter M. Fleck - Alleged violation of VA Code §§ 56-508.15, 56-508.16 and 20 VAC 5-407-40
- PUC-2002-00066 Wesley J. Palmer-Bey - Alleged violation of VA Code §§ 56.508.15, 56-508.16 and 20 VAC 5-407-40
- PUC-2002-00067 Nikky W. Losapio t/a Aliby's, Inc. - Alleged violation of VA Code §§ 56-508.15, 58-508.16 and 20 VAC 5-407-40
- PUC-2002-00068 Roger B. Freeman - Alleged violation of VA Code §§ 56-508.15, 56-508.16 and 20 VAC 5-407-40
- PUC-2002-00069 Lola Fadahunsi t/a Lolafad Payphone Services – Alleged violation of VA Code §§ 56-508.15, 56-508.16 and 20 VAC 5-407-40
- PUC-2002-00070 Jean Clerveau - Alleged violation of VA Code §§ 56-508.15, 56-508.16 and 20 VAC 5-407-40
- PUC-2002-00071 XO VA, L.L.C. - For limited waivers of price ceilings for directory assistance and request for expedited review
- PUC-2002-00072 Peoples Mutual Telephone Company, Cellco Partnership d/b/a Verizon Wireless & Danville Cellular Telephone Company Limited Partnership d/b/a Verizon Wireless - For approval of a commercial mobile radio service wireless interconnection agreement under § 252(e) of the Telecommunications Act of 1996
- PUC-2002-00073 Winstar Wireless of Virginia, LLC and Winstar of Virginia, LLC - For authority to partially discontinue telecommunications services
- PUC-2002-00074 United Telephone-Southeast, Inc. - For Extended Local Service from United Telephone-Southeast, Inc.'s Saltville Exchange to its Glade Spring, Meadowview and Abingdon Exchanges
- PUC-2002-00075 Verizon South Inc. and Budget Phone of Virginia, Inc. - For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996
- PUC-2002-00076 Verizon South Inc. and SBC Telecom, Inc. - For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996
- PUC-2002-00077 Verizon South, Inc. and Chesapeake Telecommunications Corporation - For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996
- PUC-2002-00078 Ernest Communications of Virginia, Inc. - For a certificate to provide local exchange telecommunications services
- PUC-2002-00081 Citizens Telephone Cooperative and Sprint Spectrum, L.P. - For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996
- PUC-2002-00082 Verizon Virginia Inc and Vartec Telecom of Virginia, Inc. - For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996

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PUC-2002-00083	Network Plus Virginia, Inc. - For cancellation of certificates and authority to discontinue service
PUC-2002-00084	Progress Telecom Virginia, LLC - For certificates to provide local exchange and interexchange telecommunications services
PUC-2002-00085	Peoples Mutual Telephone Company and Alltel Communications, Inc. - For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996
PUC-2002-00087	CRG International, Inc. d/b/a Network One – For discontinuance of local exchange telecommunications services and cancellation of certificate
PUC-2002-00088	Cavalier Telephone, LLC - For injunction against Verizon Virginia Inc. for Violations of Interconnection Agreement and For Expedited Relief to Order Verizon to Provision Unbundled Network Elements in Accordance with the Telecommunications Act of 1996
PUC-2002-00089	Cavalier Telephone, LLC v. Verizon Virginia Inc. - For enforcement of interconnection agreement
PUC-2002-00090	Verizon South Inc. and NationNet Communication Corporation - For approval of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996
PUC-2002-00091	Prime Telecom Potomac, LLC - For cancellation of certificate
PUC-2002-00092	Advanced Telcom Group of Virginia, Incorporated d/b/a Advanced Telcom Group - For authority to cease operations and discontinue telecommunications services
PUC-2002-00094	CLM Telcom LLC - For certificates to provide local exchange and interexchange telecommunications services
PUC-2002-00095	Verizon South Inc. and VarTec Telecom of Virginia, Inc. – For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996
PUC-2002-00096	Central Telephone Company of Virginia, United Telephone-Southeast, Inc. and Winstar of Virginia, L.L.C. - For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996
PUC-2002-00097	US LEC of Virginia L.L.C. - For waiver of the price ceiling for an additional white page directory listing, and request for expedited review
PUC-2002-00098	Verizon Virginia Inc. and SBC Telecom, Inc. - For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996
PUC-2002-00099	Central Telephone Company of Virginia, United Telephone-Southeast, Inc. and Metrocall, Inc. - For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996
PUC-2002-00100	United Telephone-Southeast, Inc., Central Telephone Company of Virginia and FRE Communications, Inc. - For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996
PUC-2002-00101	XO Communications, Inc., XO Virginia, LLC & XO Long Distance Services (Virginia), LLC - For approval of transfer of control pursuant to corporate restructuring involving issuance and sale of new common stock to (1) certain affiliates of Forstmann Little & Co.; and (2) a subsidiary of Telefonos de Mexico, S.A. de C.V., each to acquire a 40% voting interest
PUC-2002-00102	American Fiber Network of Virginia, Inc. – For an extension of time by which audited financial statements are to be provided
PUC-2002-00103	McGraw Communications of Virginia, Inc. - For certificates to provide local exchange and interexchange telecommunications services
PUC-2002-00104	Cypress Communications Holding Company of Virginia, Inc. - For certificates to provide local exchange and interexchange telecommunications services
PUC-2002-00105	US LEC of Virginia Inc. - For Arbitration Pursuant to § 252(b) of the Telecommunications Act of 1996 to Establish an Interconnection Agreement with Verizon Virginia Inc. and Verizon South Inc.
PUC-2002-00106	East Tennessee Network, LLC - For certificates to provide local exchange and interexchange telecommunications services
PUC-2002-00107	United Telephone-Southeast, Inc., Central Telephone Company of Virginia and MountainNet Telephone Company - For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996
PUC-2002-00108	United Telephone-Southeast Inc., Central Telephone Company of Virginia and Phone-Link, Inc.- For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996
PUC-2002-00112	HarvardNet-Virginia, Inc. - For cancellation of certificates
PUC-2002-00113	NTELOS Telephone Inc. and Virginia PCS Alliance, L.C. – For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996.
PUC-2002-00114	NTELOS Telephone Inc. and Virginia Cellular LLC d/b/a Cellular One - For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996
PUC-2002-00115	Ex Parte: Rules - In the matter of rules governing competitive local exchange carriers, localities as competitive local exchange carriers, and local inter-carrier matters
PUC-2002-00116	Verizon South Inc. and OneStar Communications, LLC – For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996
PUC-2002-00117	Verizon South Inc. and New Century Telecom, Inc. d/b/a CLM Telecom, LLC - For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996
PUC-2002-00118	United Telephone-Southeast, Inc, Central Telephone Company of Virginia and ICG Telecom Group of Virginia, Inc. – For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996
PUC-2002-00119	AT&T Communications of Virginia, Inc. - For cancellation of certificates
PUC-2002-00120	United Telephone-Southeast Inc., Central Telephone Company of Virginia and Level 3 Communications, LLC - For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996
PUC-2002-00121	ACSI Local Switched Services, Inc. d/b/a e.spire and American Communication Services of Virginia, Inc. d/b/a e.spire and Xspedius Management Co. Switched Services, LLC and Xspedius Management Co. of Virginia, LLC. – For approval of (i) transfer of substantially all of the assets, including the customer contracts, of ACSI of Virginia to the Xspedius of Virginia Entities; and (ii) the discontinuance of telecommunications services in Virginia by the e.spire Operating Entities
PUC-2002-00122	Xspedius Management Co. of Virginia, LLC - For certificates to provide local exchange and interexchange telecommunications services
PUC-2002-00123	WorldCom, Inc. and Intermedia Communications, Inc. – To partially discontinue local exchange telecommunications services
PUC-2002-00124	ALLTEL Communications of Virginia, Inc. - To discontinue local exchange telecommunications services
PUC-2002-00125	FairPoint Communications Corp. - Virginia - To cancel existing certificates and issue certificates reflecting new name
PUC-2002-00126	The City of Bristol d/b/a Bristol Virginia Utilities Board - For a certificate to provide local exchange telecommunications services and for interim operating authority
PUC-2002-00127	O1 Communications of Virginia, LLC - For cancellation of local exchange and interexchange telecommunications certificates
PUC-2002-00128	The City of Danville d/b/a Danville Department of Utilities - For certificates to provide local exchange telecommunications services
PUC-2002-00129	BullsEye Telecom of Virginia, LLC - For certificate to provide local exchange telecommunications services

