Preamble:
Link Resources Inc. (Link) is an advocate of the deregulation of the electric generation industry. We believe a truly competitive market will eventually produce a more efficient allocation of electric power throughout the nation as well as the State, exert a downward pressure on costs, and result in innovative ways to produce, deliver, and market power. The current cost-of-service approach has, in general, been very effective over the past decades and electric utilities in the U.S. have built the best electricity system in the world. Without it, we could not have achieved our level of economic success. However, times are changing, and costs, particularly in the Northeast part of the U.S., are at unsustainable levels. We believe that deregulation is inevitable. Even in West Virginia where the cost of electricity is below the U.S. average, it is our opinion that the cost can eventually be forced lower in a deregulated market, if proper decisions are made now.

As stated, Link believes that deregulation of the electricity generation business is inevitable, either through federal mandate or slow evolution of reciprocity among States. Therefore, West Virginia must design a plan that proactively manages the process rather than simply reacts to the economic, political, and regulatory pressures that will mount. Inequities will arise when some states are deregulated and others are not, and we do not believe that it can be a stable outcome. We could foresee “trade-barriers” between states resulting in such circumstances, and we believe West Virginia must consider such alternatives, and prepare for them.

Electric utilities usually have a much better understanding of the complexity of the “electricity business” than any other stakeholder. They truly understand that the reliability of the electricity grid requires a complex and intricate balance of a multitude of factors. And they are correct when they express concern over the potential negative impact that capitalistic forces could have on reliability of the best electrical system in the world. They also have legitimate concerns, of course, over the valid stranded costs they may have incurred. However, there interests are inherently parochial, since they must look after the interests of their shareholders.

That is why the role of the PSC is a critical one, balancing the needs of the consumers and the utilities, while taking advantage of the knowledge and resources of the utilities and while staying carefully tuned to the parochial interests of various stakeholders.

The benefits of customer choice are being tested and debated throughout the country. The potential benefits weighed against the alternative of inaction are too substantial to ignore. Our choice is not whether West Virginia will deregulate, but when. Neighboring states (Pennsylvania, New Jersey, and New York) are well underway with their plans and implementation. Most New England states are also, and others are into the planning stages or have been directed by their legislators to begin such.

Therefore, the planning process must not only assure that West Virginia achieves an equitable approach for all shareholders, but that it is accomplished on a schedule that is compatible with other states and market conditions. West Virginia must not wind up in a last minute panic that could prevent achieving the best
program for all parties. For example, other states could put restrictions on buying power from states that will not allow their power to be sold competitively. Additionally, it is possible that there could be a Federal plan for all states to have open access by 2002.

Link contends that, over time, states will begin to view electric generation facilities more as economic engines, analogous with their view of industrial plants. They will be utilized to bring jobs and infusion of capital into areas that are depressed economically. The states will begin to view these facilities from a holistic approach, whereby they begin to manage the overall complex equation to their benefit. For example, states could give tax breaks to generators in order to create jobs - - - or even train unskilled labor in the area who would be otherwise unemployable. States could give favorable treatment on environmental requirements to plants who could help local economies in particularly depressed areas. States could purchase power from generators in turn for job creation. Communities could subsidize generation facilities that could clean up environmental wastes (tires, chicken litter, etc.), thereby providing net economic and environmental benefit, etc. West Virginia, with its sources of fuel and environmental challenges is, in many ways, ideally suited for such a proactive program. The challenge is for the State to adopt a progressive and objective stance, stepping beyond the parochial perspectives pushed by the myriad of special interests.

The following recommendations constitute Link’s planned approach to deregulation:

POSITION SUMMARY

1. **Initiate Full Retail Deregulation by December 31, 2001**

   All retail electric customers of West Virginia’s regulated electric industry should be able to procure their electric energy from a supplier of their choice by December 31, 2001.

