

**COMMITTEE TO STUDY THE RELATIONSHIP BETWEEN  
ELECTRIC COMPANIES AND GOVERNMENTAL ENTITIES IN  
VIRGINIA**

**TO  
THE GOVERNOR  
AND THE GENERAL ASSEMBLY OF VIRGINIA**



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**REPORT OF THE COMMITTEE TO STUDY THE RELATIONSHIP  
BETWEEN  
ELECTRIC COMPANIES AND GOVERNMENTAL ENTITIES IN  
VIRGINIA**

**TO**

**THE GOVERNOR**

**AND THE GENERAL ASSEMBLY OF VIRGINIA**

**Richmond, Virginia**

**December 1975**

TO: Honorable Mills E. Godwin, Jr., Governor of Virginia

and

The General Assembly of Virginia

**I. INTRODUCTION**

This report is the result of the directive contained in Senate Joint Resolution No. 161 passed by the 1975 Session of the General Assembly as follows:

**SENATE JOINT RESOLUTION NO. 161**

Creating a Special Committee to Study the Relationship Between Electric Companies and Governmental Entities in Virginia; allocation of funds.

**RESOLVED** by the Senate of Virginia, the House of Delegates concurring, That there is hereby created a Special Committee to Study the Relationship Between Electric Companies and Governmental Entities in Virginia. The Committee shall consist of ten members to be appointed by the Governor. Three members shall be representatives of governmental entities, one each from the State, municipal and county government; three members shall be representatives of electric utilities; one member shall be a member of the State Corporation Commission or its staff; and three shall be from the State at large, at least one of which shall be a representative of the business and financial community. The Governor shall designate one of the members from the State at large as chairman.

It shall be the function and purpose of the Special Committee to

recommend to the Governor and the General Assembly the most fair and equitable method of establishing just and reasonable rates to be charged by electric companies and paid by the governmental entities for electric service furnished to the United States of America and the State, their political subdivisions and their institutions and agencies. To this end, the Special Committee shall make a comprehensive survey of the existing relationship between electric utilities furnishing service in this Commonwealth, the United States and the State and their political subdivisions and their institutions and agencies with respect to (1) schedules of rates and contracts for service furnished by electric companies to customers in both the public and private sector; (2) the elements which should be considered and the criteria which should be followed in establishing fair and equitable rates to be charged and paid for electric service furnished the above mentioned governmental entities; (3) the advantages and disadvantages of having electric rates to governmental entities regulated by the State Corporation Commission; and (4) any and all other matters deemed by the Special Committee to be relevant to its determination of the most appropriate method of establishing just and reasonable rates for electric service furnished by electric companies to governmental entities.

The members of the Special Committee shall receive no compensation for their service but shall be paid their necessary expenses for which, and for such secretarial, professional, technical, legal or financial assistance as it may require, there is hereby allocated from the general appropriations to the General Assembly a sum sufficient estimated at ten thousand dollars.

All agencies of the State and the governing bodies and agencies of all political subdivisions of the State shall cooperate with and assist the Commission in its study.

The Special Committee shall make its report and recommendations to the Governor and the General Assembly not later than December one, nineteen hundred seventy-five.

This resolution was a result of the controversy stimulated by House Bill No. 864 which was introduced in the 1974 Session of the General Assembly and would have given the State Corporation Commission jurisdiction over utility rates charged to governmental customers. Out of the discussions on the issue, the need to make a comprehensive study of the problem became apparent.

Therefore, pursuant to Senate Joint Resolution No. 161, the Governor appointed the following to study and report on the matter: James W. Burks, Jr., Management Consultant, Norfolk and Western Railway Corporation, Roanoke; Eugene L. Campbell, King William County Board of Supervisors, Manquin; Mrs. J. E. Connelly, Housewife, Chester; H. Douglas Hamner, Jr., Director of Division of Engineering and Buildings, Hopewell; Charles C. Jones, Jr., Executive Manager, Virginia Association of Electric Cooperatives, Richmond; Ernest M. Jordan, Jr., Director of Division of Public Utilities, State Corporation Commission, Richmond; Frank G. Louthan, Jr., President, Richmond Engineering Company,

Richmond; John K. Taylor, Executive Coordinator—Commercial Operations, Virginia Electric and Power Company, Richmond; Robert D. Webster, Roanoke Division Assistant Manager, Appalachian Power Company, Roanoke; Roy L. Webber, Mayor, Roanoke; due to Mayor Webber's untimely death, Julian F. Hirst, City Manager, Norfolk, was appointed to the Committee for the remainder of their study. The Governor appointed Mr. Louthan to serve as the Chairman, and the Committee elected Mrs. Connelly as Vice Chairman.

