EXHIBIT NO. 1

15
2-23-02

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2-12-02

City of Alexandria, Virginia

MEMORANDUM

DATE: FEBRUARY 4, 2002

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: PHILIP SUNDERLAND, CITY MANAGER

SUBJECT: ORDINANCE AUTHORIZING THE CITY OF ALEXANDRIA TO BECOME A MEMBER OF AND PARTICIPATE IN THE "VIRGINIA ENERGY PURCHASING GOVERNMENTAL ASSOCIATION" AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE JOINT POWERS AGREEMENT

ISSUE: City Council consideration of an ordinance authorizing the City of Alexandria to become a member of, and participate in, the "Virginia Energy Purchasing Governmental Association" (VEPGA), and authorizing the City Manager to execute the Joint Powers Agreement.

RECOMMENDATION: That City Council:

(1) Approve the proposed ordinance (Attachment I) on first reading and schedule it for public hearing, second reading and final passage on February 23, 2002; and

(2) Authorize the City Manager to execute the Joint Powers Association Agreement (Attachment II) in substantially the form presented, subsequent to final passage of the proposed ordinance.

BACKGROUND: The City of Alexandria has participated for decades in a joint steering committee of the Virginia Municipal League (VML) and the Virginia Association of Counties (VACO) that negotiates electricity purchase contracts for local government entities (including towns, cities, counties, authorities and school districts). In December 2000, the City Council authorized the Manager to execute a temporary Joint Powers Association Agreement, which established the Virginia Governmental Electricity Purchasing Association (VGEPA) and allowed the City, as a member of VGEPA, to participate in a pilot program for the competitive purchase of electricity. VGEPA included 18 school boards, five authorities, eight cities and seven counties. Other Alexandria participants included the Alexandria School Board, the Alexandria Sanitation Authority and the Alexandria Redevelopment and Housing Authority (ARHA). This joint powers agreement will expire at the conclusion of the pilot program.

Since its formation, VGEPA negotiated a seven-year contract with Virginia Electric and Power Company, doing business as Dominion Virginia Power (Virginia Power). This contract capped

rates with Virginia Power until June 30, 2007, and included new terms and conditions for doing business with the company. City Council approved this new contract in October 2001. Additionally, VGEPA sought competitive bids for an annualized total of 117 million kilowatt hours of electricity during the pilot. Pilot contracts were awarded to Potomac Electric and Power Co. (PEPCO) and Virginia Power for accounts of nine school boards, two authorities, five cities, and five counties. Three accounts (two school and one city) in Alexandria were included in the pilot with savings estimated at $5,852 for the eight months of the pilot.

During 2002, more local government accounts will become eligible for competitive procurement of electric services. As of January 1, 2002, one-third of local government accounts were eligible, and as of September 1, 2002, two-thirds of local government accounts will be eligible. All local government accounts will become eligible for full competition as of January 1, 2003. The City has 173 accounts, all of which are now eligible for competitive procurement of electric services.

Under the terms of the seven-year contract with Virginia Power, accounts may move between competitive suppliers and Virginia Power without penalty, unless an account has an annual peak demand of 500 kW or greater (the City has about 12 accounts this large). When these larger accounts return to Virginia Power's capped rates after purchasing from a competitive supplier, they will be required to remain with Virginia Power for one year. When a competitive supplier is selected to furnish electricity, Virginia Power will remain the local transmission provider.

In order to establish a competitive electricity purchase program on an ongoing basis, a new Joint Powers Agreement has been prepared which establishes a permanent association called the "Virginia Energy Purchasing Governmental Association" or "VEPGA." Initial members of the new VEPGA board were selected from those jurisdictions which have actively participated in the steering committee and the temporary JPA. The City's Purchasing Agent, Jack T. Pitzer, has been selected for the new VEPGA board. Board members will serve one, two and three-year terms with board elections occurring at the VEPGA's annual meetings.

The new Joint Powers Association Agreement (Attachment II) and the Bylaws of VEPGA authorize the Chair or Vice-Chair of the VEPGA Board to execute contracts on behalf of VEPGA members for electricity and related services. Jurisdictions will continue to pay their electricity bills based on the contracts entered by VEPGA.

Although purchases of electricity by joint governmental associations are exempted by State law from the provisions of the Virginia Public Procurement Act, all purchases of electricity will be in accordance with competitive principles to be adopted by the VEPGA Board of Directors. A provision of the attached ordinance includes a finding that competitive sealed bidding and competitive negotiation are not fiscally advantageous, but that the VEPGA shall follow competitive principles in the purchase of electricity. The ordinance also authorizes the City Manager to execute the Joint Powers Association Agreement on behalf of the City. The agreement provides that a jurisdiction may withdraw from membership in VEPGA, effective July 1 of any calendar year, by giving notice prior to March 1 of that year.

Because of earlier interest in the pilot and the fiscal benefits of VEPGA, it is likely that the Alexandria Public Schools, Alexandria Sanitation Authority, and ARHA will join VEPGA.

FISCAL IMPACT: The FY 2003 assessment for the City and Schools to participate in VEPGA totals $5,368 out of a VEPGA budget of $350,000. This compares to an annual electricity purchase by local governments in the Virginia Power territory of over $230 million. Alexandria's electricity purchases total approximately $3 million annually. Participating in the competitive procurement of electricity will result in positive savings for the members, since rates have been capped with Virginia Power, and any competitive offers accepted by VEPGA would have lower rates.

ATTACHMENTS:

I. Ordinance Authorizing the City of Alexandria to Become a Member of and Participate in the "Virginia Energy Purchasing Governmental Association"

II. Joint Powers Association Agreement

STAFF: Mark Jinks, Assistant City Manager
Jack T. Pitzer, Purchasing Agent

ATTACHMENT I ~~19~~ 2-12-02 15 2-23-02

Introduction and first reading:	2/12/02
Public hearing:	2/16/02
Second reading and enactment:	2/16/02

INFORMATION ON PROPOSED ORDINANCE

Title

AN ORDINANCE authorizing the City of Alexandria to become a member of and participate in the Virginia Energy Purchasing Governmental Association.

Summary

The proposed ordinance provides for the joint acquisition by the city, with other political subdivisions, of electricity as a part of the Virginia Energy Purchasing Governmental Association.

Sponsor

Staff

Mark Jinks, Assistant City Manager
Jack T. Pitzer, Purchasing Agent
Steven L. Rosenberg, Senior Assistant City Attorney

Authority

§ 15.2-1300 et seq., Code of Virginia (1950), as amended

Estimated Costs of Implementation

See attached docket memorandum.

Attachments in Addition to Proposed Ordinance and its Attachments (if any)

None

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2-12-02

ORDINANCE NO. _____

AN ORDINANCE authorizing the City of Alexandria to become a member of and participate in the Virginia Energy Purchasing Governmental Association.