2. **Generation Rates Should be Unbundled by December 31, 1998**

   The PSC should begin to unbundle the generation, transmission, distribution, billing and other ancillary services by December 31, 1998 and the current utilities should include these breakdowns on their customer billing as of June 30, 1999.
Pilot Programs are Required

Prior to full implementation, the PSC should initiate pilot programs to gain insight into the problems that could occur following implementation. These pilots should be phased to bring in participants in an orderly fashion, without exposing too many consumers to initial problems. Unique and special situations should be evaluated to assure all conditions are covered. Incremental consumer education would take place during these pilots.

Stranded Costs Determined By Divestiture

The only practical manner to determine what generation assets will be stranded, and the value of these stranded costs, is by utilizing market forces to the maximum extent. Divestiture of generation assets is being utilized in several states.

5. Maintaining the Present Utility as the Default Provider

The present regulated utilities should act as the default provider throughout the pilot phase and until it can be determined how this service can best be provided in a deregulated atmosphere.

6. Revision of State Tax Laws

It will be necessary to revise State tax laws to assure a level playing field for all stakeholders especially if divestiture takes place. Current property taxes should most likely be replaced by generation and transmission taxes. These taxes can be revised in parallel with the deregulation process with a minimal impact on State income. Contrary to some opinion, Link does not believe it is possible to ensure no party is adversely affected during reallocation of tax liabilities. The best that can be achieved is fair redistribution.

Current Economic Assistance Programs Must be Maintained.

The deregulation process must ensure existing financial assistance to the needy is maintained without interruption.

8. ISO’s are Required for Reliability

Link believes that the concept of an Independent System Operator (ISO), is the best method to assure fair access to the grid, and optimum use of the lowest cost power, while retaining reliability and continuity of service.
Advantages of Load Aggregation

It has been shown in deregulation efforts underway that there are significant advantages to load aggregation of residential consumers, localities, community and state agencies, various commercial groups, etc. Aggregation should be thoroughly explained to participants (especially residential groups and local agencies) to ensure that they can effectively assess their options.

Maintenance of Environmental Standards

There is no question that the State will be under considerable pressure to ensure that Statewide environmental standards are maintained. The challenge will be for the State to accomplish this in a fair manner, without giving special treatment to special interests simply based on political reasons. In general, utility and independent generation facilities should operate under the same guidelines. As stated in the introduction above, Link believes, however, that there may be circumstances where State special dispensation re: environmental standards may be in the State’s interest based on keeping a particular facility open and thereby creating jobs and net economic benefit.

Customer Education

For any program such as this, it will be necessary to fully educate all participants in how to use the program to gain maximum benefits for the individual or group, and to show how the overall program is beneficial to the state or society as a whole. In state after state, education and communication stand out as key problems. Consumers must be able to make informed choices on relatively complex matters. This issue can not be left up to market forces, and the State must adopt standards of communication to consumers, and possibly fund programs to ensure effective execution.

Impact on West Virginia Resources

Since WV has one of the largest reserve of fuel in the east, deregulation should provide an advantage to the State if the State takes a progressive and innovative position. Conversely, WV could be hurt if its doesn’t deregulate, and other States prevent buying our energy until our markets are opened up to their sales.

Impact on Economic Development

It is commonly assumed that the cost structure of electric utilities has been driven up over the past decades, motivating a cost-of-service base for profits. It is therefore believed that prices of electricity will eventually go down following deregulation, although there will be an interim period during which there will be transitional costs. Most of these costs can and must be controlled by the PSC, and include stranded costs, transitional charges, tax redistribution, etc.

This eventual reduction in energy prices should have positive impact on the economy. Additionally, we have already discussed the other alternatives the state can pursue to take maximum economic and environmental advantage of the electricity-related assets within the state.
More Innovative Energy Development and Uses

Our current regulated energy program was geared toward the production and sale of electricity. Under deregulation this now can open up to newer and different programs. The cogeneration and distributed generation market, where smaller more efficient plants are tied to industrial facilities and/or local communities, is vastly increasing in other states. The use of fuels such as waste tires, new waste coal composites, etc. can provide more options to improve plant economic/environmental performance and costs.
Recommendation 1

All retail electric customers of West Virginia’s regulated electric industry should be able to procure their electrical energy from a supplier of their choosing by December 31, 2001. This includes customers of cooperative and municipal utilities as well as investor-owned utilities.