- PUC-2002-00131 OnFiber Carrier Services - Virginia, Inc. and Sphera Optical Networks (Virginia) N.A., Inc. - For approval of the transfer of assets, including the carrier customers, of Sphera Optical Networks (Virginia) N.A., Inc., to OnFiber Carrier Services - Virginia, Inc.
- PUC-2002-00132 United Telephone-Southeast, Inc., Central Telephone Company of Virginia and TCG Virginia, Inc. - For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996
- PUC-2002-00133 Verizon Virginia Inc. and Flatel, Inc. - For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996
- PUC-2002-00134 Verizon Virginia Inc. and Claricom Networks, Inc. - For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996
- PUC-2002-00135 Central Telephone Company of Virginia, United Telephone-Southeast, Inc. and AT&T Communications of Virginia, Inc. - For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996
- PUC-2002-00136 Central Telephone Company of Virginia, United Telephone-Southeast, Inc. and DSLnet Communications Virginia, Inc. - For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996
- PUC-2002-00137 Verizon Virginia Inc. and Excel Telecommunications of Virginia, Inc. - For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996
- PUC-2002-00138 Adelphia Business Solutions of Virginia, LLC - To discontinue local exchange and interexchange telecommunications services
- PUC-2002-00139 American Communications Services of Virginia, Inc. d/b/a e.spire Communications, Inc. - For cancellation of certificates
- PUC-2002-00141 TeleConex of Virginia, Inc. - For certificate to provide local exchange and interexchange telecommunications services
- PUC-2002-00142 Cavalier Broadband, LLC - For certificates to provide local exchange telecommunications services
- PUC-2002-00144 Verizon Virginia Inc. and New Century Telecom, Inc. d/b/a CLM Telcom, LLC - For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996
- PUC-2002-00145 Plan B Communications of Virginia, Inc. d/b/a Spectrotel - For certificates to provide local exchange and interexchange telecommunications services
- PUC-2002-00147 Cogent Communications of Virginia, Inc. f/k/a Allied Riser of Virginia, Inc. - For cancellation and reissuance of certificates to reflect corporate name change
- PUC-2002-00148 Caronet, Inc. - For cancellation of certificates
- PUC-2002-00149 MetEther Communications of Virginia, LLC - For certificates to provide local exchange and interexchange telecommunications services
- PUC-2002-00150 United Telephone-Southeast, Inc., Central Telephone Company of Virginia and NTELOS Network, Inc. - For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996
- PUC-2002-00152 Telergy Network Services of Virginia, Inc. - For cancellation of certificates
- PUC-2002-00153 United Telephone-Southeast, Inc.'s Sylvatus and Max Meadows Customers - For Extended Local Service between United's Sylvatus exchange and Max Meadows Exchanges
- PUC-2002-00155 Citizens Telephone Cooperative and Sprint Spectrum L.P. - For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996
- PUC-2002-00156 LCI International of Virginia, Inc. - For cancellation of certificate
- PUC-2002-00157 OnFiber Carrier Services - Virginia, Inc. and Telseon Carrier Services of Virginia, Inc. - For approval of transfer of assets of Telseon Carrier Services, Inc. to OnFiber Carrier Services, Inc., and request for abandonment of the provision of telecommunications services by Telseon Carrier Services, Inc. in Virginia
- PUC-2002-00159 Verizon Virginia Inc and CTC Communications of Virginia, Inc. - For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996
- PUC-2002-00160 Verizon Virginia Inc. and Budget Phone of Virginia, Inc. - For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996
- PUC-2002-00161 Verizon Virginia Inc. and IG2, Inc. - For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996
- PUC-2002-00162 Sphera Optical Networks (Virginia) N.A., Inc. - For cancellation of certificates
- PUC-2002-00163 United Telephone-Southeast, Inc., Central Telephone Company of Virginia and United States Cellular, Inc. - For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996
- PUC-2002-00164 Affinity Network Incorporated - For cancellation of certificate to provide local exchange telecommunications services
- PUC-2002-00165 Verizon Virginia Inc. and Egix Network Services of Virginia, Inc. - For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996
- PUC-2002-00166 Verizon Virginia Inc. and OneStar Communications, LLC - For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996
- PUC-2002-00167 Verizon Virginia Inc. and NOS Communications, Inc. - For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996
- PUC-2002-00168 Verizon South Inc. and CTC Communications of Virginia, Inc. - For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996
- PUC-2002-00169 Verizon South Inc. and Excel Telecommunications of Virginia, Inc. - For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996
- PUC-2002-00170 Gemini Networks VA, Inc - For cancellation of certificates to provide local exchange and interexchange telecommunications services
- PUC-2002-00171 Cavalier Telephone, LLC - For Arbitration Pursuant to § 252(b) of the Telecommunications Act of 1996 to Establish an Interconnection Agreement with Verizon Virginia Inc.
- PUC-2002-00172 Cellico Partnership d/b/a Verizon Wireless and TDS Telecommunications Corporation - For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996
- PUC-2002-00173 Verizon South Inc. and VIC-RMTS-DC, L.L.C. d/b/a Verizon Avenue - For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996
- PUC-2002-00174 Verizon South Inc. and NOW Communications of Virginia, Inc. - For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996
- PUC-2002-00175 Verizon Virginia Inc. - To withdraw its request for exemption from physical collocation at its Dulles Corner central office
- PUC-2002-00176 Verizon Virginia Inc. - To withdraw its request for exemption from physical collocation at its Centreville and Herndon central offices
- PUC-2002-00178 Mikrotec Communications of Virginia, LLC - For certificates to provide local exchange and interexchange telecommunications services
- PUC-2002-00179 Ex Parte: Local exchange carriers - In re amending the certificated service territories of local exchange carriers



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- PUC-2002-00180 Potts Creek Exchange Customers - For Extended Local Service from NTELOS Telephone Inc.'s Potts Creek Exchange to Verizon Virginia Inc.'s Crows-Hematite Exchange
- PUC-2002-00181 One Voice Communications, Inc. - For certificate to provide local exchange telecommunications services
- PUC-2002-00182 Verizon Virginia Inc. - For Exemption from Physical Collocation at its Appalachia, Driver, Swords Creek, and Westover Central Offices
- PUC-2002-00183 Shenandoah Telephone Company and CFW Communications, Inc. - For approval of interconnection agreement under § 252(e) of the Telecommunications Act of 1996
- PUC-2002-00184 United Telephone-Southeast Inc., Central Telephone Company of Virginia and Mountain Telephone Company - For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996
- PUC-2002-00185 Fries Exchange Customers - For Extended Local Service from United Telephone-Southeast, Inc.'s Fries Exchange to its Austinville and Wytheville Exchanges
- PUC-2002-00186 United Telephone-Southeast Inc., Central Telephone Company of Virginia Inc. and Comm South Companies of Virginia, Inc. - For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996
- PUC-2002-00188 Verizon Virginia Inc. and Michael Pitts d/b/a Economic Computer Systems, Inc. - For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996
- PUC-2002-00189 Tom Rosevear t/a Virginia Electronic Communication, LLC - Alleged violation of 20 VAC 5-407-10 et seq.
- PUC-2002-00190 Shenandoah Telephone Company and Triton PCS Operating Company, L.L.C. - For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996
- PUC-2002-00193 Global Crossing Ltd. (Debtor in Possession) and GC Acquisition Limited – For approval of the transfer of control of Global Crossing Ltd. (Debtor-in-Possession)'s Virginia operating subsidiaries to GC Acquisition Limited
- PUC-2002-00194 Telseon Carrier Services of Virginia, Inc – For cancellation of certificates to provide local exchange and interexchange telecommunications services
- PUC-2002-00195 Verizon South Inc. and Lightwave Communications, LLC – For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996
- PUC-2002-00197 Verizon South, Inc and ICG Telecom Group of Virginia, Inc - For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996
- PUC-2002-00198 Ex parte: Rules – In the matter of establishing Rules Governing the Provision of Enhanced 911 Services by Local Exchange Carriers
- PUC-2002-00199 Lightyear Communications of Virginia, Inc., Lightyear Communications, Inc., Lightyear Telecommunications, LLC and InfoHighway of Virginia, Inc. - For approval of a transfer of assets
- PUC-2002-00200 United Telephone - Southeast, Inc., Central Telephone Company of Virginia and New Century Telecom, Inc. d/b/a CLM Telecom, LLC - For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996
- PUC-2002-00201 Communication Technologies Carrier Services, Inc. – For certificates to provide local exchange and interexchange telecommunications services
- PUC-2002-00202 Eureka Broadband Corporation d/b/a EurekaGGN and eLink Telecommunications of Virginia, Inc. - For approval of the merger of Newco, a wholly owned subsidiary of Eureka Broadband Corporation d/b/a EurekaGGN, with and into eLink Telecommunications of Virginia, Inc., establishing eLink Telecommunications of Virginia, Inc., as a wholly owned subsidiary of Eureka Broadband Corporation d/b/a EurekaGGN
- PUC-2002-00203 Tom Rosevear t/a Bay Telecom - Alleged violation of 20 VAC 5-407-10 et seq.
- PUC-2002-00204 Essex Acquisition Corporation - For certificates to provide local exchange and interexchange telecommunications services and for interim operating authority
- PUC-2002-00205 Granite Telecommunications, LLC - For certificates to provide local exchange and interexchange telecommunications services
- PUC-2002-00206 Essex Acquisition Co. - For approval to transfer assets under the provisions of Chapter 5 of the Code of Virginia
- PUC-2002-00207 The City of Martinsville - For certificate to provide local exchange telecommunications services
- PUC-2002-00208 The Town of Front Royal - For certificate to provide local exchange telecommunications services
- PUC-2002-00209 360networks (USA) of Virginia Inc. - For approval of an indirect change of control
- PUC-2002-00210 XO Long Distance Services (Virginia) LLC and XO Virginia, LLC - For approval of a transfer of control from XO Communications, Inc., Debtor-in-Possession, to a Reorganized XO Communications, Inc., controlled by High River Limited Partnership
- PUC-2002-00212 Verizon South Inc. - For exemption from Physical Collocation at its Skyline Remote Office
- PUC-2002-00213 Comm South Companies Inc. and Arbros Communications Inc. - For transfer of control to Arcomm Holding Co.
- PUC-2002-00214 ACC Telecommunications of Virginia, LLC - To discontinue local exchange and interexchange telecommunications services
- PUC-2002-00215 Looking Glass Networks, Inc. and Lightwave Communications, LLC - For approval to transfer assets
- PUC-2002-00217 Verizon Virginia Inc. and Verizon South Inc - For amended certificates under the Utility Facilities Act, Chapter 10.1 of Title 56
- PUC-2002-00218 United Telephone-Southeast, Inc., Central Telephone Company of Virginia and Cavalier Broadband, LLC - For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996
- PUC-2002-00219 Cable & Wireless USA, Inc. - For discontinuance of interexchange telecommunications services
- PUC-2002-00220 IDT America of Virginia, LLC - For certificates to provide local exchange and interexchange telecommunications services
- PUC-2002-00221 Verizon Virginia Inc. and Cox Virginia Telcom, Inc. – For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996
- PUC-2002-00222 Verizon Virginia Inc. and Comm South Companies of Virginia, Inc. - For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996
- PUC-2002-00223 Mountain Communications of Virginia, LLC d/b/a Procom – For certificate to provide local exchange telecommunications services
- PUC-2002-00224 American Long Lines of Virginia, Inc. - For certificate to provide local exchange telecommunications services
- PUC-2002-00225 Central Telephone Company of Virginia, United Telephone-Southeast, Inc. and Sprint PCS - For approval of a Commercial Mobile Radio Services Interconnection Agreement under § 252(e) of Telecommunications Act of 1996
- PUC-2002-00229 United Telephone-Southeast Inc., Central Telephone Company of Virginia and Cat Communications International, Inc. d/b/a CCI. - For approval of an interconnection agreement under § 252(e) of the Telecommunications Act of 1996
- PUC-2002-00230 Williams Communications of Virginia, Inc. - For approval of transfer of ownership of Williams Communications, LLC from Williams Communications Group, Inc. to WilTel Communications Group, Inc. pursuant to VA Code § 56-88.1
- PUC-2002-00231 United Telephone-Southeast, Inc. - For Declaratory Judgment Interpreting Various Sections of the Code of Virginia, for Injunction Prohibiting the City of Bristol from Providing Telecommunications Services in Violation of State Law and for Other Relief
- PUC-2002-00232 United Telephone-Southeast Inc., Central Telephone Company of Virginia and NA Communications, Inc. - For approval of a Master Network Interconnection and Resale Agreement under § 252(e) of the Telecommunications Act of 1996

PUC-2002-00234 Verizon Global Networks Inc. and Verizon Global Networks Virginia Inc. – For such relief as may be required under the Utility Facilities Act, VA Code §§ 56-265.1 et seq., for expedited consideration and interim authority

