

Virginia & Town & City

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On the Cover

This photograph of telephone poles receding into the snowy distance was taken by free-lance Richmond artist Chris Cullinan.

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Commentary

Reducing Risks in Public/Private Partnerships

By William J. Osby, Ph. D.

Public/private partnerships offer an important opportunity for state and local governments to join with private developers and investors in the renewal, redevelopment and revitalization of America's central cities and rural areas. Individuals and government working together can bring about change, make a dream come true and open new vistas for growth and the resolution of community problems.

Public/private partnerships have played a key role in the development of our nation and the diversity of activities subsumed under partnership arrangements is quite notable. Nationally, this has encompassed activities ranging from construction of low-income housing and industrial parks to revitalization of whole communities and development of transportation and telecommunications systems. Historically, partnerships between the public and private sectors helped settle the American West, provided for increased production of armaments and materials during World War II and were intimately involved in development of the National Aeronautics and Space Administration's space shuttle program. In Virginia, partnerships activities have included development of regional cultural centers, such as the Center in the Square located in Roanoke, and construction of a regional shopping facility, The Waterside, a festival mall located on the Norfolk waterfront.

To the extent that they provide states and localities with alternative sources of revenue, public/private partnerships may indeed be the wave of the future. They can be attractive to both public and private sector partners, each seeking to meet individual goals, and they can form the nucleus of a new cycle of growth and development, particularly related to the needs of the inner-city. But, there are also risks associated with public/private

partnerships that must be taken into consideration as well.

Partnerships and Risk Management

Partnerships involve joint ventures between collaborating entities; the understanding exists that profits as well as risks will be shared. Although public/private partnerships may gain wide notoriety from their inception onwards, such notoriety does not always translate into ongoing marketability.

We need only think of Renaissance City in Detroit to be reminded of the problems which can arise. Substantial public funds were put into Renaissance City to initiate as well as sustain the project; however, upon completion difficulty was encountered in maintaining a market due to the Detroit economy. The risks attached to the public/private projects are real, and in cases where the project fails, losses may be incurred by all.

From the public sector standpoint, management of these risks seems related to two important factors: control of activities surrounding the project site and the development of long-range complementary uses. The Waterside mall, for example, is part of a multiphase waterfront development project which also includes a world trade center, a new hotel (the Omni), a new museum (the Jacques Cousteau marine biology exhibition) and other cultural and tourist attractions. The public sector alone has the capacity to define what will happen in the immediate environment of a project such as this and thus reduce risk. Without huge sums of money, the developer cannot possibly have control of the surrounding area.

Integration and consistency within the context of a broader scheme of development is also important. The Center in the Square, for example, is a key element in the Roanoke downtown redevelopment plan. The center was designed to complement other elements of the plan such as improved parking access, main-

tenance of the traditional farmer's truck market and street-level commercial development. This concentration of complementary activities provides an impetus for further growth which can contribute to the success of the project in the long term. This also further reduces the risks associated with such projects.

It is therefore possible to modulate risk through integrative planning and the application of policy instruments such as zoning and land-use controls, tax abatement and capital subsidies. These are the same instruments which were used earlier to attract industry, only now states and localities have taken on the burden of generating the desired activities themselves.

Secondary Effects

While they cannot be explored fully here, it is useful to note also that secondary effects flowing from intermediate or large-scale public/private projects can create imbalances and uneven development patterns. Market activities become realigned and the public/private project may add to the overconcentration of activities in certain areas. They thus compete with other regional facilities and may create problems which will appear later.

We need to explore and to estimate the importance of such effects, and to compensate for them relative to our other interests. In many instances it is impossible to estimate these impacts. Corporations, in particular, often do not keep records or at best have scanty or scattered records of such projects even though they may pour millions of dollars into them. Unfortunately, we at times find this to be true in the public sector also. Corporations will continue to be pressed to become involved in public/private partnerships. In order to make future judgements we need to be more responsible in our record keeping, assessment and evaluation functions.

About the Author

William Osby is an assistant professor in the Department of Urban Studies and Planning at Virginia Commonwealth University. He has been involved in the department's research on public/private partnerships for economic development.

New Leaders Join the Executive Committee

Jack P. Barnes and Margie H. Mayes are the new members of the VML Executive Committee for the year. Elected at the annual VML conference, Barnes comes on board as chair of the Urban Section and Mayes as chair of the Town Section.

Mayes is the mayor of Grottoes and a native of the Elkton-McGaheysville area of Virginia. She has been an active member of the league since her election as Grottoes' mayor in 1977. She has served on the league's Community and Economic Development Policy Committee for several years and has chaired the Task Force for Women in Local Government two years.

Mayes comes from a politically oriented family. Her father worked extensively in the Republican Party serving as a district and state party delegate. Through her father's political activities and having worked in the backseat for other political candidates since 1964, Mayes was well familiar with governmental rules and regulations when she decided to run for mayor.

At the time there were some local concerns about a sewerage project which Mayes saw as a very real potential problem for the community and she was asked to run for council. While at the courthouse doing a genealogical study of her family one day, the other candidates were registering and she was further encouraged to run for office. At that point she decided to run for the mayor's seat and called home to tell her family.

Mayes decided to go to the people. She did so with a door to door campaign, a newsletter, handouts and the help of the local newspaper. She easily won her election. She has since won the mayor's seat three more times having served six years and completed three terms.

Her goal has been "to serve to the best of her ability where the majority can benefit."

Among her many local activities, Mayes is active in the Water Control Subbasin South Fork River District and the Sixth District Republican Party. She has

worked at Dupont in nylon engineering for more than 14 years and is the mother of four children, the youngest being a sophomore at James Madison University.

Members with concerns related to towns may contact Mayes at (703) 249-5896 or P.O. Box 146, Grottoes, VA 24441.

No stranger to the league, Jack P. Barnes returns to the executive committee after an eight-year absence. Barnes was president of the league in 1974 and last served on the executive committee as immediate past president in 1975. He has been active with the league since his election to Portsmouth's city council in 1960. From 1968 to 1974, Barnes served as the mayor of Portsmouth. He has been re-elected to the council every year since, serving a total of 23 years, a record for the city.

