

**REPORT OF THE  
STATE CORPORATION COMMISSION**

**To Investigate the Regulatory  
Procedures for Small  
Telephone Companies**

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

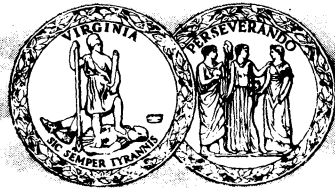


**House Document No. 9**

**COMMONWEALTH OF VIRGINIA  
RICHMOND  
1986**



# COMMONWEALTH OF VIRGINIA



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## STATE CORPORATION COMMISSION

December 18, 1985

TO: The Honorable Charles S. Robb  
Governor of Virginia

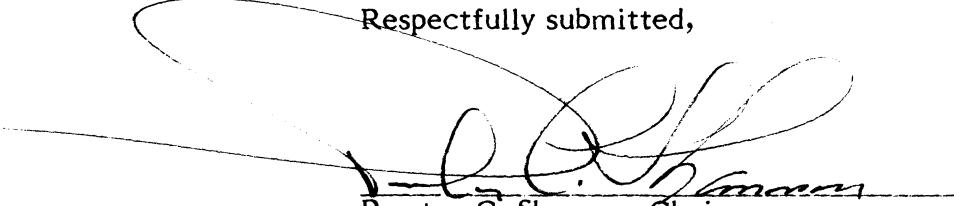
and

The General Assembly of Virginia

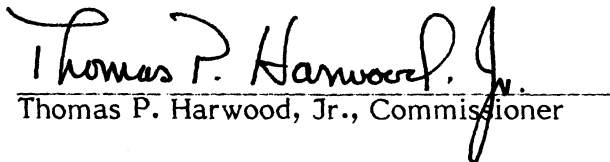
The report contained herein is pursuant to House Joint Resolution No. 280 of the 1985 Session of the General Assembly of Virginia.

This report represents the response by the State Corporation Commission to the directive to investigate and implement regulatory procedures and methodologies for small telephone companies which will reduce the cost of regulation for such utilities and their customers and which will allow for timely changes in rates to meet increasing costs and other changes occurring in the telephone industry.

Respectfully submitted,



Preston C. Shannon, Chairman



Thomas P. Harwood, Jr., Commissioner



Elizabeth B. Lacy, Commissioner



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HOUSE JOINT RESOLUTION NO. 280

*Requesting the State Corporation Commission to investigate the regulatory procedures for small telephone companies.*

Agreed to by the House of Delegates, February 4, 1985  
Agreed to by the Senate, February 20, 1985

WHEREAS, the scheme of public utility regulation in Virginia has been fashioned principally to address large investor-owned utilities; and

WHEREAS, a number of public utilities operating in Virginia are small investor-owned telephone companies which serve relatively few customers; and

WHEREAS, the small telephone utilities possess characteristics dissimilar to large investor-owned utilities; and

WHEREAS, the cost of compliance with the current scheme of regulation is disproportionately greater for small public utilities and creates expenses that must be borne by their customers; and

WHEREAS, small telephone utilities are exposed to annual increases in costs and expenses, many of which are beyond their control; and

WHEREAS, such utilities will have to contend with the dynamic changes occurring in the telephone industry, but have limited means to promptly respond to such changes; and

WHEREAS, it is in the public interest for the regulatory process to recognize the particular needs of small telephone companies and their customers, to tailor the process in such a manner as to reflect the size, resources and characteristics of small telephone utilities and to provide the means for responding to the changing costs and conditions under which they must provide service; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the State Corporation Commission is requested to investigate and implement regulatory procedures and methodologies for small telephone companies which will reduce the cost of regulation for such utilities and their customers and which will allow for timely changes in rates to meet increasing costs and other changes occurring in the telephone industry; and, be it

RESOLVED FURTHER, That the State Corporation Commission is requested to report on its findings to the 1986 Session of the General Assembly of Virginia.

## State Corporation Commission Report

### Introduction

House Joint Resolution No. 280, adopted during the 1985 General Assembly Session, requested the State Corporation Commission to investigate and implement regulatory procedures that would reduce the cost of regulation and allow for timely changes in rates for small investor-owned telephone companies. The Commission appointed a task force to study the issue. After analyzing the statutes pertaining to public utilities, it determined that enabling legislation is required before the Commission may streamline regulation for small investor-owned telephone companies. (Draft legislation is attached as Appendix.)

The Commission defined a small investor-owned utility as one whose annual revenues do not exceed \$3,000,000 and one that is not a subsidiary of a telecommunications company. The draft legislation will allow a small investor-owned telephone company's rate increases to become effective 30 days after notice has been given to its customers unless the Commission receives complaints from 20 or more customers, or a substantive issue is identified which in the Commission's judgment cannot be resolved without a hearing, or the Commission determines to investigate a rate change on its own motion.