WHEREAS, the VML/VACo Virginia Power Steering Committee (the "Committee"), composed of representatives of the City of Alexandria, a municipal corporation of the Commonwealth of Virginia, and other local governments and political subdivisions of the Commonwealth, has for several decades negotiated on behalf of such governmental units a standard form contract for their purchase of electricity supply and delivery service from Virginia Electric and Power Company ("Virginia Power") as a sole source provider; and

WHEREAS, political subdivisions of the Commonwealth of Virginia are authorized under Virginia law to exercise jointly powers that they otherwise are authorized to exercise independently, and the terms and conditions of such authorization are currently set forth in Sections 15.2-1300 et seq., of the Code of Virginia (1950), as amended (the "Joint Powers Act"); and

WHEREAS, the Virginia Electric Utility Restructuring Act (the "Restructuring Act") further authorizes municipalities and other political subdivisions in the Commonwealth to aggregate their electricity supply requirements for the purpose of their joint purchase of such requirements from licensed suppliers, and the Restructuring Act provides that such aggregation shall not require licensure; and

WHEREAS, the Virginia Public Procurement Act (the "Procurement Act") exempts from its competitive sealed bidding and competitive negotiation requirements (the "Requirements") the joint procurement by public bodies, utilizing competitive principles, of electric utility services purchased through member associations under the conditions set forth in the Procurement Act; and

WHEREAS, the Committee recommends that the aggregation and procurement of electric supply, electric delivery, and other energy-related services ("Energy Services") be effectuated as provided in the Joint Powers Association Agreement, a copy of which is attached to and made part of this Ordinance (the "Joint Powers Agreement"), in accordance with applicable provisions of the Procurement Act, such as the utilization of competitive principles pursuant to the exemption under the Procurement Act from the Requirements; and

WHEREAS, the Committee also recommends that the other services provided by the Committee to its members be effectuated as provided in the Joint Powers Agreement, with such services consisting of (i) assistance in implementing standard form contracts for the purchase of services from incumbent electricity utilities, (ii) education of members regarding electricity procurement issues, (iii) monitoring of legal and regulatory developments affecting the provision of electricity service to local governments, and (iv) hiring of consultants and legal counsel to assist in the provision of the foregoing services ("Steering Committee Services").

WHEREAS, it appearing to the City Council of Alexandria, Virginia, that the joint procurement of the Energy Services pursuant to the Joint Powers Agreement and the provision of Steering Committee Services pursuant to the Joint Powers Agreement is otherwise in the best interests of the City of Alexandria; now, therefore,

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That competitive sealed bidding and competitive negotiation for the procurement of Energy Services are not fiscally advantageous to the public because the procurement process for Energy Services must be flexible enough to respond to quickly changing market conditions in which energy prices can fluctuate considerably on a daily or even hourly basis.

Section 2. That the aggregation and joint procurement of Energy Services pursuant to the Joint Powers Agreement is hereby approved.

Section 3. That the provision of Steering Committee Services pursuant to the Joint Powers Agreement is hereby approved.

Section 4. That the Joint Powers Agreement and the performance of the terms and conditions thereof on behalf of the City of Alexandria are hereby authorized and approved.

Section 5. That the City Manager is hereby authorized and directed to execute and deliver the Joint Powers Agreement on behalf of the City of Alexandria in substantially the form attached to this Ordinance.

Section 6. That the payment of obligations the City pursuant to the provisions hereof and the Joint Powers Agreement shall be subject to annual appropriation of requisite funds therefor by the City.

Section 7. That this ordinance shall become effective upon the date and at the time of its final passage.

KERRY J. DONLEY
Mayor

Attachment: Joint Powers Agreement

Introduction: 2/12/02
First Reading: 2/12/02
Publication: 2/14/02
Public Hearing: 2/23/02
Second Hearing: 2/23/02
Final Passage:
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VIRGINIA ENERGY PURCHASING GOVERNMENTAL ASSOCIATION

JOINT POWERS ASSOCIATION AGREEMENT

Dated as of March 1, 2002

THIS AGREEMENT ("Agreement"), is made and entered into by and among the local governments and other political subdivisions of the Commonwealth of Virginia which are signatories hereto (each a "Member" and, collectively, the "Members"), effective as of March 1, 2002, for certain signatories or such later effective date for other signatories as set forth on such signatories' execution page.

WITNESSETH:

WHEREAS, each Member is authorized by law to acquire electricity supply, electricity delivery, and other energy-related services ("Energy Services") as necessary or appropriate for the operation of its respective public facilities; and

WHEREAS, political subdivisions of the Commonwealth of Virginia are authorized under the Code of Virginia 1950, as amended (the "Code") to exercise jointly powers that they otherwise are authorized to exercise independently, and such authorization is currently set forth in sections 15.2-1300, et seq. of the Code, which provide that any power, privilege or authority exercised or capable of being exercised by a political subdivision of the Commonwealth of Virginia may be exercised and enjoyed jointly with any other political subdivision of the Commonwealth having a similar power, privilege or authority except where express statutory procedure is otherwise provided for the joint enterprise; and

WHEREAS, Code sections 15.2-1300, et seq. authorize two or more political subdivisions to enter into agreements with one another for such joint action and to appropriate funds and sell, lease, give or otherwise supply such property, personnel or services therefor as may be within their legal power to furnish; and

WHEREAS, the Members, pursuant to the authority granted in Code sections 15.2-1300, et seq. or such similar authority as may from time to time be authorized under the Code, desire to create a joint powers association and associate as members hereunder with the assistance of the Consultant and Counsel (identified below) for the purposes, among other things, of promoting the interest and welfare of the Members, and developing a closer relation among them, all as hereinafter more particularly set forth; and

WHEREAS, the Virginia Public Procurement Act (the "Procurement Act") exempts from its competitive sealed bidding and competitive negotiation requirements (the "Requirements") the joint procurement by public bodies, utilizing competitive principles, of electric utility services purchased through member associations under the conditions set forth in the Procurement Act;

WHEREAS, the Virginia Power Steering Committee of the Virginia Municipal League and the Virginia Association of Counties (the "Committee"), which is composed of representatives of local governments and other political subdivisions of the Commonwealth purchasing energy from Virginia Electric and Power Company, d/b/a Dominion Virginia Power ("Virginia Power"), has (i) for several decades assisted such governmental bodies in connection with the negotiation of standard form contracts with Virginia Power for the purchase of electric utility services, including electric supply, distribution and transmission, and ancillary services,

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(ii) provided assistance in implementing such contracts, (iii) helped educate its members regarding electricity procurement issues, (iv) monitored legal and regulatory developments affecting the provision of electricity service to local governments, and (v) has hired consultants and legal counsel to assist in its provisions of the foregoing services ("Steering Committee Services").

WHEREAS, the Committee recommends that the aggregation and procurement of Energy Services be effectuated in compliance with applicable provisions of the Procurement Act, such as the utilization of competitive principles pursuant to an exemption from the Requirements, and the Committee also recommends that the Steering Committee Services be undertaken by the same entity that arranges for the procurement of the Energy Services.

NOW, THEREFORE, in consideration of the premises and the undertakings hereinafter stated, the Members agree as follows:

1. **Name.** The undertaking of the Members hereunder shall be named and designated as the Virginia Energy Purchasing Governmental Association (hereinafter "VEPGA").

2. **Term of the Agreement.** This Agreement shall be effective for the period commencing on the date set forth above (with each Member to adopt the Agreement on or after such commencement date) and shall terminate upon the earlier of (a) a unanimous vote of all the remaining Members or (b) when the membership has decreased to one Member. Upon such termination, any property owned by VEPGA (or the proceeds from the sale of such property) shall be distributed to each remaining Member in accordance with VEPGA's bylaws, as such bylaws may be amended from time to time by the board governing VEPGA (the "Bylaws").

3. **Purpose of the Agreement.** The Members enter into this Agreement for the purpose of acting jointly to promote their interests and welfare and to promote the interest and welfare of, and develop close relationships with, similar public bodies. This promotion and development shall consist of the purchase of one or more components of the Energy Services on an aggregated basis and also the provision of Steering Committee Services. VEPGA shall be the Members' agent regarding the purchase of Energy Services, which shall be done in the manner specified in the Bylaws. Each Member agrees, subject, however, to annual appropriation, (a) to purchase its respective share of the Energy Services for any of its accounts that have been selected by one or more supplier(s) chosen by VEPGA to service such accounts and to pay the rate for such accounts negotiated in the procurement process for the one or more components of the Energy Services, and (b) to pay its pro rata share of the budget or the membership fees as hereinafter set forth.