Barnes' interest in politics stemmed from his activities with the Junior Chamber of Commerce. Through his membership in the Jaycees, he was always aware of what was happening in the city. He was close friends with several who went on to serve in the House of Delegates, working with many on their election campaigns.

Having led an active career in local government, Barnes says the attraction for him is that he can see results. It is time-consuming but also very self-satisfying, he said, comparing the work to that of a doctor or an artist in that you can see what you accomplish.

This is also what attracts him in his business life. Following in his father's footsteps, Barnes once owned an interior decorating business, an area that still interests him today. In fact, he modeled his present home in the Williamsburg Dutch Colonial style and built it from old houses using original bricks, beams, mantelpieces, flooring, etc.; and on his way back from the National League of Cities meeting in New Orleans he and his new wife, Cynthia, visited several of the Old South mansions.

In 1952, Barnes joined Provident Life and Accident Insurance Co., headquartered in Chattanooga, TN. He remains with the company today serving as director of sales and services and also as agency supervisor. He handles group insurance for railroads throughout the Southeast and travels extensively in his work.

A native of Norfolk, Barnes grew up in Southhampton County near Franklin and moved with his family to Portsmouth in 1941. He will serve in three capacities for the league this year: on the executive committee, as chair of the Urban Section and as chair of the legislative committee, a seat he has held for the past two years. He will also serve on NLC's finance committee for a second year.

Barnes can be reached through the Portsmouth City Clerk's Office at (804) 393-8639, or by writing to him at 5000 Portsmouth Blvd., Portsmouth, VA 23701.



—Margie H. Mayes—



—Jack P. Barnes—

VML VIEWS:

Thomas Speaks Before JLARC

Vincent J. Thomas, mayor of Norfolk and second vice president of the Virginia Municipal League, spoke on behalf of the league Nov. 14 before the Joint Legislative Audit and Review Commission during a public hearing on the commission's recent findings and recommendations resulting from the study of state mandates and local financial resources.

Major findings of that study indicated local governments are fiscally stressed and that this fiscal stress has increased in recent years. According to the study, it would take \$552 million to bring all localities just to the state average of fiscal stress.

Following are excerpts from Thomas' speech.

"Of particular concern to local governments is the funding for education. In its review of mandates JLARC found that this is the program most in need of additional funding. From fiscal year 1978 to fiscal year 1982, state funding for education increased 37 percent whereas local funding increased 63 percent. Since state aid for education comprises 70 percent of all state aid to local governments, the lack of adequate educational funding by the state could be a major contribution to local fiscal stress. In fact, in fiscal year 1982 the state was funding only 78 percent of the estimated Standards of Quality costs.

"The need for funding of education goes far beyond meeting the need to

assist Virginia's fiscally stressed communities. There is a national demand for improving the quality of education to meet the future needs of a highly technical society. In addition, there is a concerted effort on the part of the General Assembly and the executive branch to provide for increased salaries for teachers. We feel our local governments have been hendered in their efforts to provide these salary increases by the declining support of education by the state and federal government. The state's share of educational funding has decreased to 43.6 percent in fiscal year 1982 from 46.3 percent in fiscal year 1978, while the federal share has decreased by a similar amount.

"To meet these needs, the Virginia Municipal League is supporting an additional 1 percent statewide sales tax to be returned to local governments based on school-age population in the same manner as the current one-third of the state's 3 percent sales tax. A statewide tax would be of significant benefit to local governments in Virginia suffering high levels of fiscal stress. They are in desperate need of additional revenues which cannot be generated at the local level.

"The final point we will touch on is the advantage counties have over cities in the receipt of state aid. According to JLARC, counties receive \$395 per capita as compared to the \$273 per capita cities receive. Most of this difference is due to the low level of payments to municipalities for street maintenance —

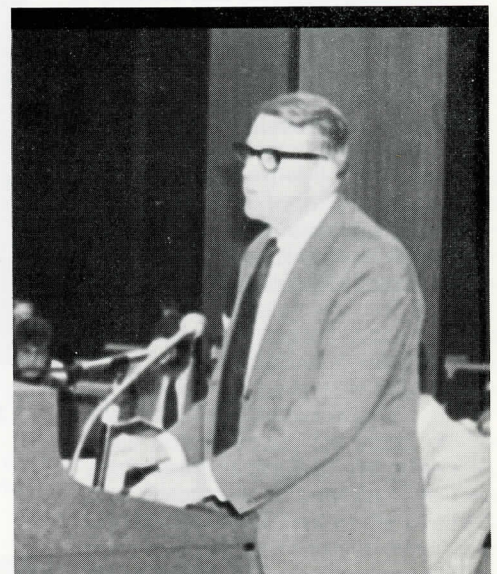
a function provided by the state for counties.

"To carry this point further, the additional 1 percent sales tax, if administered in the same manner that the current 1 percent sales tax going to education is administered, would free a significant amount of revenue for the state's general fund. Therefore, monies would potentially be available for other recommendations contained in the study. A major area of concern, and the one which produces most of the differential in state aid benefits between cities and counties, is the low level at which street maintenance for municipalities is funded. However, since all local governments are fiscally stressed to at least some degree, a redistribution of current funding is less satisfactory than the identification of new monies.

"Therefore, the VML urges the General Assembly to provide additional funding for municipal street maintenance through the general fund. Although this would be a major policy change on the part of the state, the benefits would also be quite significant. Certainly construction and maintenance of streets and roads is one of the most important services provided by state and local governments and critical to our overall economic development activities.

"We do not want to imply that additional funding for education and high-

—continued on page 14—



"The critical question now is where do we go from here," Mayor Thomas told the committee.

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Negotiation vs. Regulation

By Howard W. Dobbins

For a number of years the Virginia Municipal League has successfully negotiated electric utility rates for local governments. Recently, a number of localities joined in attempts to likewise negotiate telephone rates, but to date the largest telephone company in Virginia has refused to negotiate. Below, VML's general counsel, Howard Dobbins, explains the history and legal authority, as well as the benefits to both parties, behind utility rate negotiations.