**PUE: DIVISION OF ENERGY REGULATION**

PUE-2001-00590 The Franklin Waverly Water Company - For certificate for water service  
PUE-2001-00659 Chickahominy Power LLC - For certificate to construct and operate an electric generating facility in Charles City County  
PUE-2001-00664 Virginia Electric and Power Company - To revise its cogeneration tariff pursuant to PURPA § 210  
PUE-2001-00719 Birchwood Power Partners, L.P. - To operate its qualifying cogeneration facility under PURPA as a non-qualifying generating facility without obtaining a certificate or, in the alternative, application for certificate  
PUE-2001-00720 Appalachian Power Company d/b/a American Electric Power-Virginia - To revise cogeneration and small power productions tariffs pursuant to PURPA § 210  
PUE-2001-00721 Duke Energy Wythe, LLC - For permission to construct and operate an electrical generating facility  
PUE-2001-00722 Kinder Morgan Virginia, LLC - For authority to construct and operate an electric generating facility in Cumberland County  
PUE-2002-00001 Delmarva Power & Light Company - For a change in its rates for electricity purchased from qualifying Cogenerators and Small Power Producers under Service Classification "X"  
PUE-2002-00002 Atmos Energy Corporation d/b/a United Cities Gas Company - 2001 Annual Information Filing  
PUE-2002-00003 Old Dominion Electric Cooperative d/b/a Marsh Run Generation LLC - For certificate for electric generating facilities in Fauquier County  
PUE-2002-00007 A. D. Potts & Associates, Inc. - Alleged violation of VA Code § 56-265.17 A  
PUE-2002-00008 Advanced Septic & Sewer, Inc. - Alleged violation of VA Code § 56-265.17 A  
PUE-2002-00009 Cable Associates, Inc. - Alleged violation of VA Code § 56-265.24 A  
PUE-2002-00010 Coastal Tanks, Ltd. - Alleged violation of VA Code § 56-265.17 A  
PUE-2002-00011 D & E Cable, Inc. - Alleged violation of VA Code § 56-265.24 A  
PUE-2002-00012 Dolan Enterprises, Inc. - Alleged violation of VA Code § 56-265.17 A  
PUE-2002-00013 Virginia Natural Gas, Inc. – Alleged violation of VA § 56-265.19 A  
PUE-2002-00014 Wolf Contractors, Inc. – Alleged violation of VA Code § 56-265.24 A  
PUE-2002-00015 Graycor Industrial Constructions, Inc. – Alleged violation of VA Code § 56-265.17  
PUE-2002-00016 Harbor Homes L.L.C. – Alleged violation of VA Code § 56-265.17 A  
PUE-2002-00017 Henry S. Branscome, Inc. – Alleged violation of VA Code § 56-265.24 A  
PUE-2002-00018 Melcar, Inc. - Alleged violation of VA Code § 56-265.24 A  
PUE-2002-00019 Network Industries, Ltd. – Alleged violation of VA Code § 56-265.17 A  
PUE-2002-00020 Prestige Contracting, LLC – Alleged violation of VA Code § 56-265.24 A  
PUE-2002-00021 Scott Evans Contracting, Inc. - Alleged violation of VA Code § 56-265.17 A  
PUE-2002-00022 A & A Excavating Co., Inc. – Alleged violation of VA Code § 56-265.17 A  
PUE-2002-00023 Adelpia Cable Communications – Alleged violation of VA Code § 56-265.19 A  
PUE-2002-00024 B & H Concrete Construction Corp. - Alleged violation of VA Code § 56-265.17 A  
PUE-2002-00025 Babb Construction - Alleged violation of VA Code § 56-265.17 A  
PUE-2002-00026 Best Pool Builders - Alleged violation of VA Code § 56-265.17 A  
PUE-2002-00027 C. S. Hines, Inc. - Alleged violation of VA Code § 56-265.17 A  
PUE-2002-00028 Capitol Signs - Alleged violation of VA Code § 56-265.17 C  
PUE-2002-00029 Dawson Construction Company - Alleged violation of VA Code § 56-265.17 A  
PUE-2002-00030 J. W. S. Communications - Alleged violation of VA Code § 56-265.24 A  
PUE-2002-00032 Mattern Construction Co., Inc. – Alleged violation of VA Code § 56-265.17 A  
PUE-2002-00033 Pearce Corporation – Alleged violation of VA Code § 56-265.24 A  
PUE-2002-00034 Pike Electric, Inc. – Alleged violation of VA § 56-265.24 A  
PUE-2002-00035 Pipeline Structures, Inc. – Alleged violation of VA Code § 56-265.24 A  
PUE-2002-00036 Serra Stone Corporation - Alleged violation of VA Code § 56-265.17 A  
PUE-2002-00037 Southwest Excavating, Inc. - Alleged violation of VA Code §§ 56-265.24 A, et al.  
PUE-2002-00038 T. A. Sheets Mechanical General Contractor, Inc. – Alleged violation of VA Code § 56-265.17 A  
PUE-2002-00039 Viasource - Alleged violation of VA Code § 56-265.17 A  
PUE-2002-00040 Atlas Plumbing & Mechanical, Inc. - Alleged violation of VA Code § 56-265.24 A  
PUE-2002-00041 Breeden Mechanical, Inc. - Alleged violation of VA Code § 56-265.17 A  
PUE-2002-00042 Cole's Excavating, Inc. - Alleged violation of VA Code § 56-265.17 A  
PUE-2002-00043 LOBO Construction Company - Alleged violation of VA Code § 56-265.17 B  
PUE-2002-00044 D. A. Foster Company - Alleged violation of VA Code § 56-265.24 A  
PUE-2002-00045 Design by Rutledge - Alleged violation of VA Code § 56-265.17 A  
PUE-2002-00046 Golden Eagle Construction Company, Inc. - Alleged violation of VA Code § 56-265.24 A  
PUE-2002-00047 Green Village Concrete, Inc. - Alleged violation of VA Code § 56-265.17 A  
PUE-2002-00048 H & S Construction Company - Alleged violation of VA Code § 56-265.24 A  
PUE-2002-00049 Hall Mechanical & Associates, Inc. - Alleged violation of VA Code § 56-265.24 A  
PUE-2002-00050 Jack St. Clair, Inc. - Alleged violation of VA Code § 56-265.24 A  
PUE-2002-00051 Jacstone Construction - Alleged violation of VA Code § 56-265.17 A  
PUE-2002-00052 R. L. Mitchell, Inc. - Alleged violation of VA Code § 56-265.17 A  
PUE-2002-00053 Rockingham Construction Co., Inc. - Alleged violation of VA Code § 56-265.24 A  
PUE-2002-00054 Spartan Enterprises, Inc. - Alleged violation of VA Code § 56-265.24 A  
PUE-2002-00055 Washington Gas Light Company - Alleged violation of VA Code §§ 56-265.19 et al.  
PUE-2002-00056 Walter C. Via Enterprises, Inc. - Alleged violation of VA Code § 56-265.17 A  
PUE-2002-00057 United Cities Gas Company - Alleged violation of VA Code § 56-265.19 A  
PUE-2002-00058 Promark Utility Locators, Inc. - Alleged violation of VA Code § 56-265.19 A  
PUE-2002-00059 Perry Engineering Company, Incorporated - Alleged violation of VA Code § 56-265.24 A  
PUE-2002-00060 Columbia Gas of Virginia, Inc. - Alleged violation of VA Code § 56-265.19 A