4. **Governance.**

(a) The Board. VEPGA shall be governed by a Board (the "Board") that shall initially consist of the individuals listed on Schedule A of this Agreement and thereafter members of the Board shall be elected by the Members in accordance with the Bylaws. The size of the Board may be increased or decreased in accordance with the Bylaws. The Board shall have power to decide all matters relating to VEPGA's activities and operations.

(b) Meetings of the Board. The Board shall meet at such times and places as shall be designated in the Bylaws.

(c) Officers of the Board. Paul Proto is hereby designated as the initial Chair of the Board, Steve Sinclair is hereby designated as its initial Vice-Chair and Steve Craig is

hereby designated as its initial Secretary/Treasurer. These officers and any other officers elected in accordance with the Bylaws shall serve until the earlier of the submission of such officer's resignation or such officer's removal and the election of a successor by the Board. The Chair shall preside at all meetings of the Board, except that in the absence of the Chair, the Vice-Chair or another Member of the Board shall preside. Vacancies in such offices may be filled by the Board at any meeting.

(d) Quorum for the Board. A majority of board members shall constitute a quorum for any Board meeting. The size of a quorum may be increased or decreased in accordance with the Bylaws.

(e) Actions by the Board. All matters for action by the Board may be adopted upon the affirmative vote of Board members voting at a meeting where a quorum is present, or otherwise as may be specified in this Agreement or in the Bylaws.

(f) Quorum for Members. The lesser of (i) a simple majority of the Members or (ii) eight Members shall constitute a quorum for any meeting of the Members. The size of a quorum may be increased or decreased in accordance with the Bylaws.

(g) Bylaws. The initial Bylaws are set forth in Schedule B to this Agreement. The Bylaws may be amended upon the affirmative vote of two-thirds of all the Board members or upon the affirmative vote of two-thirds of all the Members.

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5. **Budget of the Association.**

(a) The Board shall establish a budget for VEPGA with funding by the Members based upon a pro rata share of the budget or, if applicable and approved by the Board, a minimum membership fee. Such pro rata shares and minimum fees shall be assessed on an annual basis except that, under extraordinary and unanticipated circumstances, the Board may assess a pro rata share and minimum fee more than once a year. The pro rata share will be based upon each Member's energy consumption or upon such other equitable method of funding as may be determined from time to time by the Board.

(b) VEPGA shall not create or incur any liability for the Members, jointly or severally, other than and subject to annual appropriation, (i) the costs incurred by any Member in paying its portion of the Energy Services in accordance with contracts signed by the Chair or Vice-Chair on behalf of VEPGA as the Member's agent or (ii) the pro rata share of the budget or the membership fees imposed for a Member's participation in VEPGA. No Member shall be liable or responsible for any payments owed under any contracts for any portion of the Energy Services purchased by any other Member.

6. **Withdrawal of Members.** A Member may withdraw from VEPGA effective July 1 of any calendar year if written notice has been given to VEPGA by March 1 of that calendar year; provided, however, that any accounts of a withdrawing Member that are participating in any contract awarded by VEPGA shall continue to participate in such contract until such contract has expired or has been terminated in accordance with the terms of such contract. Any other methods of withdrawing from VEPGA shall be set forth in the Bylaws.

7. **Execution of Multiple Originals.** This Agreement may be executed by the Members in multiple original counterparts, each of which shall be deemed to be an original and all of which together shall be deemed to be one and the same instrument.

WITNESS the following signatures, effective as of the date set forth underneath each signature.

MEMBER: CITY OF ALEXANDRIA, A MUNICIPAL CORPORATION OF VIRGINIA

_____

Signed:

By: Philip Sunderland

Title: City Manager_____

Effective Date:_____

SCHEDULE A

LIST OF INITIAL BOARD MEMBERS

3 Year Term (2002-2005)
Len Ringler, Paul Proto, Jerry Spivey, Ricky Bowers, Steve Sinclair

2 Year Term (2002-2004)
Matt Groff, Penny Newquist, Dave Gilman, Rick Raike, Bob Jennings

1 Year Term (2002-2003)
Roger Neve, Tom Colbert, Phil Norris, Mac Corwine, Jack Pitzer

SCHEDULE B

INITIAL BYLAWS

See attached.

Bylaws

of

Virginia Energy Purchasing Governmental Association

March 1, 2002

1. Purpose

The members (the "Members") of Virginia Energy Purchasing Governmental Association ("VEPGA") are local governments and other political subdivisions of the Commonwealth of Virginia that have formed a joint powers association pursuant to the VEPGA Joint Powers Association Agreement dated February 1, 2002 (the "JPA Agreement"). The Members have formed VEPGA to further their economic interests in the aggregation and procurement of electricity supply, electricity delivery, and other energy-related services.

The purchase of competitive electricity supply services, including generation, transmission, ancillary, and billing services related to such competitive electricity supply services, ("Electricity Supply Services") on an aggregated basis shall be a core function of VEPGA ("Core Function").

Another Core Function shall be the provision of services previously provided by the Virginia Power Steering Committee of the Virginia Municipal League and the Virginia Association of Counties (the "Steering Committee"). These services shall be referred to herein as the "Steering Committee Services." For those Members whose local electricity distribution company is not Virginia Power, the Steering Committee Services may be structured to accommodate the services to be provided by VEPGA regarding such Member's local electricity distribution company.

The purchase of other energy-related services shall be non-core functions of VEPGA ("Non-Core Functions"), to the extent Non-Core Functions are permitted by law. All Members must participate in Core Functions on the terms and conditions specified in these Bylaws. Any Member may participate in a Non-Core Function on an opt-in basis.

2. Core Functions

The board of VEPGA (the "Board") shall have the authority to act as each Member's agent for Core Functions relating to all accounts for which a Member is responsible for procuring energy services ("Accounts"). The Board shall also have authority to undertake the following as each Member's agent for Core Functions:

(a) evaluation of offers for Electricity Supply Services for some or all of the Accounts (with such assistance from consultants and attorneys as the Board deems appropriate),

(b) award of one or more contracts for Electricity Supply Services for some or all of the Accounts,

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(c) administration of contracts for Electricity Supply Services for some or all of the Accounts, and

(d) provision of Steering Committee Services.

VEPGA's procurements shall be in compliance with applicable provisions of the Virginia Public Procurement Act, including any exemptions thereto. During the period in which the Accounts are subject to capped rates or default service under Virginia law, VEPGA shall award contracts to a competitive supplier only when (a) the cost of supply offered by such a supplier is projected to be lower than the projected cost that would otherwise pertain when applying the incumbent utility's or default service provider's supply rate under which an Account would otherwise be served, or (b) the contract would otherwise be projected to lower the Account's costs as compared to alternatives over the reasonably relevant time frame.

Each contract awarded by VEPGA for one or more Accounts of a Member shall constitute a contract between a Member and the supplier of services under that contract, and VEPGA shall not be deemed to be party to such contract. The Chair or the Vice-Chair of VEPGA shall execute each contract on behalf of the Member, and the Member, subject to annual appropriations, shall purchase the services for its Account in accordance with the contract. A copy of each such contract shall be provided by VEPGA to each Member as applicable.

3. Non-Core Functions

The Board shall have the authority to appoint one or more subcommittees to recommend what Non-Core Functions VEPGA will undertake and to determine how Members may elect to participate in such functions and how participating Members will fund such functions. Participation in as well as payment for any Non-Core Function will be done only on an opt-in basis. Such Non-Core Functions may include, but are not limited to, metering services, billing services (except for generation billing services), economic load curtailment services, and efficiency and managing services.

4. Membership Fees

Each Member shall, subject to annual appropriations, submit to VEPGA payment for its pro rata share of VEPGA's budget for the Core Functions applicable to each Member. Such pro rata share shall be based upon each Member's energy consumption or upon such other equitable method of funding as may be determined from time to time by the Board.