Deregulation of the electric industry is inevitable. It has already occurred in the telecommunication industry. Deregulation is also well along in the natural gas industry. The breaking up of the telecommunication industry was somewhat easier since there was only one predominate Company to split apart, AT&T. The split was directed federally and the Baby Bells and the long distance competitors were able to develop without much direct involvement of the political entities of the state governments and their overseeing public service agencies. The natural gas deregulation has been underway for some time, but since a much smaller percentage of individuals are involved, it has gone forward hardly noticed by the average person. There are still some complaints about the telecommunication deregulation, but these predominantly pertain to telephone harassment by the various suppliers to steal customers and lately by unlawful slamming, or the change of suppliers without permission.

Deregulation of the electrical industry is more involved since all states have been regulated in some form, and very large profitable corporations have grown under these conditions. It is very difficult for these utilities to give up their large cost-plus operations. This has been recognized by the Federal Government and they issued Federal Regulation #888 in 1997 to eliminate restrictive practices in the wholesale transmission of power. There is a high probability that federal laws will be passed in 1999, but possibly yet in 1998, to deregulate the retail sales in all states.

Many states have already started deregulation on their own. This has been predominately in states where energy cost have been high. By removing legislative restrictions they hope to make lower cost energy available to their constituents. California has been the forerunner starting complete retailing of electricity in April 1998. Their original start date of January 1, 1998 had to be delayed as California, as the leader had to work out many of the initial problems. California also proceeded essentially without effective pilot programs, which we believe could have solved some of their problems.

To assure that West Virginia will not be at a disadvantage if it is not ready when deregulation occurs, Link is proposing that the State commit to the following state deregulation timetable:

<table>
<thead>
<tr>
<th>Date</th>
<th>Event Description</th>
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<tbody>
<tr>
<td>August 31, 1998</td>
<td>PSC commits to deregulation</td>
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<tr>
<td>December 31, 1998</td>
<td>PSC issues unbundled rates</td>
</tr>
<tr>
<td>March 31, 1999</td>
<td>PSC finalizes policies on pilot programs, divestiture, default providers, and tax law revisions,</td>
</tr>
<tr>
<td>July 1 1999</td>
<td>Consumer education programs initiated.</td>
</tr>
<tr>
<td>Date</td>
<td>Event Description</td>
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<tr>
<td>October 1, 1999</td>
<td>Enrollment begins in Phase I pilot. ISO arrangements finalized</td>
</tr>
<tr>
<td>January 1, 2000</td>
<td>Phase I pilot for 10% residential, commercial, and industrial customers of the two major utilities commences.</td>
</tr>
<tr>
<td>January 1, 2000</td>
<td>Phase II pilot for 25% of two major utilities and 15% of all other Municipal and Cooperative Utilities begins</td>
</tr>
<tr>
<td>March 30, 2000</td>
<td>Assessment report of Phase I pilot</td>
</tr>
<tr>
<td>July 1, 2000</td>
<td>Generation assets divested.</td>
</tr>
<tr>
<td>July 1, 2001</td>
<td>Enrollment begins for all consumers</td>
</tr>
<tr>
<td>December 31, 2001</td>
<td>Full service begins for all consumers</td>
</tr>
<tr>
<td>July 1, 2002</td>
<td>First PSC annual assessment of results and actions required.</td>
</tr>
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**Recommendation 2. Generation rates should be unbundled by December 31, 1998.**

It is our understanding that all utilities currently selling power in the State have provided the PSC with a listing of their unbundled rates for PSC concurrence. This is an important step in the deregulation process. If not properly allocated to the required categories, parties could achieve unfair competitive advantage. Under-inflating generation costs and over-inflating distribution and billing costs, could achieve such a situation. Consideration should be provided in the deregulation plan for competition on distribution, billing and services at a later date.

