Charlotte Lane, Chairperson  
WV Public Service Commission  
201 Brooks Street  
P.O. Box 812  
Charleston, WV 25323-0812  

Re: Comments of the West Virginia State Building and Construction Trades Council to the WV PSC staff compromise plan proposal in WVPSC Case No. 98-0452-E-GI; General Investigation to determine whether West Virginia should adopt a plan for open access to the electric power supply market and for the development of a deregulation plan.

Dear Chairperson Lane,

I am in receipt of the compromise plan proposed by the staff of the West Virginia Public Service Commission distributed at the October 19, 1999 settlement conference in relation to the legislative directive to develop a deregulation plan for the electric utility industry.

The compromise plan proposed by the staff fails to provide concrete solutions to the negative impact on employment to the State of West Virginia contemplated by the legislature in West Virginia Code § 24-2-18(6)(E). As such, the staff's proposed plan is fatally flawed. In order to meet the statutory requirements, the staff's proposed plan must be amended in some manner to address worker and employment protection issues.

The direct testimony submitted in my name on behalf of the West Virginia State Building and Construction Trades Council contained several comments which relate to employment concerns and employee needs. I am attaching that testimony, which contains solutions for avoiding potential negative impact to West Virginians employed by electrical utilities, to this letter to stand as comments to the staff proposal and for ease of reference.

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1 West Virginia Code § 24-2-18(6)(E) mandates that, "the [WV Public Service] commission may not submit a deregulation plan to the Legislature...unless...the deregulation plan: Does not result in a substantial negative impact on employment in the state or the state's economy".
In addition, The West Virginia State Building and Construction Trades Council submitted comments relating to the prohibition of cross-subsidization. It remains our considered opinion that cross-subsidization violates the public's trust placed in electrical utilities and must be deemed unlawful.

If the Commission does not choose to develop a set of concrete and reliable protections for West Virginia employees in the electrical utility sector, I will be forced to address these matters with the West Virginia Legislature at some future date and time.

Thank you for your attention to this matter. If you have any questions, please call.

Very truly yours,

Roy Smith
Secretary-Treasurer,
West Virginia State Building and Construction Trades Council

Enclosure

cc: All parties to the proceeding, w\enclosure
BEFORE THE WEST VIRGINIA PUBLIC SERVICE COMMISSION,
AT CHARLESTON

General Investigation to determine whether West Virginia should adopt a plan for open access to the electric power supply market and for the development of a deregulation plan.

Case No. 98-0452-E-G1

DIRECT TESTIMONY OF ROY SMITH
SECRETARY-TREASURER
WEST VIRGINIA STATE
BUILDING AND CONSTRUCTION TRADES COUNCIL

1 Q. WHAT IS YOUR NAME AND BUSINESS ADDRESS?
2 A. Roy Smith, Secretary-Treasurer, West Virginia State Building and Construction Trades Council, 2301 7th Avenue, Charleston, WV 25302.

4 Q. FOR WHOM ARE YOU TESTIFYING IN THIS HEARING?
5 A. I am testifying on behalf of the West Virginia State Building and Construction Trades Council.

7 Q. WHAT IS YOUR EDUCATION AND EXPERIENCE?
8 A. In 1969 I entered the International Brotherhood of Electrical Workers, Local 872, Beckley West Virginia apprenticeship program. I 1972, I graduated from the apprenticeship program and began working on numerous years as an electrician on construction projects, heavy construction projects, highway construction projects, including work for six (6) years as an electrical foreman over the R. D. Bailey Dam Project, Guyandotte River near Wyoming and Mingo Counties which included
electrical work, high voltage distribution of the project and responsibilities for day to day maintenance on electrical equipment projects; in addition, I was a foreman on parts of the Crossroads Mall; and worked in numerous industrial facilities in WV and VA.