Each Member that participates in Non-Core Functions shall, subject to annual appropriations, submit to VEPGA payment for its fees for such Non-Core Functions, as such fees are determined and billed by the Board.

VEPGA shall normally assess Members for Core Function fees by May 31st of each year, and such fees shall be due and payable by August 1st of each year. VEPGA may assess Members for Core Functions more than once a year only under extraordinary and unanticipated circumstances.

5. Budget and Fiscal Year

The Board shall adopt by May 31st of each year an annual budget for the upcoming fiscal year, including anticipated receipts and expenditures in such detail as the Board may deem appropriate. The fiscal year of VEPGA shall be from the first day of July in each year until the thirtieth day of the following June, both inclusive.

6. Members

(a) Approval of New Members

The Board shall receive applications for membership from prospective new Members of VEPGA and shall consider such applications for membership in accordance with procedures established by the Board for admission of new Members to VEPGA.

(b) Termination of Membership

After 30 days written notice to the Member, the Board may terminate the membership of any Member who fails to pay its membership fees, comply with these Bylaws, the JPA Agreement, or other rules and regulations for Members, as established from time to time by the Board.

(c) Withdrawal of Members

In accordance with the JPA Agreement, a Member may withdraw from VEPGA (a) effective upon July 1 of any calendar year if written notice has been given to VEPGA by March 1 of that calendar year, or (b) effective upon notice by a Member to VEPGA that the Member is withdrawing on or after the effective date of a Bylaw amendment; provided, however, that any Accounts of a withdrawing Member that are participating in any contract awarded by VEPGA shall continue to participate in such contract until such contract has expired or has been terminated in accordance with the terms of such contract.

(d) Meetings of Members

The Members shall meet annually, on such date and at such time and place as shall be designated by the Board. Special meetings of Members may be held at such time and place as shall be designated in the notice thereof upon call of the Board, the Chair of the Board, or not less than 10% of Members.

(e) Notice of Meetings

Notice of the annual meeting and any special meeting of Members shall be posted in the office of the Chair of the Board and shall be given at least 5 days in advance by any means reasonably calculated to convey such notice to the designated representative ("Designated Representative") of each Member identified on the Member list maintained by the VEPGA Secretary/Treasurer (the "Member List"), including distribution of such notice via first class mail, facsimile, e-mail, or as otherwise may be required by law. For each Member, the Member List shall set forth name and contact information for the principal Designated Representative of each Member and may also contain such information for individuals that may serve as the alternate Designated Representatives in the absence of the principal Designated Representative. Whenever a Member designates an alternate Designated Representative to represent the Member at a meeting and such alternate is not set forth in the Member List, the Member shall be responsible for ensuring that the Chair or the Secretary/Treasurer (or their designees) are informed of this designation.

(f) Voting by Members

Each Member shall have one vote which shall be cast by such Member's Designated Representative. Such Designated Representatives shall register with the Secretary/Treasurer or the Secretary/Treasurer's designee prior to any Members' meeting.

(g) Conduct of Meeting

The Chair of the Board shall preside over all meetings of the Members, except that in his absence, the Vice-Chair or another member of the Board shall preside. The Secretary/Treasurer of the Board or the Secretary/Treasurer's designee shall act as secretary for all meetings of the Members.

At each annual meeting, the Chair or his designee shall report on the financial position of VEPGA. The Members shall also elect Board members as provided in Section 7(b) of these Bylaws.

(h) Quorum

Attendance by the lesser of (i) a simple majority of the Members or (ii) eight Designated Representatives shall constitute a quorum and when a quorum is present at any meeting, a majority of the Designated Representatives present may decide any question brought before such meeting except as otherwise provided by law or these Bylaws; provided, however, in the event a quorum shall not be present at an annual meeting of the Members, vacancies on the Board may be filled by vote of those Designated Representatives present.

7. Board

(a) Powers

The VEPGA shall be managed by a Board which may exercise all the powers of VEPGA except as otherwise provided by law or by these Bylaws. The Board may retain the services of such consultants, legal counsel, administrators, and others as the Board deems necessary or advisable in exercising such powers.

(b) Composition and Election of Board Members

The initial Board shall composed of those individuals listed in Schedule A to the JPA Agreement, who shall serve initial terms of approximately one, two, or three years as indicated on such schedule. Thereafter the Board shall be elected in accordance with these Bylaws at annual meetings of the Members during which approximately one-third of the Board shall be elected each year to serve for a term of three years, or until such Board member's successor is elected and qualified. For example, if the initial Board consists of fifteen members, then (unless the Members adopt a resolution revising the size of the Board) at the annual meeting following the expiration of the initial one-year term for five Board members, the Members shall elect five Board members to serve three year terms.

The Members may, pursuant to a resolution adopted at their annual meeting or at a special meeting, decrease the size of the Board to as little as two Board members or increase the size of the Board to as many as fifteen Board members. If the resolution decreases the size of the Board in a manner that would require the term of currently serving Board members to be shortened, then the resolution shall identify those Board members whose terms are shortened. If the resolution revises the size of the Board to a number that is not divisible by three, then the resolution shall identify how the election of approximately one-third of the Board on an annual basis will proceed.

In the event the Members fail to elect Board members pursuant to this Section 7(b) or to fill vacancies as specified in Section 6(h) of these Bylaws, Board members

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currently serving whose terms have not at such time expired shall as soon as practical fill all vacancies on the Board for the ensuing year.

Not less than 30 days prior to each annual meeting, the Board shall solicit the names of candidates from the Members for Board members to be elected at the annual meeting of the Members. Such candidates shall be considered by the Board in making its nominations for new Board members. Nominations may also be made by Members from the floor of the annual meeting of the Members.

(c) Resignation or Termination of a Board Member

A Board member may resign from all duties and responsibilities as a Member of the Board at any time by written notice delivered to the Chair or Secretary/Treasurer of the Board. Such notice shall state the date said resignation shall take effect and such resignation shall automatically take effect on such date unless a successor Board member shall have been selected at an earlier date in which event such resignation shall take effect immediately upon the selection of the successor Board member.

The term of a Board member selected by the Members pursuant to Section 7(b) of these Bylaws or appointed by the Board pursuant to Section 7(d) of these Bylaws shall be terminated by the Board if such Board member no longer represents a local government or other political subdivision which is a Member of VEPGA , or may be terminated by the Board if such Board member misses one half of the meetings held during VEPGA's fiscal year.

Board members, upon resignation or termination for any reason, shall forthwith turn over and deliver to the Chair of the Board or his designee any and all records, books, documents or other property in the possession or under the control of such Board member which belongs to VEPGA.

(d) Vacancies

Any vacancy occurring on the Board other than a vacancy caused by an expired term (except as otherwise may be expressly provided herein) may be filled by the affirmative vote of a majority of the remaining Board members present and voting at a meeting at which a quorum is present. In cases where vacancies are filled by the remaining Board members, the Board may, but need not, solicit nominations from the Members.

(e) Meetings

Regular meetings of the Board shall be held at least once a year at such location as is acceptable to a majority of the Board. The Board may provide, by resolution, the time and place for holding the regular meetings.

Special meetings of the Board shall be held on the call of the Chair, Vice-Chair, or any two other Board members. The Chair of the Board or his designee shall set the date, time and location of each meeting so that the meeting will take place within 60 days of receipt of such call.

The Secretary/Treasurer of the Board or the Secretary/Treasurer 's designee shall act as secretary for all meetings of the Board.

(f) Quorum

At any meeting of the Board, a majority of the Board members then in office shall constitute a quorum.

(g) Action at Meeting

At any Board meeting at which a quorum is present, the vote of a majority of the Board members present shall be sufficient to decide any matter, unless a different vote is specified by law or by these Bylaws.