### Enabling Legislation Needed

The Commission gave consideration to addressing the resolution simply by amending the Commission's internal procedures. It became apparent, however, that there were several obstacles in the existing statutory structure that would impede resolving the problems identified by the General Assembly. The major statutory provision which prevents a less costly method of regulating small investor-owned telephone companies is found in Virginia Code Section 56-240. This section, although providing the potential for new rate schedules to go into effect without being suspended, also requires that:

No rate increase shall go into effect under the provisions of this section for an investor-owned . . . telephone . . . public utility unless such public utility has filed with its schedule information and data designed to show that any increase complies with the just and reasonable requirements of Section 56-235.2, and unless based thereon the Commission finds a reasonable probability that the increase will be justified upon full investigation and hearing.

This provision, applicable to investor-owned telephone utilities of any size, is interpreted by the Commission to require the filing of substantial financial, accounting, and rate design data with the application for any requested increase in rates. The Commission needs this data in order to make the findings required by the statute. The statute also clearly contemplates that a more complete investigation must be made following the required preliminary finding and that a hearing be held on the subject of the proposed rate increase. Providing substantial relief from these procedural requirements would, in the Commission's opinion, significantly reduce the cost of regulation for these small companies, but would also require a statutory amendment of the type suggested in the Appendix.

Two other chapters of Title 56 also impose requirements which are costly and time-consuming for small investor-owned telephone companies. These are Chapter 3, Virginia Code Section 56-55 et. seq., and Chapter 4, Virginia Code Section 56-76 et. seq. Chapter 3 requires any public service company whose rates and service are regulated by the Commission to follow fairly involved procedures before the company can issue securities. Chapter 4 requires public utilities to gain approval from the Commission for virtually every type of contractual relationship the utility may enter into with any affiliated company. The draft legislation would grant exemption to these small companies from the requirements of Chapters 3 and 4. Often small investor-owned telephone companies lack the expertise and financial ability to readily comply with the requirements of these chapters.

Although the proposed legislation would constitute a major change in the procedures followed in regulating these small companies, the Commission believes that the proposal should be effective in addressing the concerns raised in the House Joint Resolution No. 280. It will reduce the cost of regulation for the companies concerned, and it will allow for timely changes in rates, without hampering effective regulation and oversight of these utilities, or protection of customers.

### Defining Small Investor-Owned Telephone Companies

Because the Resolution did not define a small investor-owned telephone company, instead only stating characteristics such as "serve relatively few customers" and "possess characteristics dissimilar to large investor-owned utilities," the Commission solicited comments from the Virginia Telephone Association, several small companies, and other states to determine a definition. The Commission surveyed 19 states, including the 10 states having the largest number of telephone companies (ranging from 44 companies in New York to 156 in Iowa) and nine nearby states with similar characteristics to Virginia. Of the 19, five have some form of streamlined regulation, and eight have a definition for a small company. Some states define a small company as one having fewer than 15,000 access lines, subscribers, or customers, while others limit the number of lines to 5,000. Illinois draws the line at 1,500 subscribers, thereby exempting 40 of their 57 companies from regulation.

The VTA proposed that a small telephone company be defined as:

An investor-owned company operating local exchange service within the Commonwealth of Virginia that is not merged or consolidated into a regional or national holding company, and further, does not have more than 30,000 access lines.

After analyzing the data gathered, the Commission determined that streamlined rules should be designed to benefit those companies that seldom file rate requests and lack the accounting and financial expertise needed to compile the information required by the Commission's current rules. The Commission incorporated part of the VTA's holding company principle into its definition, determining that any company affiliated with a large telecommunications holding company has the expertise and resources to operate under current rules.

The Commission rejected the VTA's 30,000 access line limitation, however, because it would include companies that have the resources and expertise to comply with the Commission's current guidelines. Moreover, because the Commission regulates revenues and not access lines, revenue is a more appropriate criterion.



Based on these considerations, the Commission determined that a small telephone company must meet the following criteria:

- 1) Annual revenues not exceeding \$3,000,000.
- 2) Not a subsidiary of a telecommunications company.

Three million dollars was chosen as the appropriate revenue benchmark because investor-owned telephone companies with more than \$3,000,000 typically have more complex affiliate and nonregulated enterprises and are, in general, too large to be effectively subjected to streamlined regulation. The Commission also does not want to exempt these companies from Chapter 3 and 4, and because of the possibility of cross subsidies, believes current regulatory procedures should be maintained.