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PUE-2002-00061	CMG Corporation - Alleged violation of VA Code § 56-265.17 A
PUE-2002-00063	The Potomac Edison Company, d/b/a Allegheny Power - For a 2001 Annual Informational Filing
PUE-2002-00064	Central Locating Service, Ltd. - Alleged violation of VA Code § 56-265.19 A
PUE-2002-00065	Utiliquest, LLC - Alleged violation of VA Code §§ 56-265.19, A et al.
PUE-2002-00066	Walls Construction Company, Inc. - Alleged violation of VA Code § 56-265.24 A
PUE-2002-00068	Gar-Ven Construction Company, Inc. - Alleged violation of VA Code § 56-265.17 A
PUE-2002-00069	DTE Energy Marketing, Inc. - For a license to conduct business as competitive service provider in electric retail access pilot programs
PUE-2002-00070	Columbia Gas of Virginia, Inc. - For a Declaratory Judgment
PUE-2002-00072	One Call Concepts, Inc. - For Certification Status and to Revoke Certifications Status
PUE-2002-00073	Lawrence N. Brandt, Inc. - Alleged violation of VA Code § 56-265.17 A
PUE-2002-00074	Earl N. Goodman, et al., Complainants v. Land'or Utility Company, Inc., Defendant - Petition of homeowners in reference to discriminatory billing practices
PUE-2002-00075	CVP Warren, LLC - For certificate for electric generation facilities in Warren County, Virginia
PUE-2002-00076	A & N Electric Cooperative - For review of tariffs and terms and conditions of service
PUE-2002-00077	Allegheny Power - For review of tariffs and terms and conditions of service
PUE-2002-00078	BARC Electric Cooperative - For review of tariffs and terms and conditions of service
PUE-2002-00079	Central Virginia Electric Cooperative - For review of tariffs and terms and conditions of service
PUE-2002-00080	Community Electric Cooperative - For review of tariffs and terms and conditions of service
PUE-2002-00081	Craig-Botetourt Electric Cooperative - For review of tariffs and terms and conditions of service
PUE-2002-00082	Delmarva Power & Light Company - For review of tariffs and terms and conditions of service
PUE-2002-00083	Kentucky Utilities Company - For review of tariffs and terms and conditions of service
PUE-2002-00084	Mecklenburg Electric Cooperative - For review of tariffs and terms and conditions of service
PUE-2002-00085	Northern Neck Electric Cooperative - For review of tariffs and terms and conditions of service
PUE-2002-00086	Northern Virginia Electric Cooperative - For review of tariffs and terms and conditions of service
PUE-2002-00087	Prince George Electric Cooperative - For review of tariffs and terms and conditions of service
PUE-2002-00088	Rappahannock Electric Cooperative - For review of tariffs and terms and conditions of service
PUE-2002-00089	Shenandoah Electric Cooperative - For review of tariffs and terms and conditions of service
PUE-2002-00090	Southside Electric Cooperative - For review of tariffs and terms and conditions of service
PUE-2002-00092	Dale Service Corporation - For review of changes to terms and conditions
PUE-2002-00093	Appalachian Power Company d/b/a American Electric Power-Virginia - For waiver of AIF Rules for test year 2001
PUE-2002-00094	Caroline Water Company, Inc. d/b/a Ladysmith Water Company - For certificate pursuant to VA Code § 56-265.3
PUE-2002-00096	The City of Chesapeake - For approval of condemnation of a utility easement containing 4,214 square feet or 0.00967 acre, more or less, for the installation of a water transmission line on land owned by the City of Suffolk and located in Sleepy Hole Borough of the City of Suffolk
PUE-2002-00098	Morris Enterprises, LLC - To abandon service pursuant to VA Code § 56-265.1 (b) (1)
PUE-2002-00099	Norman E. Mattson, et al., Petitioners v. Mariners Landing Water System, Defendants - For relief under VA Code § 13.1-620 G
PUE-2002-00100	Connor's Termite and Pest Control, Inc. - Alleged violation of VA Code § 56-265.17 A
PUE-2002-00101	D. R. Horton, Inc. - Alleged violation of VA Code § 56-265.17 A
PUE-2002-00102	Diamond Well Drilling/Virginians Excavating Contractors - Alleged violation of VA Code § 56-265.17 A
PUE-2002-00103	E. J. Boyd Landscape and Septic Service - Alleged violation of VA Code § 56-265.17 A
PUE-2002-00104	Edwards & Sons, Inc. - Alleged violation of VA Code § 56-265.17 A
PUE-2002-00105	English Construction Company, Inc. - Alleged violation of VA Code § 56-265.24 A
PUE-2002-00106	Guy C. Eavers Excavating Corp. - Alleged violation of VA Code § 56-264.24 A
PUE-2002-00107	Hawley Well & Irrigation, Inc. - Alleged violation of VA Code § 56-265.17 A
PUE-2002-00108	InfraCorps of Virginia, Inc. - Alleged violation of VA Code § 56-265.24 A
PUE-2002-00109	International FiberCom, Inc. - Alleged violation of VA Code § 56-265.17 A
PUE-2002-00110	MCC Acquisition, LC - Alleged violation of VA Code § 56-265.17 A
PUE-2002-00111	Newcomb Electric Co., Inc. - Alleged violation of VA Code § 56-265.17 A
PUE-2002-00112	Sagres Construction Corporation - Alleged violation of VA Code § 56-265.17 A
PUE-2002-00113	Suburban Grading & Utilities, Inc. - Alleged violation of VA Code § 56-265.24 A
PUE-2002-00114	Timothy J. Lacey - Alleged violation of VA Code § 56-265.17 A
PUE-2002-00115	Vector Utilities II, Inc. - Alleged violation of VA Code §§ 56-265.17 A and 56-265.24 A
PUE-2002-00116	Aaron J. Conner, General Contractor, Inc. - Alleged violation of VA Code § 56-265.24 A
PUE-2002-00117	Ace Construction Company - Alleged violation of VA Code § 56-265.24 A
PUE-2002-00118	APAC - Virginia, Inc. - Alleged violation of VA Code § 56-265.17 A
PUE-2002-00119	Benfield Electric Co., Inc. - Alleged violation of VA Code § 56-265.17 A
PUE-2002-00120	Bookman Construction Co. - Alleged violation of VA Code § 56-265.24 A
PUE-2002-00121	Carl R. Jackson & Sons - Alleged violation of VA Code § 56-265.17 A
PUE-2002-00122	Charles W. Barger & Son Construction Company, Inc. - Alleged violation of VA Code § 56-265.24 A
PUE-2002-00123	Chemung Contracting Corporation - Alleged violation of VA Code § 56-265.17 A
PUE-2002-00124	Cooper & Claiborne Construction, Inc. - Alleged violation of VA Code § 56-265.24 A
PUE-2002-00125	Crown, Inc. - Alleged violation of VA Code § 56-265.17 A
PUE-2002-00126	East Coast Abatement & Demolition, Inc. - Alleged violation of VA Code § 56-265.17 A
PUE-2002-00127	Greenguard Associates, Inc. - Alleged violation of VA Code § 56-265.17
PUE-2002-00128	H & H Electric, Inc. - Alleged violation of VA Code § 56-265.24 A
PUE-2002-00129	Hi & Sons, Inc. - Alleged violation of VA Code § 56-265.17 A
PUE-2002-00130	Higerson-Buchanan, Incorporated - Alleged violation of VA Code § 56-265.17 A
PUE-2002-00131	Howard Construction - Alleged violation of VA Code § 56-265.17 A
PUE-2002-00132	Innerview Ltd. - Alleged violation of VA Code § 56-265.24 A
PUE-2002-00133	Isaac's Landscaping & Grading, Inc. - Alleged violation of VA Code § 56-265.17 A
PUE-2002-00134	K & J Cable, Inc. - Alleged violation of VA Code § 56-265.24 A
PUE-2002-00135	Merryman Grounds Maintenance, Inc. - Alleged violation of VA Code § 56-265.17 A

PUE-2002-00136 Nuttal Brothers - Alleged violation of VA Code § 56-265.17 A  
 PUE-2002-00137 Pipeline Structures, Inc. - Alleged violation of VA Code § 56-265.24 A  
 PUE-2002-00138 R & P Lucas Underground Utilities, Inc. - Alleged violation of VA Code § 56-265.24 A  
 PUE-2002-00139 Roy Brooks Heating & Air Conditioning Contractors – Alleged violation of VA Code § 56-265.17 A  
 PUE-2002-00140 Signature Concrete, Inc. - Alleged violation of VA Code § 56-265.17 A  
 PUE-2002-00141 Tidewater Deck & Fence - Alleged violation of VA Code § 56-265.17 B  
 PUE-2002-00142 Valentine Electrical, Inc. - Alleged violation of VA Code § 56-265.17 A  
 PUE-2002-00143 Virginia Concrete Construction Company - Alleged violation of VA Code § 56-265.24 A  
 PUE-2002-00144 WCC Cable, Inc. - Alleged violation of VA Code § 56-265.18  
 PUE-2002-00145 Wilbert Hill Company - Alleged violation of VA Code § 56-265.17 A  
 PUE-2002-00146 CATV Subscriber Services, Inc. - Alleged violation of VA Code §§ 56-265.24 A and 56-265.24 D  
 PUE-2002-00147 TCOB Home Improvements - Alleged violation of VA Code § 56-265.17 A  
 PUE-2002-00148 Collier Homes, L.L.C. - Alleged violation of VA Code § 56-265.17 A  
 PUE-2002-00149 D & F Construction, Inc. - Alleged violation of VA Code § 56-265.24 A  
 PUE-2002-00150 James City Energy Park, LLC - For authority to construct and operate an electric generating facility  
 PUE-2002-00151 Davis H. Elliott Company, Inc. - Alleged violation of VA Code § 56-265.17 A  
 PUE-2002-00152 Heller Electric Company, Inc. - Alleged violation of VA Code § 56-265.17 A  
 PUE-2002-00153 Loudoun Electric Co. - Alleged violation of VA Code § 56-265.17 A  
 PUE-2002-00154 Marumso Equipment Corporation - Alleged violation of VA Code § 56-265.17 A  
 PUE-2002-00155 Northern Pipeline Construction Co. - Alleged violation of VA Code § 56-265.24 A  
 PUE-2002-00156 R. B. Hinkle Construction, Inc. - Alleged violation of VA Code § 56-265.24 A  
 PUE-2002-00157 R. E. Lee Electric Company, Incorporated - Alleged violation of VA Code § 56-265.24 A  
 PUE-2002-00158 Raymond C. Hawkins Construction Co., Inc. – Alleged violation of VA Code § 56-265.17 A  
 PUE-2002-00159 Utilix Corporation - Alleged violation of VA Code § 56-265.24 A  
 PUE-2002-00160 Mastec North America, Inc. - Alleged violation of VA Code § 56-265.24 A  
 PUE-2002-00161 Atlas Plumbing & Mechanical, Inc. - Alleged violation of VA Code §§ 56-265.17, et al.  
 PUE-2002-00162 D. A. Foster Company - Alleged violation of VA Code § 56-265.24 A  
 PUE-2002-00163 Virginia Electric & Power Company - Alleged violation of VA Code §§ 56-265.24 A, et al.  
 PUE-2002-00164 Virginia Natural Gas, Inc. - Alleged violation of VA Code § 56-265.19  
 PUE-2002-00165 United Cities Gas Company - Alleged violation of VA Code § 56-265.19 A  
 PUE-2002-00166 Rockingham Construction Co., Inc. - Alleged violation of VA Code § 56-265.24 A  
 PUE-2002-00167 Promark Utility Locators, Inc. - Alleged violation of VA Code § 56-265.19 A  
 PUE-2002-00168 Mid-Atlantic Pipeliners, Inc. - Alleged violation of VA Code §§ 56-265.17 A and 56-265.24 A  
 PUE-2002-00169 Melcar, Inc. - Alleged violation of VA Code § 56-265.24 A  
 PUE-2002-00170 Columbia Gas of Virginia, Inc. - Alleged violation of VA Code § 56-265.19 A  
 PUE-2002-00171 Central Locating Service, Ltd. - Alleged violation of VA Code §§ 56-265.17 B, et al.  
 PUE-2002-00172 Washington Gas Light Company - Alleged violation of VA Code § 56-265.19 A  
 PUE-2002-00173 Utiliquist, LLC - Alleged violation of VA Code §§ 56-265.19 A, et al.  
 PUE-2002-00174 Ex Parte: Retail electric customers - In the matter concerning the aggregation of retail electric customers under the provisions of the Virginia Electric Utility Restructuring Act  
 PUE-2002-00175 C & P Excavators, Inc. - Alleged violation of VA Code § 56-265.24 D  
 PUE-2002-00176 Magellan Telecommunications, L.L.C. - Alleged violation of VA Code § 56-265.17 B  
 PUE-2002-00177 Ex Parte: Qualifying facilities - Qualifying facilities, contract and amendments filed pursuant to order in PUE-1980-00102  
 PUE-2002-00178 Washington Gas Light Company - For approval of a plan to remedy billing errors  
 PUE-2002-00179 Kentucky Utilities Company - Annual Informational Filing for Calendar Year 2001  
 PUE-2002-00180 Virginia Electric and Power Company - For Declaratory Judgment and, in the Alternative, for Authority to Construct and Operate Transmission Facilities Pursuant to the Utility Facilities Act  
 PUE-2002-00181 Virginia Electric & Power Company and Dominion Retail, Inc. - For an exemption of agreement for wholesale sales of power from the filing and prior approval requirements of Chapter 4, Title 56 of the Code of Virginia or, in the alternative, for approval of wholesale power service agreement under Chapter 4, Title 56 of the Code of Virginia, and for expedited consideration  
 PUE-2002-00184 Virginia Underground Utility Protection Service, Inc. - Alleged violation of 20 VAC 5-300-90 F 4  
 PUE-2002-00185 Donovan Trucking & Excavating - Alleged violation of VA Code § 56-265.17 A  
 PUE-2002-00186 Baird Concrete Corp. - Alleged violation of VA Code § 56-265.17 A  
 PUE-2002-00187 A & W Contracting Corporation - Alleged violation of VA Code § 56-264.24 A  
 PUE-2002-00188 E. H. Ives Corporation – Alleged violation of VA Code § 56-265.24 A  
 PUE-2002-00189 Judy Construction – Alleged violation of VA Code § 56-265.24 A  
 PUE-2002-00192 United Cities Gas Company - Alleged violation of VA Code § 56-265.19 A  
 PUE-2002-00193 Accu-Crete, Inc. - Alleged violation of VA Code § 56-265.17 A  
 PUE-2002-00195 Breeden Mechanical, Inc. - Alleged violation of VA Code § 56-265.24 A  
 PUE-2002-00196 D. A. Foster Company – Alleged violation of VA Code section 56-265.24 A  
 PUE-2002-00197 Granja Contracting, Inc. - Alleged violation of VA Code § 56-265.24 A  
 PUE-2002-00198 Houston-Stafford Electric, Inc. - Alleged violation of VA Code § 56-265.17 A  
 PUE-2002-00200 Wayne Jones Construction - Alleged violation of VA Code § 56-265.17 A  
 PUE-2002-00201 Clay-Mac Seal Coat Corporation - Alleged violation of VA Code § 56-265.17 A  
 PUE-2002-00202 Day Contracting - Alleged violation of VA Code § 56-265.17 A  
 PUE-2002-00203 Lawrence N. Brandt, Inc. – Alleged violation of VA Code section 56-265.17 A  
 PUE-2002-00204 G. L. Pruiitt, Inc. – Alleged violation of VA Code § 56-265.24 A  
 PUE-2002-00205 G. N. Tunnell, Incorporated - Alleged violation of VA Code § 56-265.17 A  
 PUE-2002-00206 Leesburg Southern Electric, Inc. - Alleged violation of VA Code § 56-265.17 A  
 PUE-2002-00208 Herman W. Allen, Inc. - Alleged violation of VA Code § 56-265.17 A  
 PUE-2002-00210 Power Mechanical, Inc. - Alleged violation of VA Code § 56-265.24 A  
 PUE-2002-00211 Precon Construction Company - Alleged violation of VA Code § 56-265.24 A