(h) Committees

The Board may create one or more committees and fix the number of Board members to serve on them. Each committee may have one or more members, who serve at the pleasure of the Board. Committees may have such powers and duties as may be designated by the Board, except that they may not fill vacancies on the Board or any of its committees; may not adopt, amend or repeal these Bylaws; and may not authorize or approve distribution of any of the funds of VEPGA, except according to formula or method previously prescribed by the Board.

(i) Liability of Members

In accordance with the JPA Agreement, the Board shall not create or incur any liability for the Members, jointly or severally, other than in the following instances, which shall be subject to annual appropriation: (i) the costs incurred by any Member for payments under contracts signed by the Chair or Vice-Chair on behalf of VEPGA as the Member's agent or (ii) the pro rata share of the budget or the membership fees or, if applicable, the fees for non-Core functions, imposed for a Member's participation in

VEPGA. No Member shall be liable or responsible for any payments owed under any contracts by any other Member.

(j) Liability of Board members and Officers

VEPGA may provide officers and directors insurance for its Board members and officers, and will also indemnify such officers and Board members for any deductibles associated with such insurance coverage.

8. Officers

(a) Number, Election, and Term

As soon as practical after the annual meeting of Members and the election of Board members, the Board members shall elect a Chair, Vice-Chair, and Secretary/Treasurer.

Each officer shall hold office for one year and until such officer's successor is duly elected and qualified, or until such officer's death, resignation, or removal. Each officer shall perform the duties set forth in these bylaws and shall comply with such other conditions as from time to time may be required by the Board.

(b) Removal

Any officer elected by the Board may be removed, with or without cause, by the Board.

(c) Vacancies

A vacancy in any office because of death, resignation, removal, disqualification or otherwise may be filled by the Board for the unexpired portion of the term.

(d) Chair

The Chair shall direct the operations of VEPGA and shall perform all other duties incident to such office.

(e) Vice-Chair

The Vice-Chair shall have the powers and duties incident to that office and shall have such other powers and duties as may be prescribed from time to time by the Board.

(f) Secretary/Treasurer

The Secretary/Treasurer shall be responsible for insuring the recordation of the minutes and for preparing and maintaining custody of the minutes of all meetings of the Members, the Board, and when required, of all standing committees. The Secretary/Treasurer shall also serve and give all notices of VEPGA and shall be responsible for responding to Freedom of Information Act requests. The Secretary/Treasurer shall be the custodian of the records and such other books, records, and papers as the Board may direct; authenticate the records of VEPGA; and perform such other duties as may be incident to such office or as prescribed by the Board.

The Secretary/Treasurer shall see that regular and full accounts are maintained and that proper financial reports are made to the Board. The Secretary/Treasurer shall have such other powers and perform such other duties as are assigned to the Secretary/Treasurer by these Bylaws or as may be assigned to the Secretary/Treasurer by the Board or the Chair. The Board may require that the Secretary/Treasurer give bond to VEPGA, with sufficient sureties, conditioned on the faithful performance of the duties of the Secretary/Treasurer.

9. Contracts, Loans, Checks, and Deposits

(a) Contracts

Either the Chair or the Vice Chair may execute contracts on behalf of and in the name of VEPGA. The Board may authorize any other officer or officers, agent or agents to enter into any contract or execute any instrument in the name of and on behalf of VEPGA, and such authority may be general or confined to specific instances.

(b) Loans

No loans shall be contracted on behalf of VEPGA and no evidence of indebtedness shall be issued in its name unless authorized by the Board.

(c) Checks, Drafts, etc.

All checks, drafts, bills of exchange and other negotiable instruments (except promissory notes) of VEPGA connected therewith shall be signed by the Chair, Vice-Chair, the Secretary/Treasurer, or by such other officer or agent of VEPGA as may be authorized so to do by the Board.

(d) Deposits and Investments

All funds of VEPGA not otherwise employed shall be deposited from time to time in such banks or other depositories as the Board may select or invested as allowed under state law.

10. Termination of Association

In accordance with the JPA Agreement, VEPGA may be terminated at any time upon the concurrence of all Members at the time of such termination.

In the event of termination of VEPGA, the remaining funds available to VEPGA, after providing for all outstanding obligations, shall be distributed to Members at the time of such termination through a formula determined by the Board.

11. Notices

Unless otherwise provided for in these Bylaws, any notices, approvals, requests, consents and other communications required by these Bylaws shall be deemed to have been given when delivered in person, by fax , by E-mail or by first class mail, addressed to the principal Designated Representative of a Member on the Member List maintained by the Secretary/Treasurer. In addition, the Board may utilize a website or similar method to inform Members of VEPGA meetings, Board nominations, requests for proposals, contract awards, and other matters of interest to Members.

12. Amendments

These Bylaws may be amended at any time by the concurrence of two-thirds of the Board or two-thirds of the Members as long as (a) such amended Bylaws are consistent with the JPA Agreement and (b) Members shall have the right to withdraw from VEPGA prior to the effective date of such amendment. The Board, at least 30 days prior to the adoption of amended Bylaws, shall make a copy of such proposed amended Bylaws available to Members.

#560876.7

ORDINANCE NO. 4239

AN ORDINANCE authorizing the City of Alexandria to become a member of and participate in the Virginia Energy Purchasing Governmental Association.

WHEREAS, the VML/VACo Virginia Power Steering Committee (the "Committee"), composed of representatives of the City of Alexandria, a municipal corporation of the Commonwealth of Virginia, and other local governments and political subdivisions of the Commonwealth, has for several decades negotiated on behalf of such governmental units a standard form contract for their purchase of electricity supply and delivery service from Virginia Electric and Power Company ("Virginia Power") as a sole source provider; and

WHEREAS, political subdivisions of the Commonwealth of Virginia are authorized under Virginia law to exercise jointly powers that they otherwise are authorized to exercise independently, and the terms and conditions of such authorization are currently set forth in Sections 15.2-1300 et seq., of the Code of Virginia (1950), as amended (the "Joint Powers Act"); and

WHEREAS, the Virginia Electric Utility Restructuring Act (the "Restructuring Act") further authorizes municipalities and other political subdivisions in the Commonwealth to aggregate their electricity supply requirements for the purpose of their joint purchase of such requirements from licensed suppliers, and the Restructuring Act provides that such aggregation shall not require licensure; and

WHEREAS, the Virginia Public Procurement Act (the "Procurement Act") exempts from its competitive sealed bidding and competitive negotiation requirements (the "Requirements") the joint procurement by public bodies, utilizing competitive principles, of electric utility services purchased through member associations under the conditions set forth in the Procurement Act; and

WHEREAS, the Committee recommends that the aggregation and procurement of electric supply, electric delivery, and other energy-related services ("Energy Services") be effectuated as provided in the Joint Powers Association Agreement, a copy of which is attached to and made part of this Ordinance (the "Joint Powers Agreement"), in accordance with applicable provisions of the Procurement Act, such as the utilization of competitive principles pursuant to the exemption under the Procurement Act from the Requirements; and

WHEREAS, the Committee also recommends that the other services provided by the Committee to its members be effectuated as provided in the Joint Powers Agreement, with such services consisting of (i) assistance in implementing standard form contracts for the purchase of services from incumbent electricity utilities, (ii) education of members regarding electricity procurement issues, (iii) monitoring of legal and regulatory developments affecting the provision of electricity service to local governments, and (iv) hiring of consultants and legal counsel to assist in the provision of the foregoing services ("Steering Committee Services").

WHEREAS, it appearing to the City Council of Alexandria, Virginia, that the joint procurement of the Energy Services pursuant to the Joint Powers Agreement and the provision of Steering Committee Services pursuant to the Joint Powers Agreement is otherwise in the best interests of the City of Alexandria; now, therefore,

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That competitive sealed bidding and competitive negotiation for the procurement of Energy Services are not fiscally advantageous to the public because the procurement process for Energy Services must be flexible enough to respond to quickly changing market conditions in which energy prices can fluctuate considerably on a daily or even hourly basis.