The Division of Legislative Services made staff and facilities available to carry out the study, L. Willis Robertson, Jr. and Joanne S. Palmore being assigned to assist the study group.

One of the initial projects of the Committee was to study and compile all the background information and bring the members up to date on what had been done to date with regard to this issue. The following are summaries of their findings.

### **. A Summary of the History of Negotiated Electric Rates**

#### **For State Agencies and Institutions**

Prior to early 1939 each individual agency or institution of the Commonwealth made its own arrangements for the purchase of electric power either by negotiating or by accepting the filed rate. The larger institutions such as the University of Virginia were able to negotiate very favorable rates. There were three public service companies furnishing the major portion of the power needed by the State at that time; Appalachian Power Company, Virginia Electric and Power Company and Virginia Public Service Company. This has been reduced to two companies with the merger of Virginia Public Service into Vepco.

The State purchased a turbo-generator and two boilers to install in the Capitol Power Plant at 104 Governor Street in 1938 and tentative plans were under consideration for electrical generation to be installed in the Medical College of Virginia Power Plant, and at the State Penitentiary, the College of William and Mary and Eastern State Hospital. In early 1939 a team was appointed to reach an agreement on uniform rates which would be made available to all State installations receiving electricity from Vepco. The team consisted of Mr. Fred Q. Saunders for the State and Mr. Charles Millhiser for Vepco. An agreement was reached and a special contract form for purchase of power by State installations was published by Vepco with the date of May 1, 1939.

This agreement was superceded by one of February 1, 1946, which resulted in more favorable rates for State installations. This was also a uniform agreement which was offered to individual State agencies and institutions on the Vepco system. A similar agreement was reached with Appalachian Power Company at the same rates in the late 1940's- probably about 1948.

Various questions involving application of the agreements arose from time to time and were settled by meetings of representatives of the State and the utility involved.

These agreements were not questioned in the main by the utilities until a Veeco representative approached the Director of the Division of Engineering and Buildings in late 1971, expressing Veeco's desire to raise the rates for State services. This was not pursued with any vigor until Mr. John M. McGurn, Chairman of the Board of Veeco, wrote to Governor Godwin on March 22, 1974, requesting that a group be established for the purpose of negotiating a new agreement to be applicable to all State installations.

In its June 28, 1972 and June 17, 1974 decisions authorizing higher rates for Veeco's customers subject to its jurisdiction, the State Corporation Commission indicated its concern over the rate of return produced by non-jurisdictional customers. The 1974 decision indicated that governmental service is not paying its way. On December 12, 1972 the State Corporation Commission issued a declaratory judgement that the 1971 Virginia Constitution and State statutes give the State Corporation Commission authority over rates for service rendered to governmental agencies. The Commission's action was appealed and on January 14, 1974 the Virginia Supreme Court ruled that the Commission does not have this authority. (214 Virginia 457)

Acting on Mr. McGurn's request of March 22, 1974, Governor Godwin requested nominations for the negotiating team from the larger State users on the Veeco system and selected a team of seven, announced on May 24, 1974.

By letter of July 12, 1974, Mr. John W. Vaughan, Executive Vice President of Appalachian Power Company, asked Governor Godwin for consideration in increasing their rates for electric power furnished State installations. Mr. Vaughan was advised to contact Mr. H. Douglas Hamner, Jr., Chairman of the Committee negotiating for the State. The first appearance of the Appalachian Power Company representatives before the Committee was July 5, 1974.

The Committee met many times and made its recommendations to the Governor with the result that agreement was reached with Veeco on December 18, 1974, and with Appalachian Power Company on December 31, 1974.

**A Summary of Recent Negotiations for Electric Rates With  
Counties, Municipalities, and Federal Government  
Installations on Non-Filed Rates (except NASA)**

1. Counties and Municipalities.

The Committee surveyed the cooperatives and investor owned electric utilities in Virginia and found that 14 of the 21 systems offer special rates to governmental agencies. The Virginia Electric and Power Company provides service to substantially more agencies than any other utility.

Beginning May 1972, Vepco advised counties and municipalities that their electric service agreements would terminate as soon as permitted under each agreement. Vepco continued to bill for electric service at rates contained in expired agreements until February 6, 1974. At the time, Vepco notified such customers that they would be billed for electric service at rates and under Terms and Conditions that have been approved by the State Corporation Commission for service to customers of similar size, characteristics and use. Those governmental entities acting through the Virginia Municipal League and the Virginia Association of Counties formed a joint committee in May 1974, for the purpose of negotiating electric rates for counties and municipalities. This group hired an expert in utility rate design as a consultant in September, 1974. An agreement as to rates was reached January 14, 1975.