In 1984 through 1989, I was elected as Business Manager of IBEW Local 872, Beckley, WV. Fifty percent of the members of IBEW Local 872 were linemen who were builders of electrical transmission lines and distribution lines. I matched employees’ skills with employer needs, which included representing journeyman electricians who were the constructors of power plants. In addition, I was a Trustee from 1984 through 1989 for Health and Pension Fund for the IBEW Local 872 members.

In 1989 through 1994 I was appointed by then Governor Caperton as Labor Commissioner. During that five (5) period I was responsible for the enforcement of all Labor Laws affecting WV employees, examining and enforcing Contractor Licensing requirements, examining and enforcing all aspects of the Weights and Measures Division and administering the WV Department of Labor’s Safety Section which performed OSHA inspections for WV businesses, advising them of their safety requirements and needs.

In 1994 to the current date, I became the Secretary-Treasurer of WV State Building and Construction Trades Council of the AFL-CIO, which represents all fifteen (15) International Unions, utilized in the construction, repair and maintenance of electrical power plants.
In addition, in 1994 to current, I also became the Executive Director of Construction Trades Training and Advancement Program whose job it is to provide training for undertrained and displaced workers. From 1994 to the current date, I am a member of the Advisory Board of WV AFL-CIO. In that capacity, I advise the WV AFL-CIO its direction in its representation of organized employees in WV.

Beginning in January, 1998 to the current date, I became a member of the Human Resource Investment Council appointed by Governor Underwood which defines educational needs of adult West Virginians and shaping the state workers needs through the new Federal Workforce Investment Act.

From 1994 to the current date, I act as the Executive Director of The Affiliated Construction Trades Foundation, a division of the WV State Building and Construction Trades Council, which involves examining environmental and safety factors affecting members as well as matters relating to wages, benefits and working conditions of our members.

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. The purpose of my testimony is to assist the Public Service Commission in its investigation which it is undertaking to determine whether or not the State of West Virginia should adopt a plan for open access to the electric power supply market and for the development of a deregulation plan.

Q. PLEASE SUMMARIZE YOUR TESTIMONY.

A. In summary fashion, my testimony consists of the following condensed points:
1. A worker protection plan must be created which will minimize any workforce or benefit reduction to employees of utility companies as a result of any legislative change.

2. Generation and Distribution standards should be established to insure that consumers are not subjected to frequent and lengthy outages.

3. Bonding requirements must be set at levels which will insure marketers power supply promised at all times.

4. Utility companies must be required to establish or continue training and safety programs.

5. Electric utilities should have legislative direction to sign successorship clauses with any buyers or traders or power plants or service areas. If plants were purchased, new owners would be required to operate plant for a minimum of five years.

6. All efforts must be made to relocate people who become workforce reductions before using separation or they could opt for a voluntary separation plan.

7. Meter reading and billing functions should stay within existing utility companies.

8. Extended distance relocations must be minimized. Employees not electing to move or commute to a job opening that requires lengthy travel time must be allowed to opt for a voluntary separation plan.
9. If employees do not continue employment with the current utility employer, there should be severance packages, including extended benefits, health care and retraining funds available for career changes.

10. It is in West Virginia's interest to authorize the Public Service Commission to mandate and enforce inspections, maintenance, restoration repair and replacement standards for generation, transmission, and distribution facilities which provide for high quality, safe and reliable service.

11. The PSC's responsibility to require alternative retail electric supplies to provide necessary records on reliability must be clear in the new proposal.

12. Existing and additional standards, if adopted, must apply to all supplies, both electric utilities and alternative retail electric supplies.

13. All electric utilities and alternative retail electric supplies should be required to maintain a customer call center where customers can reach a representative and receive current information.

14. Skill, knowledge and competence levels of alternative retail electric supplies should be consistent with those generally required of or by the electric utilities of West Virginia with respect to their employees.