Section 2. That the aggregation and joint procurement of Energy Services pursuant to the Joint Powers Agreement is hereby approved.

Section 3. That the provision of Steering Committee Services pursuant to the Joint Powers Agreement is hereby approved.

Section 4. That the Joint Powers Agreement and the performance of the terms and conditions thereof on behalf of the City of Alexandria are hereby authorized and approved.

Section 5. That the City Manager is hereby authorized and directed to execute and deliver the Joint Powers Agreement on behalf of the City of Alexandria in substantially the form attached to this Ordinance.

Section 6. That the payment of obligations the City pursuant to the provisions hereof and the Joint Powers Agreement shall be subject to annual appropriation of requisite funds therefor by the City.

Section 7. That this ordinance shall become effective upon the date and at the time of its final passage.

KERRY J. DONLEY
Mayor

Attachment: Joint Powers Agreement

Final Passage: February 23, 2002

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VIRGINIA ENERGY PURCHASING GOVERNMENTAL ASSOCIATION

JOINT POWERS ASSOCIATION AGREEMENT

Dated as of March 1, 2002

THIS AGREEMENT ("Agreement"), is made and entered into by and among the local governments and other political subdivisions of the Commonwealth of Virginia which are signatories hereto (each a "Member" and, collectively, the "Members"), effective as of March 1, 2002, for certain signatories or such later effective date for other signatories as set forth on such signatories' execution page.

WITNESSETH:

WHEREAS, each Member is authorized by law to acquire electricity supply, electricity delivery, and other energy-related services ("Energy Services") as necessary or appropriate for the operation of its respective public facilities; and

WHEREAS, political subdivisions of the Commonwealth of Virginia are authorized under the Code of Virginia 1950, as amended (the "Code") to exercise jointly powers that they otherwise are authorized to exercise independently, and such authorization is currently set forth in sections 15.2-1300, et seq. of the Code, which provide that any power, privilege or authority exercised or capable of being exercised by a political subdivision of the Commonwealth of Virginia may be exercised and enjoyed jointly with any other political subdivision of the Commonwealth having a similar power, privilege or authority except where express statutory procedure is otherwise provided for the joint enterprise; and

WHEREAS, Code sections 15.2-1300, et seq. authorize two or more political subdivisions to enter into agreements with one another for such joint action and to appropriate funds and sell, lease, give or otherwise supply such property, personnel or services therefor as may be within their legal power to furnish; and

WHEREAS, the Members, pursuant to the authority granted in Code sections 15.2-1300, et seq. or such similar authority as may from time to time be authorized under the Code, desire to create a joint powers association and associate as members hereunder with the assistance of the Consultant and Counsel (identified below) for the purposes, among other things, of promoting the interest and welfare of the Members, and developing a closer relation among them, all as hereinafter more particularly set forth; and

WHEREAS, the Virginia Public Procurement Act (the "Procurement Act") exempts from its competitive sealed bidding and competitive negotiation requirements (the "Requirements") the joint procurement by public bodies, utilizing competitive principles, of electric utility services purchased through member associations under the conditions set forth in the Procurement Act;

WHEREAS, the Virginia Power Steering Committee of the Virginia Municipal League and the Virginia Association of Counties (the "Committee"), which is composed of representatives of local governments and other political subdivisions of the Commonwealth purchasing energy from Virginia Electric and Power Company, d/b/a Dominion Virginia Power ("Virginia Power"), has (i) for several decades assisted such governmental bodies in connection with the negotiation of standard form contracts with Virginia Power for the purchase of electric utility services, including electric supply, distribution and transmission, and ancillary services,

(ii) provided assistance in implementing such contracts, (iii) helped educate its members regarding electricity procurement issues, (iv) monitored legal and regulatory developments affecting the provision of electricity service to local governments, and (v) has hired consultants and legal counsel to assist in its provisions of the foregoing services ("Steering Committee Services").

WHEREAS, the Committee recommends that the aggregation and procurement of Energy Services be effectuated in compliance with applicable provisions of the Procurement Act, such as the utilization of competitive principles pursuant to an exemption from the Requirements, and the Committee also recommends that the Steering Committee Services be undertaken by the same entity that arranges for the procurement of the Energy Services.

NOW, THEREFORE, in consideration of the premises and the undertakings hereinafter stated, the Members agree as follows:

1. **Name.** The undertaking of the Members hereunder shall be named and designated as the Virginia Energy Purchasing Governmental Association (hereinafter "VEPGA").

2. **Term of the Agreement.** This Agreement shall be effective for the period commencing on the date set forth above (with each Member to adopt the Agreement on or after such commencement date) and shall terminate upon the earlier of (a) a unanimous vote of all the remaining Members or (b) when the membership has decreased to one Member. Upon such termination, any property owned by VEPGA (or the proceeds from the sale of such property) shall be distributed to each remaining Member in accordance with VEPGA's bylaws, as such bylaws may be amended from time to time by the board governing VEPGA (the "Bylaws").

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3. **Purpose of the Agreement.** The Members enter into this Agreement for the purpose of acting jointly to promote their interests and welfare and to promote the interest and welfare of, and develop close relationships with, similar public bodies. This promotion and development shall consist of the purchase of one or more components of the Energy Services on an aggregated basis and also the provision of Steering Committee Services. VEPGA shall be the Members' agent regarding the purchase of Energy Services, which shall be done in the manner specified in the Bylaws. Each Member agrees, subject, however, to annual appropriation, (a) to purchase its respective share of the Energy Services for any of its accounts that have been selected by one or more supplier(s) chosen by VEPGA to service such accounts and to pay the rate for such accounts negotiated in the procurement process for the one or more components of the Energy Services, and (b) to pay its pro rata share of the budget or the membership fees as hereinafter set forth.

4. **Governance.**

(a) The Board. VEPGA shall be governed by a Board (the "Board") that shall initially consist of the individuals listed on Schedule A of this Agreement and thereafter members of the Board shall be elected by the Members in accordance with the Bylaws. The size of the Board may be increased or decreased in accordance with the Bylaws. The Board shall have power to decide all matters relating to VEPGA's activities and operations.

(b) Meetings of the Board. The Board shall meet at such times and places as shall be designated in the Bylaws.

(c) Officers of the Board. Paul Proto is hereby designated as the initial Chair of the Board, Steve Sinclair is hereby designated as its initial Vice-Chair and Steve Craig is

hereby designated as its initial Secretary/Treasurer. These officers and any other officers elected in accordance with the Bylaws shall serve until the earlier of the submission of such officer's resignation or such officer's removal and the election of a successor by the Board. The Chair shall preside at all meetings of the Board, except that in the absence of the Chair, the Vice-Chair or another Member of the Board shall preside. Vacancies in such offices may be filled by the Board at any meeting.

(d) Quorum for the Board. A majority of board members shall constitute a quorum for any Board meeting. The size of a quorum may be increased or decreased in accordance with the Bylaws.

(e) Actions by the Board. All matters for action by the Board may be adopted upon the affirmative vote of Board members voting at a meeting where a quorum is present, or otherwise as may be specified in this Agreement or in the Bylaws.

(f) Quorum for Members. The lesser of (i) a simple majority of the Members or (ii) eight Members shall constitute a quorum for any meeting of the Members. The size of a quorum may be increased or decreased in accordance with the Bylaws.

(g) Bylaws. The initial Bylaws are set forth in Schedule B to this Agreement. The Bylaws may be amended upon the affirmative vote of two-thirds of all the Board members or upon the affirmative vote of two-thirds of all the Members.