In recent months Virginia local governments have been concerned about the escalating costs of telephone services which they purchase from private telephone companies operating throughout the state. In the past local governments have paid on the basis of rates established for non-governmental telephone users by the Virginia State Corporation Commission. A number of localities have recently joined in an effort to determine whether the rates which they have paid and which they are expected to pay in the future are fair and reasonable both to the localities and to the telephone companies with the motive that if those rates are not reasonable, better and more equitable rates are to be negotiated.

The Franchise Arrangement

The Virginia General Assembly has long recognized that cities, counties and towns have a fundamental obligation to furnish certain services to their citizens and early granted local governments the power to establish and maintain essential public utilities, including water works, sewer lines, gas works and electric plants.

Public utilities were originally furnished to the citizens of incorporated communities, until recent years the only urban sections of the country. Public water supply and sewer lines were probably the first utilities furnished by municipalities, followed by gas and in the latter part of the 19th century, by electric and telephone service. When electricity began to supplant gas for illumination and power, city and town councils were required to decide whether to provide electricity for use by the municipality and its citizens by publicly owned and operated facilities or to permit private electric

companies to provide these services. A number of communities elected to meet their needs by establishing municipally-owned power systems. The city of Danville, which has operated its own electric distribution system for more than a century, is a typical example. Other communities elected to permit private companies to furnish electricity under a franchise arrangement. Thereafter other types of public utilities sought to render services in localities and franchises have been granted to many telephone and telegraph companies.

The franchise arrangement naturally permitted use by the private utility of public streets, alleys and other property and in most cases granted an exclusive right to the utility to furnish its service to users within the franchising community. From the beginning, the franchise was a valuable property right and it has continued to have value with the passage of time.

The framers of the 1902 Virginia Constitution recognized problems inherent in granting perpetual franchises or easements of any kind over municipally-owned property. In Section 125, the period of these franchises was limited to 30 years and their grant prohibited without public advertisement and solicitation of competitive bids. The 1902 constitution further provided that upon termination of any franchise grant, the plant and the property of the grantee in streets, avenues and other public places should become the property of the municipality, either without compensation or upon payment of a fair valuation. The stated reasons for permitting termination and forfeiture were to secure efficiency of public service at reasonable rates and maintenance of utility property in good order throughout the term of the grant.

On its face such power of forfeiture would appear to be rather far reaching in

the regulation of a private enterprise; however, the power of termination and forfeiture is not at all unreasonable when considered with the fact that the utility is usually supplying services which the local government is responsible for furnishing to its citizens and which are essential to public welfare. Moreover, the Virginia Supreme Court has held that under existing law a municipality may impose any condition in granting a franchise. Statutes in Virginia also grant counties the power to regulate use of their streets, alleys, etc.

Local Government's Responsibility and Authority

In connection with public utilities, local government's responsibility is a dual one. In addition to the obligation local government has to furnish utilities to its citizens, local government is also obligated to insure that the government itself has an adequate supply of necessary utilities for operation of its public facilities such as street lights, fire fighting equipment, police protection, waste and sewer works and public communications. This obligation is necessarily contemplated in every franchise granted.

Article II, Section 9 of the 1971 Virginia Constitution increased the permissible term of franchises to 40 years (60 years for air rights) but reaffirmed and continued the 1902 provisions with respect to termination and forfeiture as measures protective of municipal obligations.

Although many Virginia localities have exercised the constitutional and statutory prerogative of granting franchises to private suppliers of certain utilities, every Virginia municipality had, and still has today, the option of either

furnishing most public utilities itself as a proprietary function or of permitting a private utility company to supply such services under grant of franchise. Va. Code Section 15.1-292 authorizes cities, towns and counties to acquire, maintain and operate public utilities within and without the limits thereof. The only limitation to the right of a city or town to take over the ownership and operation of a public utility company is found in the Utility Facilities Act, a prescription which was not adopted until 1964 and which can be amended at the will of the General Assembly.

When local governments originally made decisions as to whether they would operate their own electric plants or telephone companies or franchise the right to independent companies, the independent companies were for the most part small and local in character as contrasted to today's monopolistic giants. When these companies were small and local in character, competitive bidding for initial franchise rights was expected and routine. The franchise right was a valuable property right permitting private industry to supply an essential governmental service. Consideration in some form flowed to local government for the grant of franchises. This may have been explicitly stated in the franchise or it may have been benefits or services supplied by the utility at either reduced cost or without cost. An example is the franchise granted in 1898 by the city of Norfolk to Southern Bell Telephone Co. which provided the city with ten telephones, fire alarm service free of charge and 3 percent of the utility's gross earnings. Arrangements for services in lieu of a stated substantial franchise fee are believed to have been customary, but were not always reduced to written agreements.



Howard Dobbins and Eric Page (l) meet with local officials to plan possible rate negotiations.

SCC's Involvement

The 1971 Virginia Constitution empowers the State Corporation Commission to regulate rates, charges and services of railroads and telephone, gas and electric companies, except as otherwise authorized by the constitution or by general law. §§56-232 and 56-234 of the code plainly provide that the commission's power does not extend to establishing rates by a telephone company or other utility for service to any municipal corporation or the state government.

Early in the 1970s, due to the oil embargo and the resulting escalation of the cost of electricity, certain consumer groups voiced the concern that local governments were not paying their fair share of the cost of providing electricity and that other classes of customers, whose rates were regulated by the SCC, were subsidizing governmental service. The idea was advanced that the only way to ensure that governments did pay their fair share would be to have the SCC set rates charged to and paid by the local governments and the state. The statutes referred to which excluded governmental rates from SCC control were challenged as being unconstitutional, but the Virginia Supreme Court held in 1974 that those laws were valid and not contrary to the Virginia Constitution and that the SCC had no jurisdiction over electric rates paid by the state or cities, towns, and counties.