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PUE-2002-00213 Merit Contractors, Inc. - Alleged violation of VA Code § 56-265.17 A  
PUE-2002-00214 R C B General Contracting – Alleged violation of VA Code § 56-265.17 A  
PUE-2002-00215 R. B. Hinkle Construction, Inc. - Alleged violation of VA Code § 56-265.24 D  
PUE-2002-00216 Rockingham Construction Co., Inc. - Alleged violation of VA Code § 56-265.24 A  
PUE-2002-00217 Superior Paving Company – Alleged violation of VA Code § 56-265.17 A  
PUE-2002-00220 Promark Utility Locators, Inc. - Alleged violation of VA Code § 56-265.19 A  
PUE-2002-00221 Washington Gas Light Company - Alleged violation of VA Code § 56-265.19 A  
PUE-2002-00222 Stilley Company, Inc. - Alleged violation of VA Code § 56-265.17 A  
PUE-2002-00223 Virginia Natural Gas, Inc. – Alleged violation of VA Code § 56-265.19 A  
PUE-2002-00224 Atlas Plumbing & Mechanical, Inc. - Alleged violation of VA Code § 56-265.24 A  
PUE-2002-00225 B. Frank Joy Company, Incorporated - Alleged violation of VA Code § 56-265.24 A  
PUE-2002-00226 Leo Construction Company - Alleged violation of VA Code § 56-265.24 A  
PUE-2002-00227 Counts & Dobyns, Inc. - Alleged violation of VA Code § 56-265.24 A  
PUE-2002-00228 Central Locating Service, Ltd. - Alleged violation of VA Code §§ 56-265.19 A, et al.  
PUE-2002-00229 Verizon Virginia Inc. - Alleged violation of VA Code § 56-265.17 A  
PUE-2002-00230 William A. Hazel, Inc. - Alleged violation of VA Code § 56-265.24 A  
PUE-2002-00231 Utiliquest, LLC - Alleged violation of VA Code §§ 56-265.19 A, et al.  
PUE-2002-00232 Willie Boone - Alleged violation of VA Code § 56-265.17 A  
PUE-2002-00233 Columbia Gas of Virginia, Inc. - Alleged violation of VA Code § 56-265.19 A  
PUE-2002-00234 Atlantic Cable & Trench, Inc. - Alleged violation of VA Code § 56-265.24 A  
PUE-2002-00235 J.W. Holdings, Inc. and Mariners Landing Water & Sewer Company, Inc. - For authority to acquire and dispose of utility assets pursuant to the Utility Transfers Act and for the issuance of certificates pursuant to VA Code §§ 56-265.2 & 56-265.3  
PUE-2002-00236 Atmos Energy Corporation - For authority to issue common stock  
PUE-2002-00237 Virginia Natural Gas, Inc. - For approval of a Weather Normalization Adjustment Rider  
PUE-2002-00238 Virginia Electric and Power Co. and Dominion Nuclear Connecticut, Inc. - For an exemption of transaction from prior approval and filing requirements of Affiliates Act or, in the alternative, approval under Chapter 4, Title 56 of the Code of Virginia  
PUE-2002-00239 Cascade Mountain Property Owners Association, Inc. and Cascade Mountain Water Company, Inc. - For authority to acquire and to dispose of utility assets pursuant to the Utility Transfers Act and for issuance of certificates pursuant to VA Code §§ 56-265.2 and 56-265.3  
PUE-2002-00241 Virginia Electric & Power Co. – 2001 Annual Report of Affiliated Transactions  
PUE-2002-00243 Lake Monticello Service Co. - Annual Informational Filing for Calendar Year 2001  
PUE-2002-00244 Virginia Electric and Power Co - 2001 Annual Informational Filing  
PUE-2002-00245 Virginia-American Water Company – Annual Informational Filing for Calendar Year 2001  
PUE-2002-00246 Amvest Oil & Gas, Inc. - To furnish natural gas service pursuant to VA Code § 56-265.4:5  
PUE-2002-00247 Delmarva Power & Light Company - Annual Informational Filing for Calendar Year 2001  
PUE-2002-00248 Virginia Electric and Power Company - For authority to establish credit facility  
PUE-2002-00249 Montvale Water, Inc. - For declaratory judgment  
PUE-2002-00251 Columbia Gas of Virginia, Inc. - Annual Informational Filing  
PUE-2002-00252 Virginia Underground Utility Protection Service, Inc. - Alleged violation of VA Code §§ 56-265.15 A and 56-265.22 A  
PUE-2002-00253 Aaron J. Conner, General Contractor, Inc. – Alleged violation of VA Code § 56-265.24 A  
PUE-2002-00255 D. A. Foster Company - Alleged violation of VA Code § 56-265.24 A  
PUE-2002-00256 Green Village Concrete, Inc. - Alleged violation of VA Code § 56-265.17 A  
PUE-2002-00258 Johnstons's Septic Service, Inc. - Alleged violation of VA Code § 56-265.17 A  
PUE-2002-00259 KC Electrical Contractors, Inc. - Alleged violation of VA Code § 56-265.17 A  
PUE-2002-00260 Lakeside Concrete, Inc. - Alleged violation of VA Code § 56-265.17 A  
PUE-2002-00262 Post Time Sign Services, Inc. - Alleged violation of VA Code § 56-265.17 A  
PUE-2002-00263 Ram Jack of Virginia, Inc. - Alleged violation of VA Code § 56-265.17 A  
PUE-2002-00264 Site Works, Inc. - Alleged violation of VA Code § 56-265.17 A  
PUE-2002-00265 Valley Drilling Corporation - Alleged violation of VA Code § 56-265.17 A  
PUE-2002-00268 Atlantic Foundations, Inc. - Alleged violation of VA Code § 56-265.17 A  
PUE-2002-00269 Clark's Excavating Company, Inc. - Alleged violation of VA Code § 56-265.17 A  
PUE-2002-00270 Eastern Technical Communications, Inc. - Alleged violation of VA Code § 56-265.24 A  
PUE-2002-00272 Henry S. Branscome, Inc. - Alleged violation of VA Code § 56-265.24 A  
PUE-2002-00275 Maughan Construction Co., Inc. - Alleged violation of VA Code § 56-265.17 B  
PUE-2002-00277 R. L. Edwards Electrical Contractor - Alleged violation of VA Code § 56-265.17 A  
PUE-2002-00278 Sanitary Engineering Company, Incorporated – Alleged violation of VA Code § 56-265.24 A  
PUE-2002-00280 Triad of Virginia, Inc. - Alleged violation of VA Code § 56-265.17 A  
PUE-2002-00281 Virginia Electric and Power Company - Alleged violation of VA Code § 56-265.24 A  
PUE-2002-00282 Virginia Underground Utility Protection Service, Inc. - Alleged violation of VA Code § 56-265.22 A  
PUE-2002-00283 W. R. Hall, Inc. - Alleged violation of VA Code § 56-265.24 B  
PUE-2002-00284 Atlas Plumbing & Mechanical, Inc. - Alleged violation of VA Code § 56-265.24 A  
PUE-2002-00285 Croy Building and Excavating - Alleged violation of VA Code § 56-265.17 A  
PUE-2002-00286 J&B Plumbing & Heating - Alleged violation of VA Code § 56-265.17 A  
PUE-2002-00287 J & D Construction Company, Inc. - Alleged violation of VA Code § 56-265.17 A  
PUE-2002-00288 Linkous Paving, Inc. - Alleged violation of VA Code § 56-265.17 A  
PUE-2002-00290 Neighbors Electric Co. - Alleged violation of VA Code § 56-265.17 A  
PUE-2002-00292 C & C Masonry Contractors - Alleged violation of VA Code § 56-265.17 A  
PUE-2002-00293 Southern Air, Inc. - Alleged violation of VA Code § 56-265.17 A  
PUE-2002-00294 Valley Landscaping, Inc. - Alleged violation of VA Code § 56-265.17 A  
PUE-2002-00295 Virginia Natural Gas, Inc. - Alleged violation of VA Code § 56-265.19 A  
PUE-2002-00296 Central Locating Service, Ltd.- Alleged violation of VA Code § 56-265.19 A  
PUE-2002-00297 Mastec North America, Inc. - Alleged violation of VA Code § 56-265.24 A

PUE-2002-00298 Magellan Telecommunications, L.L.C. - Alleged violation of VA Code § 56-265.24 A

PUE-2002-00299 United Cities Gas Company - Alleged violation of VA Code § 56-265.19 A

PUE-2002-00300 Washington Gas Light Company - Alleged violation of VA Code § 56-265.19 A

PUE-2002-00301 Promark Utility Locators, Inc. - Alleged violation of VA Code § 56-265.19 A

PUE-2002-00302 Utiliquest, LLC - Alleged violation of VA Code §§ 56-265.19 A, et al.