//

5. **Budget of the Association.**

(a) The Board shall establish a budget for VEPGA with funding by the Members based upon a pro rata share of the budget or, if applicable and approved by the Board, a minimum membership fee. Such pro rata shares and minimum fees shall be assessed on an annual basis except that, under extraordinary and unanticipated circumstances, the Board may assess a pro rata share and minimum fee more than once a year. The pro rata share will be based upon each Member's energy consumption or upon such other equitable method of funding as may be determined from time to time by the Board.

(b) VEPGA shall not create or incur any liability for the Members, jointly or severally, other than and subject to annual appropriation, (i) the costs incurred by any Member in paying its portion of the Energy Services in accordance with contracts signed by the Chair or Vice-Chair on behalf of VEPGA as the Member's agent or (ii) the pro rata share of the budget or the membership fees imposed for a Member's participation in VEPGA. No Member shall be liable or responsible for any payments owed under any contracts for any portion of the Energy Services purchased by any other Member.

6. **Withdrawal of Members.** A Member may withdraw from VEPGA effective July 1 of any calendar year if written notice has been given to VEPGA by March 1 of that calendar year; provided, however, that any accounts of a withdrawing Member that are participating in any contract awarded by VEPGA shall continue to participate in such contract until such contract has expired or has been terminated in accordance with the terms of such contract. Any other methods of withdrawing from VEPGA shall be set forth in the Bylaws.

7. **Execution of Multiple Originals.** This Agreement may be executed by the Members in multiple original counterparts, each of which shall be deemed to be an original and all of which together shall be deemed to be one and the same instrument.

WITNESS the following signatures, effective as of the date set forth underneath each signature.

MEMBER: CITY OF ALEXANDRIA, A MUNICIPAL CORPORATION OF VIRGINIA

_____

Signed:

By: Philip Sunderland

Title: City Manager_____

Effective Date:_____

SCHEDULE A

LIST OF INITIAL BOARD MEMBERS

3 Year Term (2002-2005)
Len Ringler, Paul Proto, Jerry Spivey, Ricky Bowers, Steve Sinclair

2 Year Term (2002-2004)
Matt Groff, Penny Newquist, Dave Gilman, Rick Raike, Bob Jennings

1 Year Term (2002-2003)
Roger Neve, Tom Colbert, Phil Norris, Mac Corwine, Jack Pitzer

SCHEDULE B

INITIAL BYLAWS

See attached.

Bylaws

of

Virginia Energy Purchasing Governmental Association

March 1, 2002

1. Purpose

The members (the "Members") of Virginia Energy Purchasing Governmental Association ("VEPGA") are local governments and other political subdivisions of the Commonwealth of Virginia that have formed a joint powers association pursuant to the VEPGA Joint Powers Association Agreement dated February 1, 2002 (the "JPA Agreement"). The Members have formed VEPGA to further their economic interests in the aggregation and procurement of electricity supply, electricity delivery, and other energy-related services.

The purchase of competitive electricity supply services, including generation, transmission, ancillary, and billing services related to such competitive electricity supply services, ("Electricity Supply Services") on an aggregated basis shall be a core function of VEPGA ("Core Function").

Another Core Function shall be the provision of services previously provided by the Virginia Power Steering Committee of the Virginia Municipal League and the Virginia Association of Counties (the "Steering Committee"). These services shall be referred to herein as the "Steering Committee Services." For those Members whose local electricity distribution company is not Virginia Power, the Steering Committee Services may be structured to accommodate the services to be provided by VEPGA regarding such Member's local electricity distribution company.

The purchase of other energy-related services shall be non-core functions of VEPGA ("Non-Core Functions"), to the extent Non-Core Functions are permitted by law. All Members must participate in Core Functions on the terms and conditions specified in these Bylaws. Any Member may participate in a Non-Core Function on an opt-in basis.

2. Core Functions

The board of VEPGA (the "Board") shall have the authority to act as each Member's agent for Core Functions relating to all accounts for which a Member is responsible for procuring energy services ("Accounts"). The Board shall also have authority to undertake the following as each Member's agent for Core Functions:

(a) evaluation of offers for Electricity Supply Services for some or all of the Accounts (with such assistance from consultants and attorneys as the Board deems appropriate),

(b) award of one or more contracts for Electricity Supply Services for some or all of the Accounts,

(c) administration of contracts for Electricity Supply Services for some or all of the Accounts, and

(d) provision of Steering Committee Services.

VEPGA's procurements shall be in compliance with applicable provisions of the Virginia Public Procurement Act, including any exemptions thereto. During the period in which the Accounts are subject to capped rates or default service under Virginia law, VEPGA shall award contracts to a competitive supplier only when (a) the cost of supply offered by such a supplier is projected to be lower than the projected cost that would otherwise pertain when applying the incumbent utility's or default service provider's supply rate under which an Account would otherwise be served, or (b) the contract would otherwise be projected to lower the Account's costs as compared to alternatives over the reasonably relevant time frame.

Each contract awarded by VEPGA for one or more Accounts of a Member shall constitute a contract between a Member and the supplier of services under that contract, and VEPGA shall not be deemed to be party to such contract. The Chair or the Vice-Chair of VEPGA shall execute each contract on behalf of the Member, and the Member, subject to annual appropriations, shall purchase the services for its Account in accordance with the contract. A copy of each such contract shall be provided by VEPGA to each Member as applicable.

3. Non-Core Functions

The Board shall have the authority to appoint one or more subcommittees to recommend what Non-Core Functions VEPGA will undertake and to determine how Members may elect to participate in such functions and how participating Members will fund such functions. Participation in as well as payment for any Non-Core Function will be done only on an opt-in basis. Such Non-Core Functions may include, but are not limited to, metering services, billing services (except for generation billing services), economic load curtailment services, and efficiency and managing services.

4. Membership Fees

Each Member shall, subject to annual appropriations, submit to VEPGA payment for its pro rata share of VEPGA's budget for the Core Functions applicable to each Member. Such pro rata share shall be based upon each Member's energy consumption or upon such other equitable method of funding as may be determined from time to time by the Board.

Each Member that participates in Non-Core Functions shall, subject to annual appropriations, submit to VEPGA payment for its fees for such Non-Core Functions, as such fees are determined and billed by the Board.

VEPGA shall normally assess Members for Core Function fees by May 31st of each year, and such fees shall be due and payable by August 1st of each year. VEPGA may assess Members for Core Functions more than once a year only under extraordinary and unanticipated circumstances.

5. Budget and Fiscal Year

The Board shall adopt by May 31st of each year an annual budget for the upcoming fiscal year, including anticipated receipts and expenditures in such detail as the Board may deem appropriate. The fiscal year of VEPGA shall be from the first day of July in each year until the thirtieth day of the following June, both inclusive.

6. Members

(a) Approval of New Members

The Board shall receive applications for membership from prospective new Members of VEPGA and shall consider such applications for membership in accordance with procedures established by the Board for admission of new Members to VEPGA.

(b) Termination of Membership

After 30 days written notice to the Member, the Board may terminate the membership of any Member who fails to pay its membership fees, comply with these Bylaws, the JPA Agreement, or other rules and regulations for Members, as established from time to time by the Board.

(c) Withdrawal of Members

In accordance with the JPA Agreement, a Member may withdraw from VEPGA (a) effective upon July 1 of any calendar year if written notice has been given to VEPGA by March 1 of that calendar year, or (b) effective upon notice by a Member to VEPGA that the Member is withdrawing on or after the effective date of a Bylaw amendment; provided, however, that any Accounts of a withdrawing Member that are participating in any contract awarded by VEPGA shall continue to participate in such contract until such contract has expired or has been terminated in accordance with the terms of such contract.

