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Congress of the United States

House of Representatives

September 18, 2008

The Honorable Tim Kaine
Governor of Virginia
State Capitol
Richmond VA 23219

Dear Governor Kaine

I write today knowing that as governor you have the interest of Virginia's citizens in mind when considering every issue that comes across your desk. As another Virginian who looks out for what is best for my constituents, I wanted to share my concerns about what I perceive to be the loss of public confidence in many areas of the regulatory process in the Commonwealth, and to offer some observations and suggestions that I believe could help restore public trust in the system.

One of the clauses in the State Corporation Commission's code of ethics states that the SCC will "discharge our duties and regulatory responsibilities in a manner that instills public confidence in the Commission." From my observations, I believe several actions over the recent past have contributed to the public's perception that the mission of the SCC – one of the state's primary regulatory agencies – to balance the interests of citizens and businesses has been tilted excessively toward the business end. Some have suggested that there is the appearance of a culture in Richmond that enables deep-pocketed business and industry interests to come before consumer and public interests.

In 2007, the SCC approved toll increases on the Dulles Greenway of up to \$4.80 in 2012. This decision was made in spite of overwhelming public opposition, including 58 of 59 witnesses at two public hearings and approximately 600 written comments, the vast majority in opposition to the proposed toll increases. These increases directly affect thousands of my constituents who use the Dulles Greenway as a daily commuter route. They have few other choices. The \$4.80 toll increase that Toll Road Investors Partnership II (TRIP II) requested equates to 34 cents-per-mile to drive the entire length of the road, one of highest per-mile toll rates in the country. But because there is no distance pricing, many are forced to pay the full toll multiple times a day when they use exits along the road.

It is important to note that the money collected by the tolls does not stay in the region, state or even in the country and is not reinvested to improve other roads or transportation projects in the area. The company that owns the Greenway is based in Australia and most of its investors never even drive on this road. This case is a prime example of the fact that the SCC has not been given the proper tools to weigh the interests of the citizens with those of the private sector. The

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users of the Greenway feel as though the SCC has let them down and they have no recourse but to use the clogged alternative routes.

What is the public to think when they see that throughout this process, Whitt Clement, a former secretary of Transportation for Virginia, has represented Macquarie Group, the Australia-based company that owns TRIP II? It is incredible that someone whose responsibility was to look out for Virginia citizens' best interests as the state's transportation chief could represent a company that is now making a profit at their expense.

Another clause in the SCC's ethics code states that the commission will "avoid any conflict of interest or impropriety between personal and professional roles." What is the public also to think when they see the nomination of James C. Dimitri to the open seat on the SCC? Mr. Dimitri has represented numerous commercial interests before the SCC and questions have been raised about his bringing an impartial voice to the SCC. He represented TRIP II in a successful 2003 effort to raise the ceiling on the Dulles Greenway tolls. He has also been the lead attorney working to get the SCC to approve a proposal by Dominion Virginia Power to build 500-kilovolt power lines across northern Virginia.

I have been a vocal opponent of these power lines since their inception because they would traverse historical, environmental, cultural and scenic lands which deserve federal and state protection. This region includes rural and conservation areas, federal and state recognized historic districts, historic sites and scenic byways, agricultural and forest districts, state parks, the Appalachian Trail, the Shenandoah River, and many Civil War battlefield parks. This is the land that George Washington surveyed, the land that inspired Thomas Jefferson, the land that James Monroe walked and the land that Chief Justice John Marshall farmed. Millions of federal, state, local and private dollars have gone into protecting the sanctity of the history of this region. I continue to remain concerned that the applicants also have failed to prove the necessity of this project. As you know, the decision on Dominion's proposal for the portion of the transmission line in the Commonwealth is currently pending at the SCC. Given recent actions by neighboring states regarding this project, I believe it is instructive to consider the concerns raised by West Virginia and Pennsylvania.

Last December, the West Virginia Public Service Commission's (PSC) staff released a report which recommended rejection of Allegheny Power's application to build its portion of this power line project. One key point the staff report made was the failure to consider any alternatives to meet electricity demands other than building a new line. The staff stated that no "integrated research process" was used to conclude that building the line was the most cost-effective and efficient method to solve the mid-Atlantic region's congestion issues. In response to the concerns raised by the West Virginia PSC staff report, a modified route was established along with other measures to reduce costs for consumers. The new deal, which ended opposition by the PSC staff, aims to save customers more than \$40 million in rate reductions,

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provides low-income assistance and also includes conservation plans. Another deal was also struck that requires Allegheny Energy to provide free electricity to residents whose property is crossed by the lines. It is important to note that West Virginia PSC only approved the line after Allegheny agreed to concessions which would improve the line, consider conservation and give back to consumers.