Shortly after this decision some of the larger electric institutions lobbied the General Assembly to amend the law and place governmental entities under

the SCC. It was during this period that many localities banded together to form the Virginia Municipal League/Virginia Association of Counties Steering Committee. This committee, assisted by counsel and consultants, successfully opposed the attempts to amend the statutory law and since then has been able to negotiate electric rates with both Virginia Electric and Power Co. and Appalachian Power Co. which have been considered fair and reasonable both to local government and the utilities.

Regulation vs. Negotiation

The steering committee has been convinced that there are numerous reasons why private negotiation of contracts is superior to the imposition of increased rates regularly and sometimes unexpectedly by the SCC. Some of these reasons are as follows:

Potential Loss of Cooperation Among Governmental Entities and Utilities. Because utilities must use public streets and other property in order to furnish services in the community, it is essential that a spirit of cooperation exist so that construction, repair and maintenance of the utility facilities can be accomplished at times and by means reasonably convenient to the utility and with the least interference to the public. Accomplishment of construction, maintenance and repair in an economic and expeditious way in the past has been the result of friendly cooperation between utility and public officials. Periodic rate hearings

—continued, next page—

before the SCC wherein local governments and utilities are adversaries necessarily will impair the cooperative spirit which now exists.

Rate Hearing Costs Are Phenomenally High. The cost of rate hearings under today's regulatory procedures have escalated tremendously. In order to be adequately represented, each interested party must provide counsel and both expert and lay testimony and be prepared to devote days, even weeks, to the undertaking. Local governments, jointly or separately, must develop and bear that expense. These costs would ultimately be borne by the taxpayer. Contractual rates are far less expensive to negotiate for both utility and governmental users.

Budgeting of Local Governments Will Be Impaired. Local governments are required by law to establish budgets annually and to assess taxes to meet budgeted and anticipated expenditures. These assessments can be made only on an annual basis and any interim increase or emergency charges will damage the existing fiscal security of counties, cities and towns. By contrast, the use of negotiated rate agreements will aid both local governments and utilities

to maintain fiscal security and will eliminate budget uncertainty.

The State Corporation Commission Is Overburdened. The existing staff and hearing schedule of the SCC are at what seems to be the limit of their present capacities. Unquestionably, if governmental rates are fixed by the SCC, the addition of a class of users of such magnitude will require great increases in SCC staff and may tend to cause restructuring of the commission and its responsibilities. In any event, additional costs will add to the burden of the consumer public.

The State Corporation Commission Should Not Have Authority Over Utility Rate Regulation and Utility Taxation. Under present law, assessment of utility properties for taxation rests with a division of the SCC which determines the amount of the tax liability utilities have to local governments. The power to regulate rates should not be exercised by the same state agency.

The State Corporation Commission's Rating of Governmental Entities Will Cause Inequities. Counties, cities, towns, authorities and various members of each group as well as the state itself have distinct cost of service characteristics. Rate schedules developed by the SCC for all governmental users or

for categories thereof will develop unfair rates because different kinds of governmental units have distinctive characteristics. In negotiations for contractual rates there is freedom to develop rates matching those characteristics and protect the interests of all localities. This is not thought to be possible in a rate hearing covering all users or even all governmental users.

Determination of Rates by the SCC Will Dilute Authority. Determination of rates by the SCC or by any regulatory agency will dilute the authority of each local government to levy taxes and provide essential services as tax rates will be dependent on utility rates established by the commission.

State Corporation Commission's Regulation Of Rates May Not Exclude the State. The state and each governmental unit thereof may not be differentiated in respect to utility rates if rates are regulated. That is to say, if rates to local governments are to be regulated by the SCC, rates to the state itself must also be so regulated, and regulation of rates to the state is inherently dilutive of the power of the General Assembly to establish the state's budget.

Negotiation between utilities and governmental entities does produce fair and equitable rates. The steering committee could not have reached agreements with Vepco and APCO in the past 12 or 13 years if either had not considered the agreed upon rates fair and equitable.

The Benefit to Utilities

There seems to be general agreement that governmental entities are distinct from other users of electricity. It is believed that this principle also applies to telephone service. There are several valid reasons why governmental entities must be considered separately from other users in the rate-making process, not the least of which are the extraordinary benefits utilities have traditionally received from localities, benefits which result in economies to the utilities and which pass through for the benefit of all other classes of electric consumers.

In 1975, a study examined the indirect financial benefits flowing from Virginia local governments to Vepco. This study had two purposes: it was intended to raise the previously ignored issue of valuable benefits historically granted to the power company and to present the logic by which the value of such benefits might be determined.