Some other electric utilities have also proposed changes in governmental rates while others have taken no action although most utilities have indicated a desire to increase these rates.

## **2. Federal Government Installations.**

It should be noted that Vepco is the only utility in Virginia to offer special rates to the federal government. Following lengthy negotiations with representatives of the Department of Defense, Vepco adopted, effective February 1, 1967, a Schedule MS - Department of Defense Installations, applicable to loads of 1500kw and greater. This schedule resulted in a substantial rate reduction for such installations in Virginia. Shortly after the adoption of Schedule MS, the General Services Administration began negotiations with Vepco to expand the applicability clause in Schedule MS so that it would apply to federal government installations other than the Department of Defense. As a result of the GSA negotiations, the Company adopted, effective February 1, 1968, a revised Schedule MS - Federal Government Installations. A new MS Rate Schedule was agreed upon in January 1975 with the federal government retroactive to October 1974. Some fifty installations now qualify for Schedule MS which is approximately the same as filed rates.

Those federal government installations which do not qualify for Schedule MS (except for NASA) are provided electric service in accordance with filed rates. All other utilities in the State of Virginia provide service to the federal government under filed tariff rates.

## **II. SURVEY**

Early in the Committee's discussions, the members decided that it was essential to hold a public hearing to gather input from

interested parties as well as the general public. There was good attendance of representatives from various local governments, state agencies, power companies, private businesses and citizens. Though extended a specific invitation (as was extended all known interested parties), the federal government was not represented at the hearing. The following is a summary of the positions presented at the public hearing. These arguments do not necessarily reflect the most feasible alternatives nor the opinions of the Committee, but the members of the Committee felt that they should be incorporated in the report for the benefit of all interested parties.

Those opposed to the present negotiation system between governmental entities and the power companies were the representatives of the power companies, the Attorney General's Office, the State Corporation Commission, and private business. They favored giving the State Corporation Commission the jurisdiction to regulate the electric rates charged to governmental customers. Some urged the immediate abrogation of the existing contracts and placing this group of customers on the State Corporation Commission's filed tariff rates or on rates to be established by the State Corporation Commission, based on cost of service. There were others, however, who recognized that there would inevitably be problems caused by such an immediate transition and recommended that there be a "phase-in" period after the expiration of existing contracts to help ease the change over to rates established by the State Corporation Commission. Also posed was the idea of having the State Corporation Commission evaluate whether or not the governmental customers should receive special rates as compensation for the alleged benefits flowing to the power companies.

The primary argument heard at the public hearing for giving the State Corporation Commission jurisdiction over the governmental customers was that the financial stability and viability of the power companies are threatened by allowing one group of customers to pay less than the cost of service. To compensate, the power companies contended that they are pressured to seek larger, more frequent rate increases, forcing the jurisdictional customers to subsidize governmental customers' rates. In addition, the lower total company net income makes the company less attractive to the financial community in general, thereby costing the company more in terms of interest rates and investor confidence. These expenses are ultimately passed on to the jurisdictional customer. Artificially low rates also do nothing to encourage conservation and increase construction demands. It was also argued that the future economic growth and job opportunities in the Commonwealth of Virginia are dependent upon the existence of a healthy electric utility industry within the State.

Proponents of regulating governmental entities' rates concluded that the only way to insure fairness is to have an objective, qualified body regulating rates for all customers, and that in the absence of such regulation, the governmental customers will continue to receive a subsidy from all other customers. The State Corporation Commission is the obvious agency to handle this responsibility since they already have the expertise and staff available. It was also



noted that the majority of the states have some kind of regulatory jurisdiction for the determination of rates for governmental entities and that in Virginia there are already several governmental entities being billed on electric rates the same as those on file with the State Corporation Commission.

The opposing point of view was expressed primarily by the representatives of local and State government. They strongly opposed placing the governmental customers under the jurisdiction of the State Corporation Commission arguing that the present system of negotiations provided a satisfactory mechanism for setting electric rates. Many requested that in the event the State Corporation Commission is given jurisdiction, strong guidelines be incorporated into their procedure through which the State Corporation Commission will handle the responsibility. The continuation of flat rates (rates with a uniform charge for each kilowatt hour consumed), a "phase-in" period, and special schedules for governmental customers were suggested as possible restrictions.