In August, two judges on the Pennsylvania Public Utility Commission recommended that Pennsylvania deny Allegheny's proposal to build that state's section of the power line project. Among their reasons, the Pennsylvania judges stated that alternatives had not been examined or studied and they also questioned if there truly was a need for the line. They also stated that "the costs and adverse impacts of the [power lines] project clearly outweigh the benefits of it. We are convinced that the project is driven by economics and not by reliability violations."

The point about the necessity of this line has come up in each state's deliberation over this project. At this critical time in our nation where we are focused on the importance of considering alternative and renewable energy sources, I believe Virginia needs to seriously consider what will be best for the state moving into the future. The bottom line question the state must answer: Has the need been proven that massive and intrusive power lines are really needed, or are there other options which should be exhausted before destroying neighborhoods and hallowed ground? This is the central issue that has raised public concern.

In 2007, I wrote to the CEO of Dominion urging the company to consider energy efficiency programs. I pointed out that Duke Energy in North Carolina sent a proposal to the North Carolina Utilities Commission outlining ways to expand energy efficiency and calling it a "fifth fuel." Virginia ranks among the worst states for energy conservation and I believe we can and must do more to promote smart energy instead of relying on the industry to provide more energy by building massive transmission lines.

Under the laws of the Commonwealth, it may not be under your authority to intervene in the regulatory process for power line siting. But this may be one of those times to suggest that you step outside the box and respond to the people you serve in northern Virginia, who appear to be increasingly frustrated by what they see as a detached state government in Richmond ignoring their needs and concerns. Having seen with the Iraq Study Group on the federal level how bringing fresh eyes to an issue of critical national importance can succeed, perhaps a similar effort on the state level bringing together a balanced and bipartisan group to take a look at Dominion's plans could assess whether building power lines at this time is really necessary. Such an outside review of all the facts may be just the action needed to restore public confidence in the way Richmond works. It is important to take the time now and cautiously consider the ramifications of such a massive project rather than have to try and fix the detrimental effects after a decision has been made.

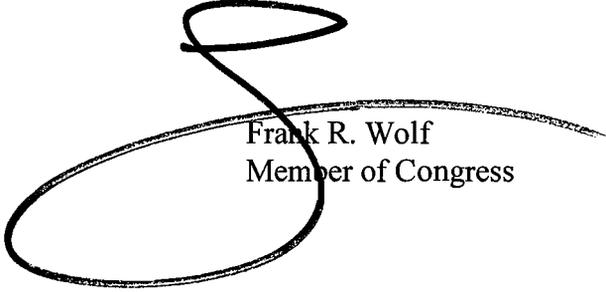
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You also have another option that I would suggest. Under federal law (P.L. 109-58) an "interstate compact" of three or more states can join together to create a regional transmission siting agency that has the authority to review, certify, and permit regional transmission facilities. If the states agree on a plan, this interstate compact would pre-empt federal authority. I would encourage you to start a discussion with the governors from West Virginia and Pennsylvania as I believe this method gives the states the opportunity to make a joint decision that would be mutually beneficial to the region and its citizens.

I offer these observations and suggestions with the greatest respect for your office and your service to all Virginians. I believe you have the opportunity to follow the great and historic tradition of statesmanship in the Commonwealth that began with Virginia's founding fathers by leading the effort to ensure that the needs of the public are truly served and that the public has complete confidence in the state's regulatory process. I stand ready to assist on the federal level if you believe I can be helpful to your work.

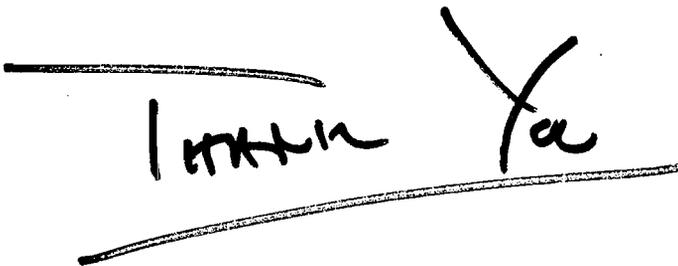
Best wishes.

Sincerely,



Frank R. Wolf
Member of Congress

FRW:cr



Tim Kaine