15. Impacts on employees and their communities of any necessary reductions in the utility workforce directly caused by this restructuring of the electric industry should be mitigated to the
extent practicable through such means as offers of voluntary
severance, retaining, early retirement, outplacement and related
benefits. Before any such reduction in the workforce during the
transition period, an electric utility shall present to its employees or
their representatives a workforce reduction plan outlining the
means by which the electric utility intends to mitigate the impact of
such workforce reduction on its employees.

16. In the event of a sale or transfer of ownership, the utility shall offer
a transition plan to those employees who are not offered jobs
because the successor has a need for fewer workers.

17. Current levels of generation must be maintained. Meaning West
Virginia could not be supplied by out-of-state “cheaper” electricity-
Maintain sufficient levels of reserve capacity to withstand extreme
weather conditions (hot and cold weather).

18. Prohibit cross-subsidization of companies.

Q. WITH REFERENCE TO MINIMIZING ANY WORKFORCE OR BENEFIT
REDUCTION TO EMPLOYEES AS A RESULT OF ANY LEGISLATIVE
CHANGE, WHAT IS YOUR OPINION?

A. Introduction

Legislators should direct investor owned utilities to submit a worker
protection plan for approval and inclusion to a deregulation bill. The purpose is
to minimize any workforce or benefit reduction to the employees as a result of
legislative change. This should also mitigate adverse impact to local
communities and state unemployment programs.
Worker protection was included in deregulation legislation in Illinois,
Massachusetts, Connecticut and California.
Each utility would have a management/employee group to determine if any
worker's dislocation occurred as a consequence of electric deregulation and to
modify and administer this plan.
Any necessary workforce reduction, transfers or contracting out of services
should have Public Service Commission, ("PSC"), approval so there will be no
potential deficiencies to service, reliability or quality level. PSC should provide
constant oversight to prevent problems before they occur.
Q. WITH REFERENCE TO THE RELIABILITY OF ELECTRICAL SERVICE,
WHAT IS YOUR OPINION?
A. Reliability
Electricity is an essential service, Reliability of electric service is a public safety
issue and a matter of national security. Society relies on the smooth operation of
electricity based technologies.
Electric power companies are cutting costs, resulting in systems so overstretched
they may not be able to operate efficiently in times of peak demand or during
storms.
Generation and Distribution standards should be established to insure
consumers are not subjected to frequent and lengthy outages. Distribution
standards should be based on the average of all circuits to insure proper
maintenance and reliability.

Q. WITH REFERENCE TO CONSOLIDATION OF EXISTING ELECTRIC
UTILITIES AND OTHER ENERGY INDUSTRY COMPANIES, WHAT IS
YOUR OPINION?

A. Mergers and Market Dominance

Ongoing consolidation of existing electric utilities and other energy industry
companies will create opportunities for abuse of economic power and
manipulation of energy markets to maximize profits at the expense of consumers.
Most educated observers claim that customer choice will be of little or no value to
residential consumers or small businesses in terms of the price of electricity.
Large industrial consumers ill command any or all lower-cost electricity, leaving
higher-cost supplies to residential and small business users.
Prior to deregulation of electric utilities, there should be a minimum of four power
marketers required to compete in the state. Bonding requirements must be set at
levels to insure marketers supply power promised at all times.

Q. WITH REFERENCE TO WORKER SAFETY AND PUBLIC SAFETY IN
LIGHT OF PROPOSED WORK FORCE REDUCTION, WHAT IS YOUR
OPINION?

A. Training and Safety

Cost-cutting measures and work force reductions are being implemented
throughout the electric power industry. As a result, the existing work force and
the electric systems are stressed to a point that threatens worker safety and
public safety. Utility companies must be required to establish or continue training
and safety programs. This will insure current levels of experience and job
knowledge to be maintained.

Q. WITH REFERENCE TO INCLUDING SUCCESSORSHIP CLAUSES IN
CONTRACTS INVOLVING BUYERS OR TRADERS OF POWER
PLANTS WHICH WOULD ALLOW THE EXISTING TRAINED
WORKFORCE TO CONTINUE EMPLOYMENT WITH EXISTING
BENEFITS FOR THE DURATION OF THEIR COMPANY/LABOR
AGREEMENT, WHAT IS YOUR OPINION?