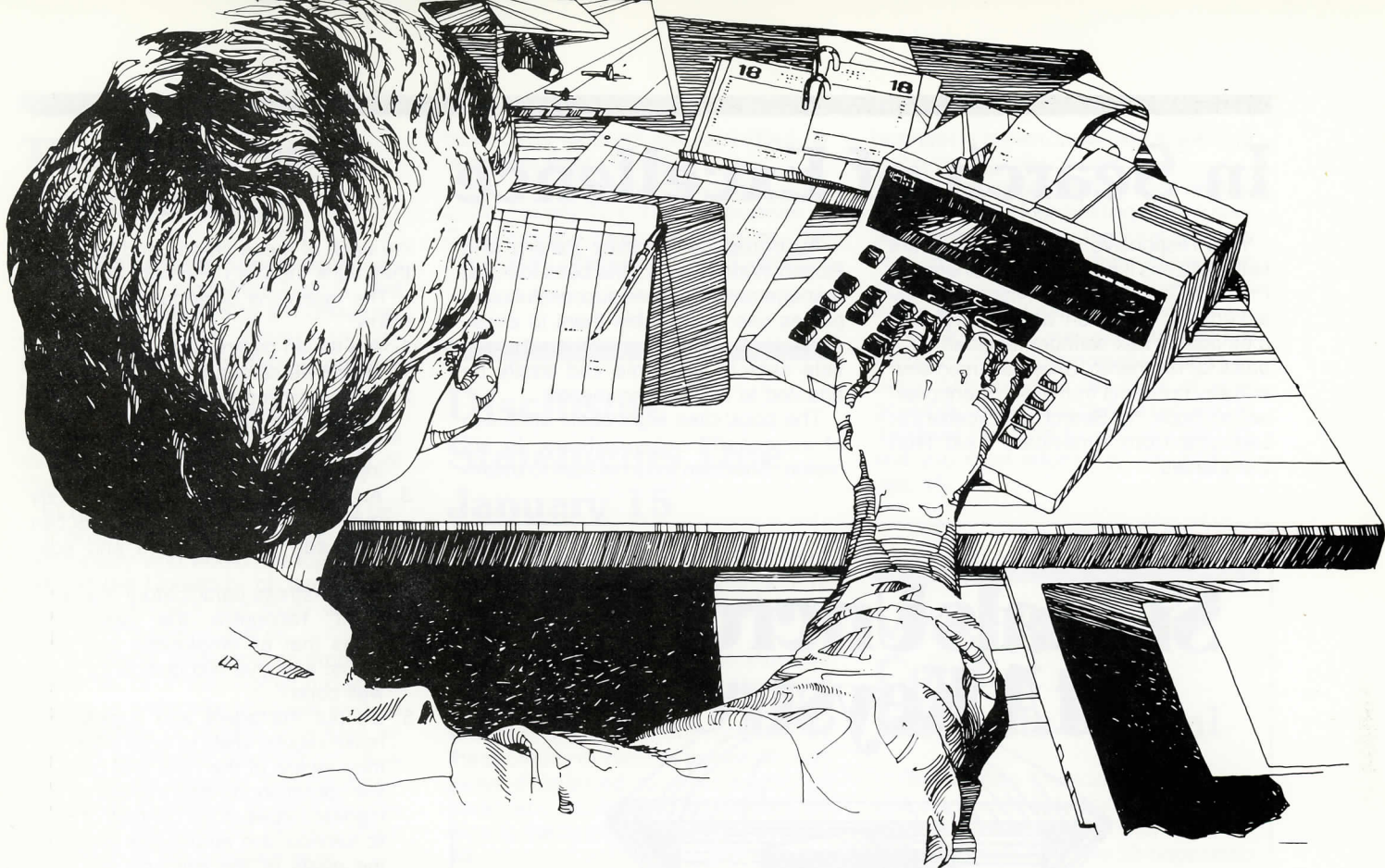
Three major kinds of benefits were evaluated. These were related to franchise fees, treatment of utility easements for real estate taxes and as-

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In Search of Excellence

How responsive is local government to the citizens it serves? John Sherman, Pullman City (WA) supervisor, recently asked this question and others in a memo to his top management staff. As a basis for his memo, Sherman used several key concepts from the current best-selling book "In Search of Excellence: Lessons from America's Best Run Companies."

Authored by Thomas Peters and Robert Waterman Jr., the book looks at management practices successful companies use that enable them to excel. Although the book focuses on the private sector, its theme can easily be adapted to local governments.

The book cites eight basic attributes of successful organizations. In his memo, Sherman asks his staff to exam-

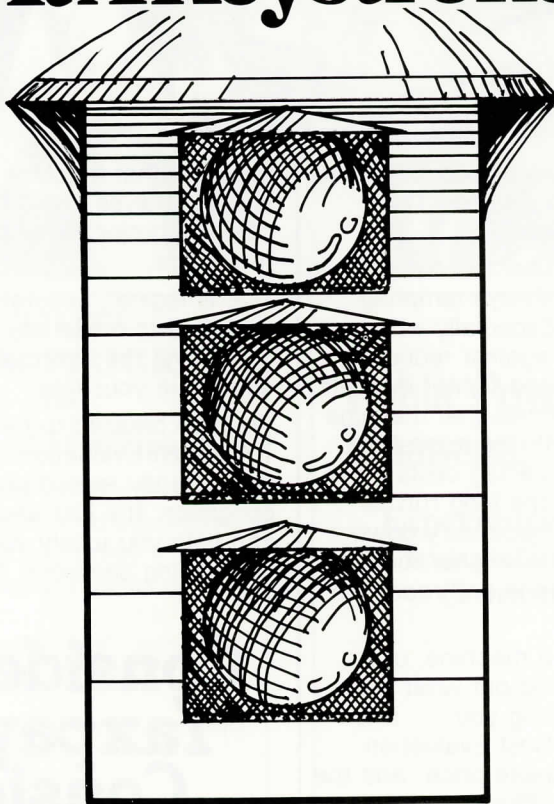
ine each of these criteria and how well they think the city measures up.

The questions Sherman asked staff follow:

1. Are we an organization on the move or are we stagnant?
2. Are we citizen oriented, recognizing that we are public servants, and do we willingly solicit and value citizen input?
3. Are we innovative and constantly questioning how our operations can be made more efficient and economic?
4. Do we stress participatory management, recognize the worthwhile ideas that all employees can contribute and give recognition for a job well done?
5. Do our managers and supervisors make regular visits to work sites; are they aware of the nuts and bolts of the operation; do they instill in all the highest values of the concept of public service; are employees aware of the goals of the city and are they committed to helping achieve them?

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The Wallerstein Scholarship was established by a gift from Ruth C. and Morton L. Wallerstein to the University of Virginia to foster interest and research in Virginia municipal government.

The scholarship is administered by the Virginia Municipal League and the Institute of Government, University of Virginia.

ELIGIBILITY: An applicant must be:

1. An employee or official of a Virginia municipality who would like to spend a year at the University of Virginia engaged in research and study with the Institute of Government; or

2. A person, preferably an employee or official of a Virginia municipality, seeking to undertake graduate work at the University of Virginia in a field related to municipal government. It is hoped, but not required, that the recipient intends to enter or re-enter Virginia municipal government service upon completion of the graduate work.

SELECTION CRITERIA: While an applicant must show promise of benefiting substantially from a year at the university and a degree applicant must meet admission standards, the selection committee will place heavy emphasis upon the individual's potential for public service in Virginia.

DURATION OF THE AWARD: The award is made for a twelve-month period beginning at the recipient's wishes between June 1, 1984 and September 1, 1984, and may continue for a second year dependent upon the recipient's need and his or her first year record.

AMOUNT OF THE AWARD: The amount is \$5,000.