PUE-2002-00303 East Coast Transport Inc., Tenaska Virginia Partners, L.P., Tenaska Virginia II Partners, L.P. and Tenaska Operations, Inc. - For approval of transactions under Chapter 4 of Title 56 of the Code of Virginia

PUE-2002-00305 White Oak Power Company - For authority to construct and operate an electric generating facility

PUE-2002-00307 Kentucky Utilities Company d/b/a Old Dominion Power Company - For approval to acquire interest in two 152-megawatt combustion turbine generating units pursuant to Chapter 4 of Title 56 of the Code of Virginia

PUE-2002-00308 Robert A. Winney d/b/a The Waterworks Company of Franklin County - To cancel certificate to provide water service to three developments in Franklin County, Virginia

PUE-2002-00309 Central Virginia Electric Cooperative - For authority to issue long-term debt

PUE-2002-00310 Columbia Gas of Virginia, Inc. - For approval to borrow and invest short-term funds through an intercompany money pool for the period ending June 30, 2003

PUE-2002-00311 Virginia Gas Pipeline Company and Saltville Gas Storage Company, L.L.C. - For approval of agreement between affiliated interests pursuant to Title 56, Chapter 4 of the Code of Virginia

PUE-2002-00312 A&N Electric Cooperative - For authority to issue long-term debt

PUE-2002-00313 UAE Mecklenburg Cogeneration LP - For certificate pursuant to VA Code § 56-580 D

PUE-2002-00315 In the matter of Receiving comments on a draft memorandum of agreement between the Department of Environmental Quality and the State Corporation Commission

PUE-2002-00316 Virginia Electric and Power Company - For authority to lease rail equipment

PUE-2002-00317 Virginia Electric and Power Company - For authority to lease rail equipment

PUE-2002-00318 Virginia Gas Co., Virginia Gas Distribution Company and Virginia Gas Pipeline Company - For approval of affiliate transfers of real property and property rights pursuant to Chapters 4 and 5 of Title 56 of the Code of Virginia

PUE-2002-00319 Washington Gas Light Company and The Shenandoah Gas Division of Washington Gas Light Company - For approval of amendments to Rate Schedule No. 9, Firm Delivery Service Gas Supplier Agreement

PUE-2002-00320 Mecklenburg Electric Cooperative - For authority to issue long-term debt

PUE-2002-00321 Washington Gas Light Company - For approval of certain affiliate transactions under Chapter 4 of Title 56 of the Code of Virginia

PUE-2002-00322 The Potomac Edison Company d/b/a Allegheny Power - To revise its cogeneration tariff pursuant to PURPA § 210

PUE-2002-00323 Kentucky Utilities Company d/b/a Old Dominion Power Company - Requesting waiver of certain regulations governing electronic data exchange between incumbent electric utilities and competitive suppliers

PUE-2002-00325 Adams Electrical & Security Systems, Inc. - Alleged violation of VA Code § 56-265.17 A

PUE-2002-00326 Atlantic Foundations, Inc. - Alleged violation of VA Code § 56-265.17 A

PUE-2002-00328 Cable Associates, Inc. - Alleged violation of VA Code § 56-265.24 B

PUE-2002-00329 Eavers Brothers Excavating, Incorporated - Alleged violation of VA Code § 56-265.17 A

PUE-2002-00331 Kevcor Contracting Corp. - Alleged violation of VA Code § 56-265.24 A

PUE-2002-00332 M R Masonry, Inc. - Alleged violation of VA Code § 56-265.17 A

PUE-2002-00333 Maughan Construction Co., Inc. - Alleged violation of VA Code § 56-265.24 A

PUE-2002-00334 Premier Communications, Inc. - Alleged violation of VA Code § 56-265.24 A

PUE-2002-00335 Tidewater Utility Construction, Inc. - Alleged violation of VA Code § 56-265.24 A

PUE-2002-00336 Vico Construction Corporation - Alleged violation of VA Code § 56-265.18

PUE-2002-00337 William T. Cantrell, Inc. - Alleged violation of VA Code § 56-265.17 A

PUE-2002-00338 Atlas Plumbing & Mechanical, Inc. - Alleged violation of VA Code § 56-265.24 A

PUE-2002-00339 C & F Construction Company - Alleged violation of VA Code § 56-265.17 C

PUE-2002-00340 D. A. Foster Company - Alleged violation of VA Code § 56-265.17 C

PUE-2002-00341 Foster Home Improvement, Inc. - Alleged violation of VA Code § 56-265.17 A

PUE-2002-00342 Fred W. Borden, Incorporated - Alleged violation of VA Code § 56-265.24 A

PUE-2002-00343 Leo Construction Company - Alleged violation of VA Code § 56-265.24 A

PUE-2002-00345 RCD, Inc. - Alleged violation of VA Code § 56-265.17 A

PUE-2002-00346 Town and Country Landscaping, Inc. - Alleged violation of VA Code § 56-265.17 A

PUE-2002-00347 William B. Hopke Co., Inc. - Alleged violation of VA Code § 56-265.24 A

PUE-2002-00349 Barker Building Company, Inc. - Alleged violation of VA Code § 56-265.17 A

PUE-2002-00350 Brandonbilt Foundations, Inc. - Alleged violation of VA Code § 56-265.17 A

PUE-2002-00351 Counts & Dobyns, Inc. - Alleged violation of VA Code § 56-265.24 B

PUE-2002-00353 Lax, Ltd. - Alleged violation of VA Code § 56-265.17 A

PUE-2002-00354 Robert Lee Morris, Individually, and t/a Ellicott City Underground, Inc. and Curtis Hugh Morris, Individually, and t/a Ellicott City Underground, Inc. - Alleged violation of VA Code § 56-265.24 A

PUE-2002-00355 McGrane Fence Company, Inc. - Alleged violation of VA Code § 56-265.17 A

PUE-2002-00356 Partners Excavating Co. - Alleged violation of VA Code § 56-265.24 A

PUE-2002-00359 Washington Gas Light Company - Alleged violation of VA Code § 56-265.19 A

PUE-2002-00360 United Cities Gas Company - Alleged violation of VA Code § 56-265.19 A

PUE-2002-00361 A & W Contractors, Inc. - Alleged violation of VA Code § 56-265.24 A

PUE-2002-00362 Virginia Electric and Power Company - Alleged violation of VA Code § 56-265.24 A

PUE-2002-00363 Virginia Natural Gas, Inc. - Alleged violation of VA Code § 56-265.19 A

PUE-2002-00364 Washington Gas Light Company and Shenandoah Gas Division of Washington Light Company - For general increase in natural gas rates and charges and approval of performance-based rate regulation methodology pursuant to VA Code § 56-235.6

PUE-2002-00366 Promark Utility Locators, Inc. - Alleged violation of VA Code § 56-265.19 A

PUE-2002-00367 Columbia Gas of Virginia, Inc. - Alleged violation of VA Code § 56-265.19 A

PUE-2002-00368 Central Locating Service, Ltd. - Alleged violation of VA Code §§ 56-265.19 A, et al.

PUE-2002-00369 Utiliquest, LLC - Alleged violation of VA Code §§ 56-265.19 A and D

PUE-2002-00371 Kentucky Utilities Company - For authority to issue long term debt

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PUE-2002-00373	Roanoke Gas Company - For a general increase in rates
PUE-2002-00375	Virginia-American Water Company- For general increase in rates
PUE-2002-00376	Virginia Electric and Power Company - For authority to issue debt and preferred securities
PUE-2002-00377	Virginia Electric and Power Company - To revise its fuel factor pursuant to VA Code § 56-249.6
PUE-2002-00378	Appalachian Power Company d/b/a American Electric Power - To revise its fuel factor pursuant to VA Code § 56-249.6
PUE-2002-00380	One Call Concepts, Inc. - For revocation of certificates of existing certificate holders, for certification as a notification center, and for a waiver of 20 VAC 5-300-90 B 3 (c)
PUE-2002-00381	Richard L. Crowder Construction, Inc. - Alleged violation of VA Code § 56-265.24 A
PUE-2002-00382	Down Below, LLC - Alleged violation of VA Code § 56-265.24 A
PUE-2002-00383	Northern Pipeline Construction Co. - Alleged violation of VA Code § 56-265.24 B
PUE-2002-00384	Southern Cable Construction - Alleged violation of VA Code § 56-265.24 A
PUE-2002-00385	Southwestern Lawn & Landscape - Alleged violation of VA Code § 56-265.17 A
PUE-2002-00388	Columbia Gas of Virginia, Inc. - Alleged violation of VA Code § 56-265.19 A
PUE-2002-00389	Complete Lawn Service - Alleged Violation of VA Code § 56-265.17 A
PUE-2002-00390	FMC Civil Construction, LLC - Alleged violation of VA Code § 56-265.17 A
PUE-2002-00392	M & J Backhoe Service - Alleged violation of VA Code § 56-265.24 A
PUE-2002-00393	Masters, Inc. - Alleged violation of VA Code § 56-265.24 A
PUE-2002-00394	Northern Virginia Electric Cooperative - Alleged violation of VA Code § 56-265.24 A
PUE-2002-00398	Vico Construction Corporation - Alleged violation of VA Code § 56-265.17 C
PUE-2002-00399	Commonwealth Landscaping - Alleged violation of VA Code § 56-265.17 A
PUE-2002-00400	Counts & Dobyns, Inc. - Alleged violation of VA Code § 56-265.24 A
PUE-2002-00401	F.L. Showalter, Inc. - Alleged violation of VA Code § 56-265.24 A
PUE-2002-00402	Jessica Annette Morris, Individually, and t/a Madison County Cable TV, Inc. - Alleged violation of VA Code § 56-265.24 A
PUE-2002-00404	Watertown Irrigation - Alleged violation of VA Code § 56-265.24 A
PUE-2002-00405	Webco Enterprises, Inc. - Alleged violation of VA Code § 56-265.17 A
PUE-2002-00406	Washington Gas Light Company - Alleged violation of VA Code § 56-265.19 A
PUE-2002-00407	Virginia Natural Gas, Inc. - Alleged violation of VA Code § 56-265.19 A
PUE-2002-00408	Promark Utility Locators, Inc. - Alleged violation of VA Code § 56-265.19 A
PUE-2002-00409	D. A. Foster Company - Alleged violation of VA Code § 56-265.24 A
PUE-2002-00410	Crowell Brothers Construction Co., Inc. - Alleged violation of VA Code § 56-265.17 A
PUE-2002-00411	Central Locating Service, Ltd. - Alleged violations of VA Code § 56-265.19 A
PUE-2002-00412	Utiliquest, LLC - Alleged violation of VA Code §§ 56-265.19 A, et al.
PUE-2002-00413	Virginia Gas Pipeline Company - Alleged violation of 49 C.F.R. 192.303, et al.
PUE-2002-00415	Washington Gas Light Company - Alleged violation of 49 C.F.R. 192.303, et al.
PUE-2002-00416	VIRGINIA Natural Gas, Inc. - Alleged violation of 49 C.F.R. 192.303, et al.
PUE-2002-00417	Courthouse Estates Community Association, Inc – For injunction against Virginia Electric and Power Co. d/b/a Dominion Virginia Power and for revocation of approval to construct and for revocation of certificate for the Landstown-West Landing 230 kV transmission line and West Landing Substation
PUE-2002-00419	Rappahannock Electric Cooperative - For review of tariffs and terms and conditions of service
PUE-2002-00420	Maryland Gas & Electric, Ltd. t/a Operators Energy Services, LLP - For a license to conduct business as a natural gas competitive service provider
PUE-2002-00421	Northern Virginia Utility Protection Service, Inc. and Virginia Underground Utility Protection Service, Inc. – For waiver and extension of time
PUE-2002-00423	Washington Gas Light Company - For authority to issue short-term debt
PUE-2002-00424	Atmos Energy Corporation d/b/a United Cities Gas Co. and Woodward Marketing, L.L.C. - For authority to enter into transactions under Chapter 4 of Title 56 of the Code of Virginia
PUE-2002-00426	Washington Gas Light Company - For authority to issue long-term debt and preferred stock
PUE-2002-00427	South Anna Service Corporation - For cancellation of certificate to provide sewerage service
PUE-2002-00429	Atlantis Communications Group, Inc. - Alleged violation of VA Code § 56-265.17 A
PUE-2002-00430	Bell Bros., Inc. - Alleged violation of VA Code § 56-265.24 A
PUE-2002-00431	Central Contracting, Inc. - Alleged violation of VA Code § 56-265.17 A
PUE-2002-00433	Craig-Botetourt Electric Cooperative - Alleged violation of VA Code § 56-265.17 A
PUE-2002-00434	Flippo Construction Company, Inc. - Alleged violation of VA Code § 56-265.24 A
PUE-2002-00435	H & S Construction Company - Alleged violation of VA Code § 56-265.24 B
PUE-2002-00436	Hamel Commercial, Inc. - Alleged violation of VA Code § 56-265.24 A
PUE-2002-00441	Atlas Plumbing & Mechanical, Inc. - Alleged violation of VA Code § 56-265.24 A
PUE-2002-00442	Basic Construction Company, L.L.C. - Alleged violation of VA Code § 56-265.24 A
PUE-2002-00443	Encompass Electrical Technologies - Alleged violation of VA Code § 56-265.17 A
PUE-2002-00444	FFD Development Company, LLC - Alleged violation of VA Code § 56-265.17 A
PUE-2002-00447	Precon Construction Company - Alleged violation of VA Code § 56-265.24 A
PUE-2002-00449	Smith and Keene Electrical Service, Incorporated – Alleged violation of VA Code § 56-265.24 A
PUE-2002-00450	D. A. Foster Company - Alleged violation of VA Code § 56-265.24 A
PUE-2002-00452	Virginia Electric and Power Company - Alleged violation of VA Code § 56-265.24 A
PUE-2002-00453	Vico Construction Corporation - Alleged violation of VA Code § 56-265.17 A
PUE-2002-00454	United Cities Gas Company - Alleged violation of VA Code § 56-265.19 A
PUE-2002-00455	Columbia Gas of Virginia, Inc. - Alleged violation of VA Code § 56-265.19 A
PUE-2002-00456	Promark Utility Locators, Inc. - Alleged violation of VA Code § 56-265.19 A
PUE-2002-00457	Utiliquest, LLC - Alleged violation of VA Code §§ 56-265.19 A, et al.
PUE-2002-00458	Virginia Gas Pipeline Company, Saltville Gas Storage Company, L.L.C., NUI Saltville Storage, Inc. and Virginia Gas Company - For authority to transfer assets to affiliates and for reduction in service territory
PUE-2002-00459	Washington Gas Light Company - Alleged violation of VA Code § 56-265.19 A