A. Successorship

Electric utilities should have legislative direction to sign successorship clauses
with any buyers or traders or power plants or service areas. This clause would
allow for a trained workforce to continue employment with existing benefits for
the duration of their company/labor agreement or length of this plan if no
agreement is in place. This would not preclude workforce reductions. If plants
were purchased, new owner would be required to operate plant for a minimum of
five years. This would prevent closures of plants and adverse economic impact
on local communities.

Q. WITH REFERENCE TO RELOCATION OR PROVISION OF A
VOLUNTARY SEPARATION TO EMPLOYEES AFFECTED BY
WORKFORCE REDUCTIONS, WHAT IS YOUR OPINION?
A. Workforce Reductions

Workforce reductions could occur if contractors or new hires during this plan do not replace affected employees. All efforts would be made to relocate these people before using separation or they could opt for a voluntary separation plan. Current jobs should stay within state for local communities and not replaced by temporary or out of state workers.

Q. WITH REFERENCE TO THE MOST APPROPRIATE PLACEMENT OF METER READING AND BILLING FUNCTIONS OF EXISTING ELECTRICAL UTILITY COMPANIES, WHAT IS YOUR OPINION?

A. Meter Reading and Billing

These functions should stay within existing utility companies.

Q. WITH REFERENCE TO PROVIDING EMPLOYEES WHO DO NOT ELECT TO MOVE OR COMMUTE LONG DISTANCES TO WORK SITES WITH A VOLUNTARY SEPARATION PLAN, WHAT IS YOUR OPINION?

A. Geographic Hardship

Extended distance relocations present a more severe hardship to some utility employees than others. Some employees may elect not to move or commute to a job opening that requires lengthy travel time so it may require a voluntary separation plan.

Q. WITH REFERENCE TO PROVIDING EMPLOYEES WHO DO NOT CONTINUE EMPLOYMENT WITH THE PRESENT UTILITY EMPLOYER WITH SEVERANCE PACKAGES, INCLUDING EXTENDED BENEFITS,
INCLUDING HEALTH CARE, AND RETRAINING FUNDS, WHAT IS YOUR OPINION?

A. Separation Plan

This is a last resort. If employees do not continue employment with the present utility employer, there should be severance packages including extended benefits, including health care, and retraining funds available for career changes. This was used in the Trade Readjustment Act and Clean Air Employment Transition Assistance, ("CAETA"), grant program. Their employees should be eligible for their vested retirement entitlements and not be subjected to penalty reductions.

Plan elements:

1. Include a program to assist eligible employees in maintaining fringe benefits and obtaining employment that makes use of their potential.

2. Provide to eligible employees retraining services and out-placement services and benefits, including intensive vocational-interest and aptitude screening.

3. Provide full tuition for two years at a West Virginia University or, at the discretion of the employee, a vocational or technical school in the state or other reasonable retaining services of value equal to full in state tuition for two years.

4. Provide for 24 months, or until permanent replacement coverage is obtained through reemployment, whichever comes first, provide
continued health care insurance at the benefit and contribution
levels existing during the employment with the utility.

5. Provide for minimum severance pay equal to two weeks for base
pay for each year of full-time employment.

A. **Reliability, Safety and Service Standards**

With the advent of deregulation in this industry, West Virginia has a continued
interest in assuring that the safety, reliability, and affordability of electrical power
is not sacrificed to competitive pressures, and to that end, intends to implement
safeguards to assure that the industry continues to operate the electrical system
in a manner that will serve the public's interest. West Virginia further has an
interest in enabling the existing utilities to secure the return on certain
investments on which they depended in undertaking those commitments in the
first instance while, at the same time, not permitting new entrants into the
industry to take unreasonable advantage of the investments made by the
formerly regulated industry.