APPLICATION PROCEDURE: Applicants for the scholarship may obtain the necessary forms by writing to the institute. Applicants seeking a graduate degree must fulfill all the requirements for admission to the graduate school of the university. Inquiries regarding graduate school requirements should be addressed to the Dean of the Graduate School of Arts and Sciences, 438 Cabell Hall, University of Virginia, Charlottesville, Virginia 22903.

DATES FOR SELECTION: Applications must be submitted no later than March 1, 1984. An applicant may be invited to attend a personal interview held either at the institute or at the Virginia Municipal League offices in Rich-

mond. The recipient will be notified no later than April 15, 1984.

For further information, please write to Dr. Timothy G. O'Rourke, Institute of Government, University of Virginia, 207 Minor Hall, Charlottesville, VA 22903.

Disclosure Statements Due January 15

The Comprehensive Conflict of Interests Act requires certain local government officials to file disclosure statements every year by Jan. 15.

Financial disclosure forms must be filed by members of the governing bodies of localities with populations in excess of 3,500. This form, prepared by the secretary of the commonwealth, has been distributed to local municipal clerks who are required to distribute the form to the appropriate officials by Dec. 10.

The governing body of localities with populations in excess of 3,500 by ordinance also may require designated employees or persons appointed to positions of trust to file.

The form is the same form filed by members of the General Assembly and selected officials. Provisions of Part III, A and B, of the form deal with receiving compensation for representing entities before state agencies and apply only to state officials. Under Part I of the form you need list only your real estate holdings (and those of your spouse or any other relative residing in your household) located within your locality or any locality contiguous to yours.

Real estate disclosure forms must be filed by members of planning commissions, boards of zoning appeals, real estate assessors and county, city or town managers (or executive officers) who serve a locality with a population in excess of 3,500 persons. This form requires you to list all your interests in real estate located in the county, city or town in which you are appointed or employed. This includes any business in which you own an interest and from which income is received, if the primary purpose of the

business is to own or develop real estate in the county, city or town.

The form stipulates that "each relative required to disclose holdings" file a separate form. In effect, the form requires your spouse and any other relative living in your household to file a separate form listing each real estate interest.

This form also was prepared by the secretary of the commonwealth and has been distributed to the clerk of your governing body. The clerk is required to distribute the form to you by Dec. 10, and you must return it to the clerk by Jan. 15.

VML Publishes Conflict of Interests Manual

The Virginia Municipal League has just completed publishing a reference manual to the new Comprehensive Conflict of Interests Act. This 39-page reference work was prepared by league staff and includes the full text of the new act as well as an annotated summary of those provisions applying to local government officials. Dozens of examples are included in the manual as well as the full text of the financial disclosure and real estate disclosure forms. Attorney General Gerald L. Baliles' staff reviewed the manual and provided helpful suggestions.

A free copy of the manual has been distributed to each VML member locality through the locality's chief administrative officer. Another copy has been given to commonwealth's attorneys who are responsible under the act for providing official advisory opinions to local government officers and employees. Local government attorneys will also receive a copy as part of the "Handbook for Local Government Attorneys" to be published this fall by the Local Government Attorneys of Virginia. VML is grateful for permission to distribute this chapter of their manual as a separate publication.

Additional copies of the manual may be ordered from the league by sending a check for \$7.50 payable to VML, to VML, P.O. Box 753, Richmond, VA 23206.

VML welcomes your suggestions for future publications and how they may be more helpful.

—from page six—

way maintenance is all we support. Each recommendation of the JLARC study is well thought out and worthy of VML's active support. Recommendations for the General Assembly to establish a stable and predictable commitment to program funding including specifying the share of the program cost to be funded by the state are monumental. This would greatly enhance joint delivery of services by the state and

local governments as well as allow better financial planning on the part of local governments. VML also supports a state aid program targeted to fiscally stressed communities and additional aid for auxiliary grant programs.

"The Virginia Municipal League concurs with each recommendation of the JLARC study. We will not take further time today to review each of the findings and recommendations since we believe the critical question now is where do we

go from here. To step back and say, 'provide us with all the new financial resources you can,' would certainly be irresponsible on our part. The Virginia Municipal League intends to assume its responsibility and to step to the forefront with specific proposals to carry out the recommendations of this JLARC study.

"Many of the findings and recommendations tie closely together and as a result, one carefully thought out solution may address many of these needs. As the study has indicated, local governments' major concern with mandates is inadequate funding of those mandates. The one mandate which local governments feel is most inadequately funded is education, which is the largest single component of local expenditures. Therefore, increased funding for education would, in large part, relieve the

—continued on page 20—



Rick Weeks and Ellen Posivach of VML (front row) listen intently at the hearing.

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People

VML Promotes Two

Two VML staff members, **Richard F. Weeks Jr.** and **Clay L. Wirt**, have received promotions.

Weeks, who has been with the league since 1977 and who served formerly as director of intergovernmental relations, has been named associate director. In his new position he will continue his responsibilities in the area of legislative and policy development but will also assume new responsibilities coordinating the annual VML conference and serving as executive secretary of the Virginia Section of the International City Management Association.

Weeks holds an MPA degree from the State University of New York at Albany and previously worked as an administrative intern for the city of Hopewell. He is from an Air Force family and has lived in Florida, Michigan, Nebraska, Iowa, Alaska and New York. Married, he and his wife, former Judy Carroll of Henrico, are expecting their first child in June.

Wirt came to the league in 1981 and has served as staff attorney. In his new position he will serve as legislative counsel and deputy executive director. Wirt holds a degree in humanities from Bethany Nazarene in Bethany, OK, a master's in divinity from Princeton Theological Seminary and a degree in international law from Georgetown Law School in Washington, DC. He is a native of Kansas but also represents the seventh consecutive generation in his family to reside in Virginia. He has previously served as a county commissioner of Johnson County, KS, and as the deputy director of the Kansas City (KS) Anti-Poverty Program. He also worked in Washington for Sen. Robert Dole for 3½ years. Wirt and his wife, Lynn, live in Chesterfield County with their three sons, Eric, 6, Evan, 3, and Ethan, 1.