The position of those opposed to giving the State Corporation Commission jurisdiction was that the negotiation system had for years been a viable means of setting rates that were fair to both parties. Due to unusual economic conditions of the past few years the system had been thrown out of balance, but it still remained the most equitable way for two sides to come to terms about rates. These persons argued that the governmental entities have historically provided the power companies with certain benefits in the form of easements, rights-of-way, franchises and direct cost-free services (not normally furnished other corporate citizens) that constituted justification for lower rates. The State Corporation Commission, they feared, would not give adequate consideration to the "flow of benefits" and the special circumstances involved. Moreover, allowing the State Corporation Commission to place the governmental customers on the same rates paid by other customers would result in increased costs which would be detrimental to governmental budgets and governments would thus be forced to raise taxes. Large capital outlays would be necessary to convert present distribution systems to take advantage of optimum rates. Many requested that, in the event the State Corporation Commission is given jurisdiction over governmental customer's rates, special consideration be given the budgetary problems of the governmental entities. In particular, legislation should stipulate that no rate increase could become effective within a prescribed time period prior to, as well as during, the fiscal year to protect the budgetary process. It was also suggested that giving the State Corporation Commission jurisdiction presented a potential "conflict of interest", inasmuch as the Commission is responsible for assessing utility property for the purpose of taxation.

After listening to and carefully reviewing the testimony at the public hearings, together with considerable discussion and studies in committee meetings, the members agreed that the following appeared to be the alternatives available to them for consideration toward final recommendations:

1. That no action be taken on the matter and that the present relationship between government and utilities be maintained.

2. That legislation be enacted which would abrogate all existing contracts between governmental entities and the utilities and that new contracts be negotiated by either (a) the individual governmental entity, or (b) qualified representatives retained to represent governmental entities collectively. As a sub-alternate, the contracts negotiated, either separately or by a representative group, would be accomplished by the use of the State Corporation Commission as an arbitrator or as an appeals board.

3. That the State Corporation Commission be given jurisdiction for the regulation of electric rates for governmental entities. As part of this alternative, the following would necessarily have to be decided: (a) Should a "phase-in" period be required to facilitate a transition from a flat-rate structure to a demand rate structure and if so, how long should this period be? (b) Should governmental customers be considered as a separate class or classes or should present jurisdictional customer rates for non-governmental customers apply? (c) Is there a flow of benefits from the governmental entities to the utilities which should be recognized and if so, should this be left to determination by the State Corporation Commission or could it be quantified by the Committee? (d) Does the State Corporation Commission jurisdiction over utility property assessments have any bearing on this alternative, and if so, should the responsibility for tax assessment of utility properties be transferred from the State Corporation Commission to the State Department of Taxation?

Other possibilities considered (not necessarily in order of priority or chronology) were:

1. That the rate of return on governmental customers should not exceed the overall rate of return on other jurisdictional customers.

2. That the maximum rate of return on governmental customers should be no more than a set percentage of the overall rate of return on jurisdictional customers with the percentage varying depending on the type of local government.

3. That some restriction on imposition of rate increases during a current fiscal year be considered to eliminate problems peculiar to governmental fiscal year budgeting.

It is emphasized that all of the alternatives posed for consideration and listed above were for the purpose of attempting to reach some kind of unanimous recommendations and do not necessarily indicate general agreement by any or all of the Committee members. The Committee did agree that all possible alternatives should be reviewed to ascertain proper evaluation of all factors concerned.

### **III. INITIAL CONCLUSIONS**

**The Committee finds:**

1. That negotiations between governmental entities and individual electric utilities have been and would continue to be difficult protracted relationships that would require large amounts of time, money and resources. There is no absolute assurance that all governmental entities would accede to the recommendations of a bargaining group. It is probable that there would be extensive delays and that rate determinations could be based on expediency rather than by a full and complete evaluation of costs.

2. That utility rates should be based on costs of service and each class of service should bear its fair and reasonable share of those costs. In many cases existing long-term contracts for electric service between governmental entities and electric utilities cover neither the cost of providing such service nor the fuel costs alone.

3. That in the event the State Corporation Commission were to be given jurisdiction over the determination of electric rates for governmental entities, the State Corporation Commission would under existing law have the authority to abrogate all existing contracts for such service. The Committee, however, believes it proper to continue the performance under such contracts until their scheduled expiration.

4. That some governmental entities in the State of Virginia are now paying the same rate for electric service as other similar jurisdictional customers.

5. That State government and one or two major utilities in particular have for several years jointly encouraged installation of electric service facilities to maximize economies for both under the then existing flat-rate structure. An immediate change from such a flat-rate structure would work severe financial hardships on institutions within State government. This is also true in local government but to a lesser extent. A transition period depending on the size and complexity of such facilities would ease the hardships encountered in changing to a different rate structure.