PUE-2002-00463	Washington Gas Light Company - For authority to enter into an affiliate service agreement under Chapter 4 of Title 56 of the Code of Virginia
PUE-2002-00465	Brooks Electric Company - Alleged violation of VA Code § 56-265.17 A
PUE-2002-00466	Clean Cut Services, LLC - Alleged violation of VA Code § 56-265.17 A
PUE-2002-00467	Curtis W. Key Plumbing Contractors, Inc. – Alleged violation of VA Code § 56-265.24 A
PUE-2002-00473	Tidewater Utility Construction, Inc. - Alleged violation of VA Code § 56-265.24 A
PUE-2002-00474	Vico Construction Corporation - Alleged violation of VA Code § 56-265.24 A
PUE-2002-00475	Virginia Electric and Power Company - Alleged violation of VA Code § 56-265.24 A
PUE-2002-00478	D. L. B., Inc. - Alleged violation of VA Code § 56-265.17 A
PUE-2002-00479	G. L. Howard, Inc. - Alleged violation of VA Code § 56-265.17 A
PUE-2002-00481	Joe Bandy and Sons, Inc. - Alleged violation of VA Code § 56-265.17 A
PUE-2002-00482	King Excavating, LLC - Alleged violation of VA Code § 56-265.17 A
PUE-2002-00483	Maughan Construction Co., Inc. - Alleged violation of VA Code § 56-265.24 A
PUE-2002-00484	Mid-Atlantic Pipeliners, Inc. - Alleged violation of VA Code § 56-265.24 A
PUE-2002-00486	R. S. Jones and Associates, Inc. - Alleged violation of VA Code § 56-265.24 A
PUE-2002-00488	Adelphia Communications Corporation - For application of VA Code § 56-466.1 to pole attachment practices of Northern Virginia Electric Cooperative
PUE-2002-00489	Sechrist Construction - Alleged violation of VA Code § 56-265.17 A
PUE-2002-00490	Showcase Home Builders - Alleged violation of VA Code § 56-265.17 A
PUE-2002-00491	Sugar Grove Asphalt Service - Alleged violation of VA Code § 56-265.17 A
PUE-2002-00493	Tree Bark Tree Service, Inc. - Alleged violation of VA Code § 56-265.17 A
PUE-2002-00494	Utilx Corporation - Alleged violation of VA Code § 56-265.24 A
PUE-2002-00496	Washington Gas Light Company - Alleged violation of VA Code § 56-265.19 A
PUE-2002-00498	Casper Colosimo & Son, Inc. - Alleged violation of VA Code § 56-265.24 A
PUE-2002-00499	Atlas Plumbing & Mechanical, Inc. - Alleged violation of VA Code § 56-265.24 A
PUE-2002-00500	Utiliquet, LLC - Alleged violation of VA Code §§ 56-265.19 A, et al.
PUE-2002-00501	Breedon Mechanical, Inc. - Alleged violation of VA Code § 56-265.17 A
PUE-2002-00502	Cesarios, Inc. - Alleged violation of VA Code § 56-265.17 A
PUE-2002-00503	Green Team, Inc. - Alleged violation of VA Code § 56-265.17 A
PUE-2002-00504	H & S Construction Company - Alleged violation of VA Code § 56-265.24 A
PUE-2002-00505	Morales Masonry, Inc. - Alleged violation of VA Code § 56-265.17 A
PUE-2002-00506	Northern Virginia Electric Cooperative - Alleged violation of VA Code § 56-265.17 C
PUE-2002-00508	Pike Electric, Inc. - Alleged violation of VA Code § 56-265.17 A
PUE-2002-00509	Pinnacle Milling and Paving, LLC - Alleged violation of VA Code § 56-265.17 A
PUE-2002-00510	Quality Electric Service, Inc. - Alleged violation of VA Code § 56-265.17 A
PUE-2002-00512	Superior Backhoe Service - Alleged violation of VA Code § 56-265.24 A
PUE-2002-00513	The Brothers Signal Company, Inc. - Alleged violation of VA Code § 56-265.24 A
PUE-2002-00514	New Era Energy, Inc. - For a license to conduct business as an electric aggregator
PUE-2002-00515	Virginia Natural Gas, Inc., AGL Resources Inc. and AGL Services Company - For authority to issue short-term debt, long-term debt, and common stock to an affiliate
PUE-2002-00516	Katrena Moody d/b/a XTC Barber & Beauty Salon – Complaint against Dale Service Corporation
PUE-2002-00517	Southwestern Virginia Gas Company - For an expedited increase in rates
PUE-2002-00518	Virginia Electric and Power Company and Dominion Lands Inc. - For approval to transfer real property under Chapter 4, Title 56 of the Code of Virginia
PUE-2002-00519	Ex parte: Consolidated billing services - In the matter of considering requests for approval to delay the provision of consolidated billing services pursuant to VA Code § 56-581.1
PUE-2002-00520	A & W Contractors, Inc. - Alleged violation of VA Code § 56-265.24 A
PUE-2002-00521	Philadelphia Suburban Corporation and AquaSource, Inc. - For approval under the Utility Transfers Act (§§ 56-88 et seq. of the Code of Virginia)
PUE-2002-00522	East Coast Transport, Inc., Tenaska Virginia Partners, L.P., Tenaska Virginia II Partners, L.P., Tenaska, Inc. and Tenaska Operations, Inc. - For authority to enter into transactions under Chapter 4 of Title 56 of the Code of Virginia
PUE-2002-00524	UGI Energy Services, Inc. - For a license to conduct business as a natural gas competitive service provider
PUE-2002-00525	Northern Virginia Utility Protection Service, Inc. and Virginia Underground Utility Protection Service, Inc. – For approval of notification call center performance standards
PUE-2002-00526	A & W Contractors, Inc. - Alleged violation of VA Code § 56-265.24 A
PUE-2002-00528	Comcast Cablevision of Prince William County – Alleged violation of VA Code §§ 56-265.17 C and 56-265.19 A
PUE-2002-00529	D. L. B., Inc. - Alleged violation of VA Code § 56-265.17 A
PUE-2002-00530	E. R. Neff Excavating, Inc. - Alleged violation of VA Code § 56-265.17 A
PUE-2002-00531	Old Dominion Electric Company - Alleged violation of VA Code § 56-265.17 A
PUE-2002-00536	William Austin Builders - Alleged violation of VA Code § 56-265.17 A
PUE-2002-00538	BTU Construction - Alleged violation of VA Code § 56-265.17 A
PUE-2002-00539	Casper Colosimo & Son, Inc. - Alleged violation of VA Code § 56-265.24 A
PUE-2002-00540	D. A. Foster Company - Alleged violation of VA Code § 56-265.24 A
PUE-2002-00541	FMC Civil Construction, LLC - Alleged violation of VA Code § 56-265.24 A
PUE-2002-00544	Northern Pipeline Construction Co. - Alleged violation of VA Code § 56-265.24 A
PUE-2002-00546	Potomac Construction Company, Inc. - Alleged violation of VA Code § 56-265.17 A
PUE-2002-00549	Atlantic Foundations, Inc. - Alleged violation of VA Code § 56-265.17 A
PUE-2002-00550	Columbia Gas of Virginia, Inc. - Alleged violation of VA Code § 56-265.19 A
PUE-2002-00552	Curtis W. Key Plumbing Contractors, Inc. – Alleged violation of VA Code § 56-265.17 C
PUE-2002-00553	Green Scenes, Inc. - Alleged violation of VA Code § 56-265.17 A
PUE-2002-00554	New Construction, Inc. - Alleged violation of VA Code § 56-265.24 A
PUE-2002-00555	Northern Virginia Electric Cooperative - Alleged violation of VA Code § 56-265.24 A