Mayor Dies

L. John Denney, mayor of Amherst, died of cancer Oct. 23 in his home at the age of 81. He was mayor from 1960 to 1970 and from 1972 to 1983 and had served on the Amherst Town Council 24 years.

Denney came to Amherst in 1954 after working abroad 25 years for the American Telephone & Telegraph Co. He organized the Central Virginia Telephone Corp. and the Raphine Telephone Co. and became a millionaire in the 1970s when he sold the two companies to Continental Telephone Co. of Virginia. At the time of his death Denney owned and operated the Rulon-Maynard Corp., composed of two Lynchburg radio stations, WLGM and WJJS, and he owned a 202-unit apartment and townhouse complex in Charlottesville.

Active until as recently as a month prior to his death, Denney was a member of the board of directors of the Amherst County Chamber of Commerce, the Amherst Development Corp., Seven Hills School, Junior Achievement and the Academy of Music restoration program. He also served on the board of advisers of Lynchburg College, Randolph-Macon Woman's College and the Lynchburg Fine Arts Center.

Vice Mayor William A. Ogden has been unanimously elected to serve as Amherst's new mayor, and council member N. Roger Beidler was elected vice mayor.

Two Leave Posts

Alexandria Fire Chief **Charles H. Rule** has resigned his position to become assistant vice president for public protection and education with the National Fire Protection Association in Boston. Rule had served as Alexandria's fire chief since 1976.

Allan T. Williams, Hanover County administrator, has left his position to become general manager of the Metropolitan Convention and Visitors Bureau in Richmond, or ConTour. ConTour was formed in July to replace work done by an arm of the Metropolitan Richmond Chamber of Commerce. The city will pay 51 percent of ConTour's \$459,000 budget, while the chamber and Henrico and Chesterfield counties will pay 15 percent each and Hanover County will pay 4 percent. Williams had been Hanover's administrator since May 1981. He was formerly administrator of Montgomery County and of Buckingham County.

Two Honored for Service in Public Works

Two Virginians have been honored with Samuel A. Greeley Local Government Service Awards given to public works administrators who have served a single local government honorably and efficiently for at least 30 years.

Receiving the award from Virginia were **John F. Chilton** of Fairfax County and **Jimmie Burton Layman** of Roanoke.

The awards are presented by the American Public Works Association and sponsored by the Chicago-based engineering firm of Greeley and Hansen.

We Want News from your locality for **VIRGINIA TOWN & CITY** magazine. If you have recent appointments, a new facility or a project/program that can benefit other Virginia local governments, let us know. Contact Christy Everson at 804/649-8471.



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The Year in Review

By **R. Michael Amyx**

Throughout the past year, the Virginia Municipal League has continued its strong tradition of service to and representation of its member localities that has marked its 78-year history. As your executive director I am pleased to have this opportunity to provide this brief overview of the major activities undertaken by the league in 1983.

As was the case when the league was formed in 1905, the primary mission of VML is to represent the interests of our members before the Virginia General Assembly. Approximately 500 local government related bills and resolutions were introduced in the 1983 session and some 200 of this number actually passed. Perhaps the most dominate issue during the session was the budget bill which in its final approved form produced reductions in several local government aid programs but nearly full funding of the originally appropriated Standards of Quality funds. A major bill of significance to local elected and appointed officials brought about major revisions to the Conflict of Interests Act. Following the session several training efforts were undertaken including a recently published league report that provides a comprehensive analysis of the act. Copies of this important report may be requested from the league office. As is often the case, numerous bills harmful to the interests of local government were defeated through the efforts of the membership of the league and its staff.

As we rapidly near the beginning of the 1984 General Assembly session, the league will be faced with many challenges and opportunities. The September release of the Joint Legislative Audit and Review Commission's "Study of State Mandates and Local Financial Resources" provides local governments with an ample supply of fodder to accomplish major legislative goals for several future sessions. In an effort to address the cited fiscal stress and the need for increased school aid, the league membership endorsed at its September annual conference a 1 percent increase in the state sales tax to be returned to localities based on school age population. Other 1984 session state aid priorities include: (1) full funding of the new corrections reimbursement formulas and the incentive payment, (2) adequate funding of constitutional offices, (3) increased highway funding necessary for equitable distribution among Virginia localities, (4) new funding aid for fiscally stressed lo-

calities and (5) increased funding for the Auxiliary Grant Program for local welfare departments.

The league membership has been ably represented in numerous contacts with state government during the past year. League staff has had extensive contact with state agencies in the delivery of state programs and the shaping of state regulations. Although such contact may not often be "high profile" activity, it is clearly an essential service provided by the staff. A large number of local government officials continue to serve on the many advisory commissions that play an important role in state decisions that impact our localities. I am particularly pleased to report that within the past year Gov. Robb reactivated the Governor's Local Government Advisory Council under the able leadership of Lt. Gov. Richard Davis.

On the federal scene, the league has played an active role in key issues impacting Virginia localities such as reenactment of the federal general revenue sharing program, the seeking of anti-trust immunity and cable television legislation.

In the league's important role as an "information broker" we have through the written word of VIRGINIA TOWN & CITY, the LEAGUE LETTER and numerous reports and special mailings shared with the membership important local government related developments in a timely and complete fashion. In addition, an extensive offering of training sessions and workshops have provided league members with new skills ranging from employee safety to understanding new legislation.

Responding to your problems and information needs as individual local government officials through hundreds of contacts, the league staff has worn another hat. Information requests ranged from sample ordinances to ideas on how to better carry out local government service programs. The league staff prides

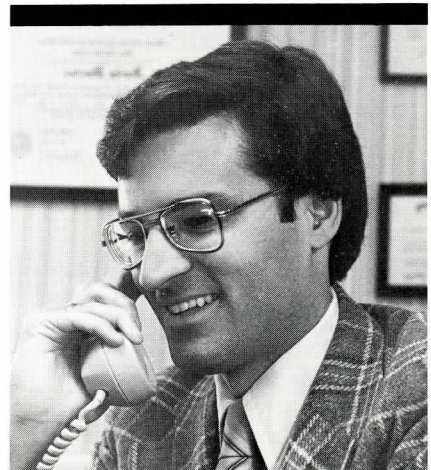
itself on our prompt and full response to such inquiries.