6. That there is a wide difference of opinion as to the alleged flow of benefits from governmental entities to the electric utilities. Some of the benefits alleged are rights-of-way along municipal streets, tax benefits through special property assessments, franchises, transmission easements and special services rendered. If there is any quantifiable flow for which compensation is not now given by the utility, such compensation can be given either directly or through inclusion in the determination of electric rates. The Committee found it impossible to quantify any such benefits within the time and resources available. The Committee believes that a determination should be made of any such benefits by using a recognized consultant with wide expertise in the fields of engineering, accounting, taxes, management, business and governmental operations, etc.

7. That State government and local governments budget on a

fiscal year basis and that there would be problems in attempting to budget for unknown future electric rate increases.

8. That there is some form of state regulation of utility rates, although not necessarily similar regulation, in 43 of the 50 states.

9. That although not specifically stated during hearings, implicit in arguments against the State Corporation Commission jurisdiction over rates to governmental entities was the concern that granting of such jurisdiction would be the first step towards the eventual jurisdiction over other utility services rendered by and to governmental entities. The Committee concludes that this is not necessarily so and that circumstances involved in electric rate jurisdiction apply only to this study.

10. That attempts to set rates through legislation should not be considered due to the technical nature and complexity of the rate making process.

11. That if it were to be agreed that some agency should determine and/or approve electric rates for governmental entities, the State Corporation Commission is the agency most able to assess, determine and judge such rates.

12. That the tax assessment of utility property by the State Corporation Commission does not adversely affect its rate making responsibilities.

#### **IV. RECOMMENDATIONS AND FINAL CONCLUSIONS**

Considering the above initial conclusions, the Committee reached the following recommendations and final conclusions which were then used as a basis for proposed legislation to be enacted by the General Assembly. The final recommendations and conclusions are:

**1. (A) THE STATE CORPORATION COMMISSION SHOULD BE GRANTED THE AUTHORITY TO REGULATE THE RATES THAT ELECTRIC UTILITIES CHARGE GOVERNMENTAL ENTITIES FOR THEIR SERVICE. (B) IN FIXING SUCH RATES, THE COMMISSION MUST RECOGNIZE THE COSTS OF PROVIDING SUCH SERVICES AND SUCH FLOW OF BENEFITS, IF ANY, BY AND BETWEEN THE GOVERNMENTAL ENTITIES AND THE UTILITIES. (C) THE RATES OF RETURN FROM STATE AND LOCAL GOVERNMENTAL CUSTOMERS SHOULD NOT EXCEED THE OVERALL APPROVED RATE OF RETURN FOR OTHER JURISDICTIONAL CUSTOMERS OF THE UTILITY PROVIDING THE SERVICE.**

The Virginia State Corporation Commission has the expertise and capability for determining equitable and appropriate costs of service for all classes of customers and should be the body to determine fair and reasonable rates for governmental entities. Continued negotiations with the many governmental entities by the

utilities involved will be tremendously time-consuming and costly. Beyond this, the governmental entities are not staffed throughout with expertise in this particular field. Such staffing and expertise rests with the State Corporation Commission. (See Appendix I)

**2. EXISTING CONTRACTS FOR ELECTRIC SERVICE BETWEEN UTILITIES AND GOVERNMENTAL ENTITIES SHOULD BE HONORED UNTIL THEIR EXPIRATION DATE.**

Even though the General Assembly has authority to abrogate existing contracts, the Committee feels it sets an undesirable precedent and is of questionable propriety. (See Appendix I)

**3. LOCAL, STATE AND FEDERAL GOVERNMENTAL ENTITIES SHOULD BE CONSIDERED AS THREE DISTINCT AND SEPARATE CLASSES OF CUSTOMERS FROM ALL OTHERS.**

There are significant and varied differences in methods and costs of providing electric service to local governments compared with either state or federal government. (See Appendix I)

**4. DURING THE PERIOD JULY 1, 1976, THROUGH JUNE 30, 1978, THE MAXIMUM OVERALL RATE OF RETURN FROM STATE AND LOCAL GOVERNMENTAL CUSTOMERS, EXCEPT THOSE UNDER EXISTING CONTRACTS AND THOSE ON FILED TARIFF RATES, SHOULD NOT EXCEED 92 1/2% OF THE OVERALL RATE OF RETURN APPROVED BY THE STATE CORPORATION COMMISSION FOR ALL JURISDICTIONAL CUSTOMERS.**

In recognition of the uncertainty as to the value of any flow of benefits, the 92 1/2% is reasonable and acceptable for the two-year period while the flow of benefits by and between local and State governments and utility companies is being studied and quantified. (See Appendix I)