**Recommendation 3. Pilot Programs are required to assure that the best approaches to deregulation are chosen and are fully tested before they are introduced to all of the general public, business and industry.**

Link believes that deregulation should be fully tested and erroneous assumptions corrected before any of the these result in user discouragement and possible decisions to discontinue the program. We believe that pilots will result in finding these problems and correcting them before this happens. Pilots can provide the following type information and decisions:

**Costs of Transmission:** While wholesale rates are established under FERC regulations, any affect on retail transmissions can be determined.

**Costs of Distribution:** It is understood that the proposed rates have been submitted to the PSC. As we have noted these rates must be assessed to ensure fairness to all involved parties. A pilot will provide time and information to test these rates.

**Costs of Ancillary Services** (Reactive power, voltage support, back-up power, black start, etc.): These rates have not been commonly established throughout the industry. Again, a pilot will provide information to better establish these rates.

**Procedures and Costs for Billing and Metering:** Since this function will at least originally be retained by the utilities, it is an area that must be studied to ensure effective future services are provided. Consideration should be provided in the restructuring plan to open these processes to competition in the future.

**Evolving New Roles of Regulators and New Regulations Required:** It is difficult
to predict what the roles will be. It is better to develop these on a smaller scale and then extrapolate them to the full program.

**Develop System Operation Procedures:** Many new operational procedures will be required. These can be developed on a pilot program much easier than testing under full operations.

**Determining the Interface with Power Exchanges or Independent System Operators:** While many parties may have investigated various alternatives, there is not a common consensus on the approach or organization to be used. A pilot would give the PSC the opportunity to determine the best approach.

**Endorsement of Aggregation Programs to Protect the Smaller Consumers:** Competition often leads to the larger consumers getting the better prices, at the expense of the smaller ones. Showing the various consumers how to aggregate to obtain better rates when full deregulation arrives would be an important aspect of a pilot program.

**Education of the Consumers:** In many of the original pilot programs, problems developed due to lack of education to the consumers. The problems would have been much more severe if there had not been a pilot.

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**Recommendation 4. Stranded Costs to be Determined by Divestiture.**

One of the largest issues in the initial deregulation programs is that of stranded costs. Utilities have both the desire and the right to recover most or all of the value of their legitimate stranded assets. The PSC must ensure that this does not result in an undeserved windfall due to a biased assessment of these costs. One method to determine the market value of the facilities, and to identify those that are “stranded” is to have the generation assets divested from the Transmission/Distribution side of the utility. This alternative must be weighed in light of other issues, such as market power. Some states are considering allowing the utilities to bid on the assets against competition, and operate them as a fully independent company selling power through the ISO.

**Recommendation 5. Maintaining the Present Utility as the Default Provider.**

As insurance against power shortages, supplier defaults or other power interruptions to consumers, throughout the pilots and until it can be shown that safe uninterruptable power is attainable, the present utility should be identified as the backup provider. However, consideration should be given to other suppliers who wish to bid on this service.

**Recommendation 6. Revision of State Laws**

It is obvious that many State laws will need to be revised to conform with deregulation. This is especially true with tax laws if an even playing field is to be provided for all competitors, while maintaining state revenue. It is not necessary to wait until all pilots are complete before these changes are made. One state in which deregulation was decided but not implemented proceeded with changing their tax structure to change generation plant taxes from one based on property to a tax on kilowatt generation, at zero gain to the state.
The PSC could review all tax changes required during the initial pilots and have the changes made or ready to be made when necessary.

**Recommendation 7. Current Economic Assistance Programs Must be Maintained.**

There are presently in place programs to provide economic assistance to needy. Provisions for this service must be continued throughout the pilots and in any future deregulation plan. Other states have incorporated these provisions into their programs. The PSC should pre-establish these as prototype pilot requirements, and study the most effective manner to assure the needy are not forgotten under full deregulation.