The companies that currently meet the requirements of this definition are Burke's Garden, Virginia Hot Springs, Mountain Grove-Williamsville, New Hope, and Peoples Mutual. Although the companies concerned have current annual revenues below \$2,000,000, the \$3,000,000 annual revenue limit was selected because it allows room for growth in revenues.

Streamlined regulations permitting rate increases to become effective after notice to customers will save small telephone companies the costs of a full-blown rate hearing. The customers are protected because 20 complaints to the Commission or a substantive issue raised by a single person which cannot be resolved without a hearing, will result in a suspension of the proposed rate increase while the Commission investigates whether the proposed rates are just and reasonable. The Commission believes that the potential for cost-savings will encourage small telephone companies to maintain good relations with their customers and to communicate with them to solve any problems. As a result, both the company and its customers will benefit from reduced regulation.

APPENDIX

DRAFT LEGISLATION FOR SMALL  
INVESTOR-OWNED TELEPHONE COMPANIES

Enact a new Chapter 15.1 to provide the following:

56-\_\_\_\_\_. Short Title. - This chapter may be cited as the "Small Investor-Owned Telephone Utility Act".

56-\_\_\_\_\_. Definitions. - As used in this chapter:

"Commission" means the "State Corporation Commission".

"Small Investor-owned Telephone Utility" means any investor-owned public utility (other than a cooperative) having a gross annual operating revenue which does not exceed \$3,000,000, which is not a subsidiary of a telecommunicatic company, and which owns, manages, or controls any plant or equipment or any part of a plant or equipment within the State for the conveyance of telephone messages, either directly or indirectly, to or for the public.

"Telecommunications Company" includes every corporation which owns, manages, or controls any plant or equipment for the conveyance of voice or data messages.

56-\_\_\_\_\_. Tariff Filings. - A. Any change in any rate, toll, charge, fee, rule, or regulation (hereafter collectively referred to as tariffs) of a small investor-owned telephone utility shall become effective 30 days after notice has been mailed to each customer unless (i) a protest or objection is filed by 20 or more customers subject to a small investor-owned telephone utility's tariffs, or (ii) a substantive issue is raised by any person which in the Commission's judgment cannot be resolved without a hearing, or (iii) the Commission acts, on its own motion, to investigate the utility's tariffs after at least 30 days notice by the utility to the Commission and to the public.

B. Whenever 20 or more customers subject to a small investor-owned telephone utility's tariffs file a protest or objection to any change in any schedule of that utility's tariffs or whenever a substantive issue regarding the utility's tariffs is raised by any person, which in the Commission's judgment cannot be resolved without a hearing, the Commission may suspend the enforcement of any or all of the proposed tariffs for a period not exceeding 150 days from the date of the filing of those tariffs with the Commission and shall convene a hearing to determine whether the proposed tariffs are reasonable and just. At the conclusion of the hearing, the Commission may fix and order substituted tariffs as shall be just and reasonable.

Notice of the suspension of any proposed tariff and the scheduling of a hearing shall be given by the Commission to the small investor-owned telephone utility prior to the expiration of the 30 days notice to the Commission and to the public as prescribed in subsection A of this section. If the proceeding has not been concluded and an order made at the expiration of the suspension period, after notice to the Commission by the utility making the filing, the proposed tariffs shall go into effect. Where increased rates, tolls, or charges are thus made effective, the Commission shall by order (i) require the small investor-owned telephone utility to furnish a bond, which at the

Commission's discretion may bear interest at a rate specified by the Commission, in order to refund any amounts ordered by the Commission, (ii) require the utility to keep detailed accounts of all amounts received by reason of such increase, and (iii) upon completion of the hearing and decision, shall order the small investor-owned telephone utility to refund the portion of such increased rates, tolls or charges found by the Commission's decision to be unjustified.

C. The Commission may, acting on its own motion, suspend the utility's proposed tariffs. The Commission shall give notice of its intention to suspend the proposed tariffs to the small investor-owned telephone utility within 30 days notice after the filing of these proposed tariffs.

D. The Commission is authorized to promulgate any rules necessary to implement this section.

56-\_\_\_\_. Regulation by State Corporation Commission. - Every small investor-owned telephone utility shall be subject to Chapters 1, 2, 10, 10.1, 10.3, and 15 of Title 56 except that the obligations of small investor-owned telephone utilities as to tariff filings shall be defined by this chapter. Small investor-owned telephone utilities shall be excluded from Chapters 3 and 4 of Title 56.

56-\_\_\_\_. Construction of Chapters; conflicting laws. - This chapter is to be liberally construed, and any provisions of other laws in conflict with the provisions of this chapter shall not apply to small investor-owned telephone utilities operating hereunder.