**5. THE STATE CORPORATION COMMISSION SHOULD PERMIT FLAT RATE SCHEDULES WHICH MAY BE SELECTED BY ANY STATE OR LOCAL GOVERNMENTAL ENTITY, NOW BEING BILLED ON FLAT RATES, IN ACCORDANCE WITH THE FOLLOWING PHASE-IN PERIOD: (A) SINGLE-METER, SINGLE PREMISE INSTALLATIONS—TWO YEARS, (B) MULTI-METER, SINGLE PREMISE, UP TO AND INCLUDING 500 KW DEMAND—SIX YEARS (C) MULTI-METER, SINGLE PREMISE INSTALLATIONS, OVER 500 KW DEMAND—TEN YEARS.**

An appropriate transition period should be scheduled to allow governmental entities to meet any significant problems in moving from flat rate (kilowatt hour) schedules to standard type rate schedules. Many State and local governmental entities have designed their internal distribution systems in consultation and coordination with the electric companies on the basis of a flat-type electric rate. To change abruptly to rate schedules involving separate demand and energy charges, etc., could present significant monetary problems in capital outlay together with the normal cost of service. (See Appendix I)

6. NO PROPOSED RATE INCREASE FOR LOCAL OR STATE GOVERNMENTAL ENTITIES FILED ON OR AFTER FEBRUARY 1, OF ANY CALENDAR YEAR SHOULD BE EFFECTIVE UNTIL AFTER THE FISCAL YEAR JULY 1 THROUGH JUNE 30 BEGINNING IN THE SAME CALENDAR YEAR OF SAID FILING.

To give some protection to the budgetary process, this provides a method by which governing bodies will have knowledge of rate increases in advance of final action in the appropriation of funds. (See Appendix I)

7. (A) THE SPECIAL COMMITTEE TO STUDY THE RELATIONSHIP BETWEEN ELECTRIC COMPANIES AND GOVERNMENTAL ENTITIES IN VIRGINIA SHOULD BE CONTINUED IN ORDER TO QUANTIFY ANY FLOW OF BENEFITS BY AND BETWEEN GOVERNMENTAL ENTITIES AND ELECTRIC UTILITIES. (B) THE COMMITTEE SHOULD ENGAGE AN INDEPENDENT CONSULTANT WITH THE QUALIFICATIONS ALREADY ENUMERATED. (C) THE RESULTANT FINDINGS OF THE STUDY TOGETHER WITH COMMENTS AND RECOMMENDATIONS FROM THE SPECIAL COMMITTEE SHOULD BE MADE AVAILABLE TO AND CONSIDERED BY THE STATE CORPORATION COMMISSION IN ESTABLISHING AND MAINTAINING RATE SCHEDULES FOR GOVERNMENTAL CUSTOMERS. (D) THIS STUDY SHOULD BE COMPLETED AS SOON AS PRACTICABLE BUT NO LATER THAN SEPTEMBER 30, 1977.

The subject of flow of benefits from governmental entities to electric companies was a major one in the presentations made by representatives of the governmental entities. The Committee felt that this alleged flow of benefits must be carefully studied and that benefits could in fact flow in either direction. Regardless, the Committee felt this subject must be studied in a totally unbiased and impartial manner with the findings made available to the State Corporation Commission for their consideration in their regulation of rates for governmental entities. The most appropriate means to accomplish this appears to be through the study being performed under the guidance and supervision of the Committee with the use of a consultant at the expense of the Commonwealth of Virginia. (See Appendix II)

Respectfully submitted,

Frank G. Louthan, Jr., Chairman

Mrs. J. E. Connelly, Vice Chairman

James W. Burks, Jr.

\*Eugene L. Campbell

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\*Julian F. Hirst

Charles C. Jones, Jr.

Ernest M. Jordan, Jr.

John K. Taylor

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\*Qualifying statements (See Appendix III).

## APPENDIX I

### Report Legislation

A Bill to amend and reenact §§ 56-232, 56-234 and 56-237, as amended, of the Code of Virginia, relating to the regulation of public utilities; and to amend the Code of Virginia by adding a section numbered 56-234.3, relating to the regulation of rates charged governmental entities by the State Corporation Commission.

Be it enacted by the General Assembly of Virginia:

1. That §§ 56-232, 56-234 and 56-237, as amended, of the Code of Virginia are amended and reenacted; and that the Code of Virginia is amended by adding a section numbered 56-234.3 as follows:

§ 56-232. Public utility and schedules defined.—The term “public utility” as used in §§ 56-233 to 56-240 and 56-246 to 56-250 shall mean and embrace every corporation (other than a municipality), company, individual, or association of individuals or cooperative, their lessees, trustees, or receivers, appointed by any court whatsoever, that now or hereafter may own, manage or control any plant or equipment or any part of a plant or equipment within the State for the conveyance of telephone messages or for the production, transmission, delivery, or furnishing of heat, chilled air, chilled water, light, power, or water, or sewerage facilities, either directly or indirectly, to or for the public.