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PUE-2002-00557	Portugal Construction, Inc. - Alleged violation of VA Code § 56-265.24 A
PUE-2002-00560	Virginia Natural Gas, Inc. - Alleged violation of VA Code § 56-265.19 A
PUE-2002-00561	William A. Hazel, Inc. - Alleged violation of VA Code § 56-265.24 A
PUE-2002-00563	United Cities Gas Company - Alleged violation of VA Code § 56-265.19 A
PUE-2002-00564	Suburban Grading & Utilities, Inc. - Alleged violation of VA Code § 56-265.24 A
PUE-2002-00565	Virginia Electric and Power Company - Alleged violation of VA Code § 56-265.24 A
PUE-2002-00569	Roanoke Gas Company - For authority to issue long-term debt
PUE-2002-00570	Kentucky Utilities Company d/b/a Old Dominion Power Company - For approval to acquire an interest in four combustion turbines under Chapter 4 of Title 56 of the Code of Virginia
PUE-2002-00571	Massanutten Public Service Corporation - For amendment of its certificates pursuant to VA Code § 56-265.3 D
PUE-2002-00572	Virginia Electric & Power Company - For exemption of transfers of equipment between affiliated generation companies from the filing and prior approval requirements of Chapter 4, Title 56 of the Code of Virginia or, in the alternative, prior approval of such transfers
PUE-2002-00573	Virginia Electric and Power Company and Dominion Energy, Inc. - For an exemption from the filing and prior approval requirements of Chapter 4 of Title 56 of the Code of Virginia or, in the alternative, approval of the transfer of inventory and Parts Reimbursement Agreement
PUE-2002-00574	Virginia Electric and Power Co. and Dresden Energy, LLC – For an exemption from the filing and prior approval requirements of VA Code § 56-77 or, in the alternative, for interim authority and final approval of transfer among affiliates and for expedited consideration
PUE-2002-00575	Shenandoah Valley Electric Cooperative - For approval of retail access tariffs and terms and conditions of service for retail access
PUE-2002-00576	Harry M. Lantz v. Montvale Water Company, Inc. - For an increase in rates
PUE-2002-00643	Saltville Gas Storage Company, LLC – For authority to accept capital infusions
PUE-2002-00644	Kentucky Utilities d/b/a Old Dominion Power Company – For authority to incur short-term indebtedness and participate in a money pool
PUE-2002-00645	Ex parte: Default service to retail customers - In the matter concerning the provision of default service to retail customers under the provisions of the Virginia Electric Utility Restructuring Act
PUE-2002-00646	Washington Gas Light Company and Columbia Gas of Virginia, Inc. - For amendment of certificates pursuant to VA Code § 56-265.3
PUE-2002-00647	Washington Gas Light Company - For authority to participate in a tax sharing agreement between WGL Holdings, Inc., and its subsidiaries under Chapter 4 of Title 56 of the Code of Virginia
PUE-2002-00648	Virginia Natural Gas, Inc. - For waiver of Gas Pipeline Safety Requirements of 49 C.F.R. Part 193
PUE-2002-00649	Virginia Electric and Power Company and Dominion Transmission, Inc. - For approval of a pipeline construction contract and pipeline operation and maintenance agreement under Chapter 4, Title 56 of the Code of Virginia
PUE-2002-00650	Atmos Energy Corporation - For authority to incur short-term indebtedness and to lend short-term funds to affiliates
PUE-2002-00652	Virginia Electric and Power Company and CNG International Corporation - For Exemption from the prior approval and filing requirements of the Affiliates Act or, in the alternative, for approval of transfer of furniture and office equipment pursuant to Chapter 4, Title 56 of the Code of Virginia
PUE-2002-00653	Virginia Natural Gas, Inc. and Southeastern LNG, Inc. – For approval of a liquefied Natural Gas Transportation Agreement
PUE-2002-00654	Stand Energy Corporation - For a license to conduct business as a natural gas competitive service provider
PUE-2002-00655	Virginia Electric and Power Company - For authority to issue common stock
PUE-2002-00661	Washington Gas Light Company and Washington Gas Energy Systems, Inc. – For authority to enter into an agreement regarding release of billing information.

**PUF: DIVISION OF PUBLIC UTILITY FINANCE**

PUF-2002-00001	Southside Electric Cooperative - For authority to borrow short-term debt through two lines of credit
PUF-2002-00002	Washington Gas Light Company - For authority to amend its Money Pool Agreement
PUF-2002-00003	Delmarva Power & Light Company - For authority to borrow up to \$275 million in short-term indebtedness through a money pool
PUF-2002-00004	Community Electric Cooperative - For authority to extend a line of credit to an affiliate
PUF-2002-00006	Shenandoah Telephone Company and Shenandoah Telecommunications Company - For authority to lend funds to an affiliate
PUF-2002-00007	Atmos Energy Corporation - For authority to issue common equity and long-term debt
PUF-2002-00008	Dale Service Corporation - For authority to enter into an interest rate swap agreement
PUF-2002-00009	Delmarva Power & Light Company - For authority to issue up to \$46 million of tax-exempt refunding bonds
PUF-2002-00010	Kentucky Utilities Company - For authority to continue an affiliate agreement with KU Receivable Corp.

**SEC: DIVISION OF SECURITIES AND RETAIL FRANCHISING**

SEC-2002-00001	IAC Securities, Inc. - Alleged violation of VAC 5-20-260 B
SEC-2002-00002	Benefit Concepts Group, Inc. - For offer of compromise and settlement
SEC-2002-00003	James David Cannon - For offer of compromise and settlement
SEC-2002-00004	Gary F. Edwards - Alleged violation of VA Code §§ 13.1-507, et al.
SEC-2002-00005	Joseph R. Dunn - Alleged violation of VA Code §§ 13.1-507, et al.
SEC-2002-00006	Thomas G. Jarrell - Alleged violation of VA Code §§ 13.1-507, et al.
SEC-2002-00007	M. Charles White - Alleged violation of VA Code §§ 13.1-507, et al.
SEC-2002-00008	Charles E. Ayers - Alleged violation of VA Code §§ 13.1-507, et al.
SEC-2002-00009	British Commonwealth World Sectors Corporation - For order of exemption pursuant to VA Code § 13.1-514.1 B
SEC-2002-00010	National Covenant Properties - For order of exemption pursuant to VA Code § 13.1-514.1 B
SEC-2002-00011	Joseph A. Shearin - Alleged violation of VA Code §§ 13.1-507, et al.
SEC-2002-00012	B&B Investments, LLC - Alleged violation of VA Code §§ 13.1-507, et al.
SEC-2002-00013	RCM LTD., LLC - Alleged violation of VA Code §§ 13.1-507, et al.
SEC-2002-00014	Basin Oil & Gas Corporation - Alleged violation of VA Code §§ 13.1-504 B, et al.
SEC-2002-00015	Mission Investment Fund of the Evangelical Lutheran Church in America - For order of exemption pursuant to VA Code § 13.1-514.1 B
SEC-2002-00016	Christian Church Extension Foundation - For order of exemption pursuant to § 13.1-514.1 B

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SEC-2002-00017 Louisa County Farm Bureau, Inc. - For order of exemption pursuant to VA Code § 13.1-514.1 B  
SEC-2002-00018 David Roy Schultz - For offer of compromise and settlement  
SEC-2002-00019 Chung Suk Oh d/b/a Pinnacle Holdings - Alleged violation of VA Code §§ 13.1-501, et al.  
SEC-2002-00020 Kevin L. Harrell d/b/a First American Financial Services Club - Alleged violation of VA Code §§ 13.1-501, et seq.  
SEC-2002-00021 Asher, Inc. - For offer of compromise and settlement  
SEC-2002-00022 John W. Asher, III - For offer of compromise and settlement  
SEC-2002-00023 Marix Technologies, Inc. - For offer of compromise and settlement  
SEC-2002-00026 John R. Upton - For offer of compromise and settlement  
SEC-2002-00027 Ampak Energy Company - Alleged violation of VA Code §§ 13.1-504(B), et al.  
SEC-2002-00028 Merrill Lynch, Pierce, Fenner & Smith, Inc. - Alleged violation of VA Code §§ 13.1-501, et seq.  
SEC-2002-00029 Hosanna Victory Church - For Order of Exemption pursuant to VA Code § 13.1-514.1 B  
SEC-2002-00031 Church Extension Investors Fund - For Order of Exemption pursuant to under VA Code § 13.1-514.1 B  
SEC-2002-00032 William Thomas Warren - Alleged violation of VA Code §§ 13.1-501 and 13.1-502  
SEC-2002-00033 Mission LC - Alleged violation of VA Code §§ 13.1-501 and 13.1-502  
SEC-2002-00034 Mission Tech, LC - Alleged violation of VA Code §§ 13.1-501 and 13.1-502  
SEC-2002-00035 U.S. Securities Int'l Corp. - Alleged violation of VA Code §§ 13.1-504.A, et al.  
SEC-2002-00036 Byron Ray Fike - Alleged violation of VA Code §§ 13.1-507, et al.  
SEC-2002-00037 Washington Square Securities, Inc. - Alleged violation of VA Code § 13.1-502 (2) and Rule 21 VAC- 5-20-260 A  
SEC-2002-00038 First Assembly of God of Harrisonburg, Virginia - For Order of Exemption pursuant to VA Code § 13.1-514.1 B  
SEC-2002-00039 Tropical Smoothie Franchise Development Corporation - Alleged violation of VA Code §§ 13.1-560, et al.  
SEC-2002-00048 Kenneth Edward Schimpf, Jr. - For special supervision order  
SEC-2002-00049 Louie Guy Johnson - For offer of compromise and settlement  
SEC-2002-00052 Sean M. Sandridge - For offer of compromise and settlement  
SEC-2002-00053 PBGH Financial Advisors, Incorporated - For offer of compromise and settlement  
SEC-2002-00054 AlphaCom, Inc. - For offer of compromise and settlement  
SEC-2002-00056 Anthony John Carrea - Alleged violation of VA Code §§ 13.1-502 and 13.1-503, et al.  
SEC-2002-00057 Senior Retirement Services, Inc. - Alleged violation of VA Code §§ 13.1-502 and 13.1-503