If is further in West Virginia's interest to protect the interests of utility employees
who have dedicated themselves to assuring reliable service to the citizens of
West Virginia, and who might otherwise be economically displaced in a
restructured industry.

To assure the citizens and business of West Virginia, the continued adequate
supply of safe, reliable and affordable electric power and service, to authorize the
PSC, to adopt and enforce inspections, maintenance, restoration, repair and
replacement standards for generation, transmission, and distribution facilities which provide for high quality, safe and reliable service.

1. Electric Reliability, Service and Safety
   A. Inspection, maintenance, repair, restoration and replacement standards for transmission and distribution systems.
   These standards will be extended to alternative retail electric supplies by the "certification" provisions they agree to.

It is necessary to make sure that these requirements apply equally to utility and alternative retail electric supplies, that the PSC has sufficient means to enforce compliance by alternative retail electric supplies and that personnel employed by all supplies have adequate experience and training.

B. Inspection of Records
   The PSC presently has authority to inspect records of public utilities. The PSC must be mandated to require alternative retail electric supplies to provide necessary records on reliability. The PSC's mandated responsibility to inspect records must be clear in the new bill as well. The compliance will be established in the "certification" provision.

2. New Reliability Standards
   Existing and additional standards, if adopted, must apply to all supplies, both electric utilities and alternative retail electric supplies.

3. Customer Information
   All electric utilities and alternative retail electric supplies should be required to maintain a customer call center where customers can reach a
representative and receive current information. It is necessary for PSC to require all alternative retail electric supplies to comply with the same standards as utilities.

Skill, knowledge and competence levels of alternative retail electric supplies should be consistent with those generally required of or by the electric utilities of West Virginia with respect to their employees. This is to assure continued quality service to West Virginia consumers and protect utility employees from being at a disadvantage.

4. West Virginia legislation should add language that addresses the rights of employees during a transition period. This would bring forth a West Virginia Utility\Union Agreement for minimum severance standards.

A. Transition Plans

The West Virginia State Building and Construction Trades Council finds, based on experience in other industries that have undergone similar transitions, that the introduction of competition into West Virginia's electric utility industry may result in workforce reductions by electric utilities which may adversely affect persons who have been employed by West Virginia's electric utilities in functions important to the public convenience and welfare. The West Virginia State Building and Construction Trades Council further finds that the impacts on employees and their communities of any necessary reductions in the utility workforce directly caused by this restructuring of the electric industry should be mitigated to the extent practicable through such means as offers of voluntary severance,
retaining, early retirement, outplacement and related benefits. Therefore, before any such reduction in the workforce during the transition period, an electric utility shall present to its employees or their representatives a workforce reduction plan outlining the means by which the electric utility intends to mitigate the impact of such workforce reduction on its employees.

B. Plant Transfers

In the event of a sale or transfer to ownership during the transition period of one or more divisions or business units, or generating stations or units, of an electric utility, the electric utility's contract with the acquiring entity shall require that entity to fill all of its initial non-supervisory staffing needs by making offers of employment to the electric utility's existing non-supervisory workforce at the same wage levels and with comparable medical benefits. The utility shall offer a transition plan to those employees who are not offered jobs because the successor has a need for few workers.

Current levels of generation must be maintained. Meaning West Virginia could not be supplied by out-of-state "cheaper" electricity—Maintain sufficient levels of reserve capacity to withstand extreme weather conditions (hot and cold weather)

Q. WITH REFERENCE TO CROSS-SUBSIDIZATION OF COMPANIES, WHAT IS YOUR OPINION?

A. Prohibition of Cross-subsidization
Prohibit cross-subsidization of companies. Meaning a public utility could not own a private contracting company competing with the general public.

The West Virginia State Building and Construction Trades Council wishes to incorporate the comments submitted by the West Virginia-Ohio Valley Chapter of the National Electrical Contractors Association with regard to Cross-

Subsidization.