But the term “public utility” as herein defined shall not be construed to include any corporation created under the provisions of Title 13 of the Code of Virginia, and shall not be construed to include any corporation created under the provisions of Title 13.1 of the Code of Virginia unless the articles of incorporation expressly state that the corporation is to conduct business as a public service company.

The term “schedules” as used in §§ 56-234 through 56-245 shall include schedules of rates and charges for service to the public and also contracts for rates and charges in sales at wholesale to other public utilities or for divisions of rates between public utilities, but shall not include contracts of telephone companies with municipal corporations or the State government or contracts of ~~other~~ public utilities , *other than electric utilities*, with municipal corporations or the federal or State government, or any contract executed prior to July one, nineteen hundred fifty.

§ 56-234. Duty to furnish adequate service at reasonable and uniform rates.—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, and to charge uniformly therefor all persons or corporations using such service under like conditions. The charge for such service shall be at the lowest rate applicable for such service in accordance with schedules filed with the Commission pursuant to § 56-236. But nothing herein contained shall be construed as



applicable to schedules of rates, or contracts for service rendered by any telephone company to any municipal corporation or to the State government, or by any other public utility, *other than electric utilities*, to any municipal corporation or to the State or federal government. The provisions hereof shall not apply to or in any way affect any proceeding pending in the State Corporation Commission on or before July one, nineteen hundred fifty, and shall not confer on said Commission any jurisdiction not now vested in it with respect to any such proceeding.

*§ 56-234.3. Regulation of rates charged governmental entities.—The State Corporation Commission shall establish rate schedules as provided herein for electric service to all municipal corporations, counties and State and federal governmental entities in the Commonwealth; provided, however, such rate making authority shall not be applicable to municipal corporations, counties and State and federal governmental entities served under contracts in effect on July 1, 1976, until those contracts have expired or been lawfully terminated.*

*Service to (1) municipal corporations and counties, (2) to State entities, and (3) to federal entities shall be deemed to be three separate classes of electric service.*

*For service to the municipal and county class and to the State class, the Commission shall establish two separate types of rate schedules, each designed to produce the same revenues from the class. One type of rate schedule shall be a general rate schedule in the form deemed most appropriate by the Commission for service to customers within each class, and the other type of rate schedule shall provide flat rates consisting of a uniform charge per kilowatt hour. Any municipal corporation, county or State entity purchasing electricity on flat rate schedules on July one nineteen hundred seventy-six may, during the period described herein, elect to continue to be served on the appropriate flat rate schedule rather than the general rate schedule for its class. The flat rate schedules will cease to be available as of July 1, 1978 for single-meter, single premise installations, on July 1, 1982 for multi-meter, single premise installations up to and including 500 kilowatts of demand, and on July 1, 1986 for multi-meter, single premise installations of over 500 kilowatts of demand.*

*During the period July 1, 1976, through June 30, 1978, the Commission shall fix the rate of return from municipal corporations, counties and State entities at 92-1/2% of the overall rate of return approved by the Commission as being reasonable for the utility involved. For rates to be in effect after June 30, 1978, the Commission shall determine the net value to the utility, if any, of the flow of benefits between the State and local governmental classes of customers and the utility, and shall take this value into consideration in determining the appropriate rates to municipal, county and State entities, provided that the rates of return shall not exceed the overall rate of return approved by the Commission as being reasonable for the utility involved.*

*Governmental entities served on filed tariff rates approved by the Commission shall continue to be served on such rates until July 1, 1978.*

*§ 56-237. How changes in rates effected.—No change shall be made in any schedule filed pursuant to the preceding section (§ 56-236), including schedules of joint rates, except after thirty days' notice to the Commission, and to the public, in such manner as the Commission may require, and all such changed rates, tolls, charges, rules, and regulations shall be plainly indicated upon existing schedules or by filing new schedules in lieu thereof not less than thirty days prior to the time the same are to take effect; provided,*

that the Commission may, in particular cases, authorize or prescribe a less time in which changes may be made; and provided further that, in the case of water companies, the notice to the public shall set forth the proposed rates and charges.