**Recommendation 8. Independent System Operators are Required for Fair Access and Reliability.**

In order to properly control the grid, to assure the lowest cost power is being best utilized, and to assure necessary backup power is available as required, the distribution of power on the grid should be controlled by an Independent Service Operator (ISO). If access to the grid is controlled or influenced by parties with parochial interests, other parties needing access to the grid could be at a disadvantage. For this reason, all electricity suppliers should be required to be a member of an ISO.

**Recommendation 9. Advantages of Load Aggregation**

In previous pilots and initial deregulation programs, the aggregation of consumers has proven a great benefit to achieving lower cost power for consumers. This aggregation has taken many different forms. Commercial operations with multiple facilities are grouping these facilities as a whole. For example, McDonalds is buying energy for all of their outlets. Many other chains are doing likewise. Certain industries, such as the poultry industry are investigating or have aggregated. Many state and local governments have grouped for more purchasing leverage. These include state school systems, county governments, state facilities, etc. Entire towns and counties have joined for better prices. Most suppliers are acting as aggregators to get more customers, yet there are also independent aggregators. Some aggregators are selling other services along with electricity, such as natural gas, telephone service, and a multitude of other products (which was not normally done when telecommunications were deregulated).

Unless the state residential consumers are fully educated in the benefits and the problems that can occur with aggregation, they are likely to wind up as higher price purchasers. The State’s deregulation plan should consider fully educating the consumers in the details of aggregation.

**Recommendation 10. Maintenance of Environmental Standards**

It is very possible with the advent of deregulation that competitive pressure will affect current or planned environmental standards. Out of state providers or purchasers of power may be involved. The PSC must in it’s deregulation plan include all the necessary requirements that maintain our environment. We cannot let economic pressures reduce the standards that the State has with much difficulty developed over the past
years. Unless these environmental controls are agreed upon, there will be very strong opposition to deregulation.

**Recommendation 11. Customer Education**

Some very serious problems have occurred in a few of the initial state programs, when in a rush to get started they did an inadequate job of fully informing the consumers of the program details. In an analysis of almost all of these pilots, consumer education deficiencies were at the top of the lists. The pilot programs can be a very useful means of developing the proper educational techniques so this does not happen in our program. This should be given high priority in the initial stages of our State’s program.

**Recommendation 12. Impact on West Virginia Resources**

It is a fine objective to want to ensure that deregulation will not have a negative impact on the States resources. This is however a very difficult objective to guarantee. West Virginia with its vast resources of coal and gas should be in a very good position to sell low cost power in a competitive market. However this position could easily be reversed, for example, if more stringent environmental requirements prohibit use of these fuels. Also in a demand market an emphasis is placed more on quick starts and shutdowns not easily achieved by coal fired units. The last PSC reports we saw indicates the current regulated utilities are adding gas fired units to replace their obsolete coal fired units in West Virginia.

**Recommendation 13. Impact on the State’s Economic Development**

Again with the State being a low cost power producer, deregulation should be an asset to future development. More suppliers should want to get there power from West Virginia, which should aid the coal and power industry. Low cost power availability should attract other industries. But other states will also now be able to buy lower cost power than they could produce and be searching for these same business opportunities. So the State cannot sit back and wait for more business. Only by aggressive marketing of the State’s advantages will our economic picture improve. One should not depend for deregulation to strengthen or weaken this economic situation.


Under deregulation, if the plant can be utilized at a profit for other operations than burning its primary fuel, then it will further profit. During low power periods in the fall and spring, and at off peak hours in the evenings, the generating plants have plenty of power in the form of electricity and steam that could be utilized in new innovative commercial operations that can adapt to these conditions. The plants can be used in environmental cleanup programs burning waste products as additives to their fuel. For example, in Europe in the areas of large poultry production, chicken litter is being used as a fuel to prevent it from polluting rivers.
and the surrounding environment. Many other environmental concerns such as waste tires could also be handled in an innovative manner when deregulation offers economic benefits. Also, the use of off-peak power and steam can be used in unique development programs to bring new industries to the State.