In 1983, the league remained involved in several important statewide programs that directly impact vital portions of your annual budget. In its fourth year of operation, the Virginia Municipal Group Self Insurance Association has grown to almost 150 members representing nearly \$5 million in annual premium. Average returned dividends of 33 percent and an outstanding employee safety training program have marked the development of the program this year. The coming year will be marked by expansion of the program to include liability and property lines.

In another area of statewide impact, based on our long-standing successes in electrical rate negotiations for local governments, the league has recently launched negotiations with several major telephone companies.

I want to particularly commend the VML Executive Committee for its devoted service in guiding the league staff and programs through the past year. I want to give special recognition to Francis and June West for their effective and gracious leadership. The installation of Charles Robinson, mayor of the town of Vienna, as league president will ensure that the year ahead will be marked by the level of leadership members of the league have grown to expect from the office of VML president.

Lastly, this past year has seen the departure of several valued employees—Charlotte Kingery and Bradley Harnes. I know the many league members that have had contact with Charlotte and Brad over the years wish them well in the continued development of their successful careers.



*R. Michael Amyx,
Executive Director
Virginia Municipal League*

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JLARC

—from page 14—

fiscal stress which your study has indicated affects all local governments. It would also meet the need for increasing and stabilizing the level of the state's share of funding of education. As the study found, the additional funding for education would be of benefit to all localities ranging from urban centers to rural areas."



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—from page 12—

6. Are we trying to perform basic government services in the best manner possible or are we spreading ourselves too thin by trying to do too much with too little?
7. Are we top heavy or have we trimmed administrative and supervisory layers down to an efficient level?
8. Are we centralized in terms of organizational controls and values; on the other hand, are we decentralized enough so that all employees have a sense of autonomy and feel free to contribute ideas?

Adapted from "City News," the official publication of the Association of Washington Cities and the Municipal Research and Services Center.

Rate Negotiations

—from page ten—

assessment of utility properties for property taxes. In each case, the data were insufficient for determining the exact amount of benefits granted by municipalities and counties served by Vepco, but the combination of available data, judgmental information provided by state Tax Department officials, and assumptions derived from other data sources produced a range of estimates. Based on these estimates, the study concluded that annual benefits flowing from localities to Vepco were very substantial.

The logic underlying each benefit type was as follows: Vepco's transmission line easements covered more than 81 square miles of land in Virginia. Since most of this land is privately owned and since the presence of large transmission lines decreases the appraised value of land, Virginia local governments suffer a loss in real estate taxes. In effect, Virginia counties and municipalities are subsidizing Vepco's tax-free interest in easement-encumbered land. This subsidy was estimated to amount to between \$300,000 and \$400,000 per year.

Franchise agreements between Vepco and Virginia municipalities give the power company the right to use public streets and alleys and to sell and supply electric power within a municipality's corporate limits. Historically, the price paid by Vepco for franchise rights has been low and has not increased with inflation or the number of Vepco customers accompanying municipal growth. The rights granted to Vepco in these franchise contracts are extremely valuable, especially in light of the revenue they permit the power company to earn.

Property taxing policies and practices in Virginia, particularly those regarding public service corporations, have been the subject of considerable controversy. Valuation of property based on condition systematically produces low appraisals so that Virginia localities receive less taxes from the power company than non-public profit-making companies would provide. Alternative appraisal policies, based upon unit valuation (a weighted average of cost, income capitalization and market valuation) and replacement cost less depreciation were applied in the benefits study and the resulting property tax loss to Virginia local governments was several million dollars per year.

As noted above, the value of this study was in its development of the logic and philosophy of benefits. The data needed for refinement of the numbers does exist, but are costly to obtain. For this reason, the numbers were esti-

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mates rather than exact figures. However, the magnitude of the estimates clearly show the relevance of benefits in determining electric power rates. It is believed that the flow of benefits theory is equally applicable to telephone companies. While it is evident that Virginia local governments must pay their appropriate share of the cost of electric or telephone service, this share should, out of necessity and fairness, reflect all benefits prevailing between purchaser and seller.

Telephone Companies

No known existing franchise issued by a telephone company contains any language concerning the rate to be paid by the municipality for telephones used by governmental entities. Unfortunately at some time in the past, telephone companies stopped granting preferences to local governments in lieu of realistic franchise fees and as indirect payment for the benefits which flow to the companies from the localities whose citizens they serve. The larger the community and the greater amount of service utilized within the community, the greater the value of the franchise because of the greater revenues and indirect benefits derived. Not the least of these benefits is

an atmosphere of cooperation between utility and government.

Rates charged to local governments by telephone companies operating in Virginia fail to reflect the benefits which flow from governmental units to the telephone utilities, and cities, towns and counties have been billed for telephone services on the same basis as private customers. To our knowledge, the data supplied to the SCC to justify telephone rates has consistently failed to make any distinction between governmental customers and other users or to recognize that governmental units constitute a separate class of customers.

As stated at the outset of this article a number of localities have recently sought to negotiate telephone rates which are fair and reasonable in relation to the cost of the service supplied to them. The largest telephone company in Virginia has so far refused to negotiate with the representatives of the localities and has refused to supply data from which localities can determine the fairness of the rates which they are expected to pay for telephone services. Admittedly, telephone companies, or at least the American Telephone and Telegraph Co. subsidiaries, have numerous problems in today's deregulation environment, but local governments are also

faced with many problems not the least of which is the cost of services purchased, including utility services.

We have lately heard that the telephone companies may seek to have the statutes amended to grant the SCC power to determine rates to be charged for utility services furnished localities. This effort should be resolutely resisted for the reasons expressed above. Unless Virginia law is changed, we believe telephone companies will eventually come to the negotiating table. Certainly, negotiation is as much in the interest of the utilities as it is for cities, towns and counties.

About the Author

Howard Dobbins is with the firm of Wallerstein, Goode and Dobbins and serves as legal counsel for the VML.

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