*Changes in the special rates authorized pursuant to § 56-234.3 for governmental entities which are filed on or after February first of any year shall not be effective until after the fiscal year beginning July one through June thirty of the calendar year of such filing.*

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## APPENDIX II

Report Legislation

### **SENATE JOINT RESOLUTION NO.....**

**Continuing the Special Committee to Study the Relationship Between Electric Companies and Governmental Entities in Virginia; allocation of funds.**

**WHEREAS, the Special Committee to Study the Relationship Between Electric Companies and Governmental Entities in Virginia was created pursuant to Senate Joint Resolution No. 161 as passed by the 1975 Session of the General Assembly; and**

**WHEREAS, the membership of the Special Committee has worked diligently on the problem of determining the most appropriate method of establishing just and reasonable rates for electric service furnished by electric companies to governmental entities; and**

**WHEREAS, although the Special Committee has made certain recommendations to establish a new schedule of rates for electric service furnished by electric companies to governmental entities, the Special Committee has been unable to quantify the value of any flow of benefits by and between governmental entities and electric utilities because of the complexity of the problem and the time limitations imposed on the Committee; now, therefore be it**

**RESOLVED by the Senate of Virginia, the House of Delegates concurring, That the Special Committee to Study the Relationship Between Electric Companies and Governmental Entities in Virginia is hereby continued. The Special Committee shall continue its study in order to quantify the value of any flow of benefits by and between governmental entities and electric utilities.**

**The present members of the Special Committee shall continue to serve. The members of the Special Committee shall receive no compensation for their service but shall be paid their necessary expenses for which, and for such secretarial, professional, technical, legal or financial assistance as may be required, there is hereby allocated from the general appropriations to the General Assembly a sum sufficient estimated at one hundred thousand dollars.**

**All agencies of the State and the governing bodies and agencies of all political subdivisions of the State shall cooperate with and assist the Special Committee in its study.**

**The Special Committee shall make its report and recommendations to the Governor and General Assembly not later than September thirty, nineteen hundred seventy-seven.**

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## APPENDIX III

### QUALIFICATION OF VOTE

#### 1. JULIAN F. HIRST

The Report of this Committee represents a compromise consensus of its members. Any matter as complex as the subject of the assignment to the Committee must have an arena of responsible discussion, debate and compromise. The matter has long range impact, fiscal, operational and political in the sense of rights and powers of governing officials.

The Committee was comprised of persons from four involved groups—consumers, electric utilities, regulatory agency and government, state and local. Without doubt, each Committee member by group or as individual has issues or qualifications with aspects of the Report. But, again, the compromise process.

In respect to such, I must confine my qualifications to one point I regard should be made. The point relates to a proposition that is overriding to the direction of the Report. The proposition also has distinct historical implications regarding the manner in which local governing bodies and officials have long dealt with investor owned utilities. That history includes the very recent years and one of the reasons the matter at hand has been such an issue.

The proposition is the proposed conveyance of the regulation and rate fixing of the sale of electric utility service for governmental purposes to the State Corporation Commission. Such is recommended in the Committee Report. Such also have been consistently advocated of recent by the Commission and by certain of the utilities.

I do not think a case of justification for the conveyance has been made before the Committee or otherwise.

In brief my reasons are thus: (1) the process of negotiations, individually or collectively by local or State governments has not been found yet failing; (2) a right and a privilege of responsibility would be moved from local officials to a centralized State agency; (3) the present situation, which prompts this total issue, was not created by any dereliction, lack of action or bad faith on the part of local government; (4) there has been little indication, if any at all, by the Commission as to attitudes, procedures or considerations which would prevail in the Commission's dealing with factors of return, rates, etc. related to governmental entities; and (5) local government has concern, as yet unrelieved, that its voice, identity and opportunity of negotiation would be much diluted in the ensuing forums, processes and determinations of the Commission.

#### 2. EUGENE L. CAMPBELL

In casting my affirmative vote on December 29, 1975, on the Report of the Committee to Study the Relationship Between Electric Utilities and Governmental Entities in Virginia, I reserved the right to file a qualification statement.

I have a deep concern as to the recommendation that the State Corporation Commission be granted the responsibility to fix rates that electric utilities charge governmental entities for their service.

The State Corporation Commission, under the present law, has the authority over tax assessment of utility properties. The same State agency should not have the power to regulate rates and also the tax assessment responsibility. There appears to me to be a conflict in the administration of the two responsibilities. Historically, the State of Virginia has been careful to avoid systems where there is a possibility of conflicting empowerment. I do not think the State should deviate from this proven course.

History has proven that electric utilities and governmental entities can negotiate and arrive at fair and equitable rates. To change this arrangement could mean potential loss of cooperation that has existed among governmental entities and electric utilities. I strongly urge that nothing be done to impair the cooperation enjoyed between local governments and electric utilities at the present time.

There is a definite possibility of a dangerous precedent being set by local government losing the privilege to negotiate rates with electric utilities if this responsibility of local officials is transferred to a centralized State agency.

I would urge the General Assembly to take these points into consideration prior to taking action on this report.