(d) Meetings of Members

The Members shall meet annually, on such date and at such time and place as shall be designated by the Board. Special meetings of Members may be held at such time and place as shall be designated in the notice thereof upon call of the Board, the Chair of the Board, or not less than 10% of Members.

(e) Notice of Meetings

Notice of the annual meeting and any special meeting of Members shall be posted in the office of the Chair of the Board and shall be given at least 5 days in advance by any means reasonably calculated to convey such notice to the designated representative ("Designated Representative") of each Member identified on the Member list maintained by the VEPGA Secretary/Treasurer (the "Member List"), including distribution of such notice via first class mail, facsimile, e-mail, or as otherwise may be required by law. For each Member, the Member List shall set forth name and contact information for the principal Designated Representative of each Member and may also contain such information for individuals that may serve as the alternate Designated Representatives in the absence of the principal Designated Representative. Whenever a Member designates an alternate Designated Representative to represent the Member at a meeting and such alternate is not set forth in the Member List, the Member shall be responsible for ensuring that the Chair or the Secretary/Treasurer (or their designees) are informed of this designation.

(f) Voting by Members

Each Member shall have one vote which shall be cast by such Member's Designated Representative. Such Designated Representatives shall register with the Secretary/Treasurer or the Secretary/Treasurer's designee prior to any Members' meeting.

(g) Conduct of Meeting

The Chair of the Board shall preside over all meetings of the Members, except that in his absence, the Vice-Chair or another member of the Board shall preside. The Secretary/Treasurer of the Board or the Secretary/Treasurer's designee shall act as secretary for all meetings of the Members.

At each annual meeting, the Chair or his designee shall report on the financial position of VEPGA. The Members shall also elect Board members as provided in Section 7(b) of these Bylaws.

(h) Quorum

Attendance by the lesser of (i) a simple majority of the Members or (ii) eight Designated Representatives shall constitute a quorum and when a quorum is present at any meeting, a majority of the Designated Representatives present may decide any question brought before such meeting except as otherwise provided by law or these Bylaws; provided, however, in the event a quorum shall not be present at an annual meeting of the Members, vacancies on the Board may be filled by vote of those Designated Representatives present.

7. Board

(a) Powers

The VEPGA shall be managed by a Board which may exercise all the powers of VEPGA except as otherwise provided by law or by these Bylaws. The Board may retain the services of such consultants, legal counsel, administrators, and others as the Board deems necessary or advisable in exercising such powers.

(b) Composition and Election of Board Members

The initial Board shall composed of those individuals listed in Schedule A to the JPA Agreement, who shall serve initial terms of approximately one, two, or three years as indicated on such schedule. Thereafter the Board shall be elected in accordance with these Bylaws at annual meetings of the Members during which approximately one-third of the Board shall be elected each year to serve for a term of three years, or until such Board member's successor is elected and qualified. For example, if the initial Board consists of fifteen members, then (unless the Members adopt a resolution revising the size of the Board) at the annual meeting following the expiration of the initial one-year term for five Board members, the Members shall elect five Board members to serve three year terms.

The Members may, pursuant to a resolution adopted at their annual meeting or at a special meeting, decrease the size of the Board to as little as two Board members or increase the size of the Board to as many as fifteen Board members. If the resolution decreases the size of the Board in a manner that would require the term of currently serving Board members to be shortened, then the resolution shall identify those Board members whose terms are shortened. If the resolution revises the size of the Board to a number that is not divisible by three, then the resolution shall identify how the election of approximately one-third of the Board on an annual basis will proceed.

In the event the Members fail to elect Board members pursuant to this Section 7(b) or to fill vacancies as specified in Section 6(h) of these Bylaws, Board members

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currently serving whose terms have not at such time expired shall as soon as practical fill all vacancies on the Board for the ensuing year.

Not less than 30 days prior to each annual meeting, the Board shall solicit the names of candidates from the Members for Board members to be elected at the annual meeting of the Members. Such candidates shall be considered by the Board in making its nominations for new Board members. Nominations may also be made by Members from the floor of the annual meeting of the Members.

(c) Resignation or Termination of a Board Member

A Board member may resign from all duties and responsibilities as a Member of the Board at any time by written notice delivered to the Chair or Secretary/Treasurer of the Board. Such notice shall state the date said resignation shall take effect and such resignation shall automatically take effect on such date unless a successor Board member shall have been selected at an earlier date in which event such resignation shall take effect immediately upon the selection of the successor Board member.

The term of a Board member selected by the Members pursuant to Section 7(b) of these Bylaws or appointed by the Board pursuant to Section 7(d) of these Bylaws shall be terminated by the Board if such Board member no longer represents a local government or other political subdivision which is a Member of VEPGA , or may be terminated by the Board if such Board member misses one half of the meetings held during VEPGA's fiscal year.

Board members, upon resignation or termination for any reason, shall forthwith turn over and deliver to the Chair of the Board or his designee any and all records, books, documents or other property in the possession or under the control of such Board member which belongs to VEPGA.

(d) Vacancies

Any vacancy occurring on the Board other than a vacancy caused by an expired term (except as otherwise may be expressly provided herein) may be filled by the affirmative vote of a majority of the remaining Board members present and voting at a meeting at which a quorum is present. In cases where vacancies are filled by the remaining Board members, the Board may, but need not, solicit nominations from the Members.

(e) Meetings

Regular meetings of the Board shall be held at least once a year at such location as is acceptable to a majority of the Board. The Board may provide, by resolution, the time and place for holding the regular meetings.

Special meetings of the Board shall be held on the call of the Chair, Vice-Chair, or any two other Board members. The Chair of the Board or his designee shall set the date, time and location of each meeting so that the meeting will take place within 60 days of receipt of such call.

The Secretary/Treasurer of the Board or the Secretary/Treasurer 's designee shall act as secretary for all meetings of the Board.

(f) Quorum

At any meeting of the Board, a majority of the Board members then in office shall constitute a quorum.

(g) Action at Meeting

At any Board meeting at which a quorum is present, the vote of a majority of the Board members present shall be sufficient to decide any matter, unless a different vote is specified by law or by these Bylaws.

(h) Committees

The Board may create one or more committees and fix the number of Board members to serve on them. Each committee may have one or more members, who serve at the pleasure of the Board. Committees may have such powers and duties as may be designated by the Board, except that they may not fill vacancies on the Board or any of its committees; may not adopt, amend or repeal these Bylaws; and may not authorize or approve distribution of any of the funds of VEPGA, except according to formula or method previously prescribed by the Board.

(i) Liability of Members

In accordance with the JPA Agreement, the Board shall not create or incur any liability for the Members, jointly or severally, other than in the following instances, which shall be subject to annual appropriation: (i) the costs incurred by any Member for payments under contracts signed by the Chair or Vice-Chair on behalf of VEPGA as the Member's agent or (ii) the pro rata share of the budget or the membership fees or, if applicable, the fees for non-Core functions, imposed for a Member's participation in

VEPGA. No Member shall be liable or responsible for any payments owed under any contracts by any other Member.

(j) Liability of Board members and Officers

VEPGA may provide officers and directors insurance for its Board members and officers, and will also indemnify such officers and Board members for any deductibles associated with such insurance coverage.

8. Officers

(a) Number, Election, and Term

As soon as practical after the annual meeting of Members and the election of Board members, the Board members shall elect a Chair, Vice-Chair, and Secretary/Treasurer.

Each officer shall hold office for one year and until such officer's successor is duly elected and qualified, or until such officer's death, resignation, or removal. Each officer shall perform the duties set forth in these bylaws and shall comply with such other conditions as from time to time may be required by the Board.

(b) Removal

Any officer elected by the Board may be removed, with or without cause, by the Board.

(c) Vacancies

A vacancy in any office because of death, resignation, removal, disqualification or otherwise may be filled by the Board for the unexpired portion of the term.

(d) Chair

The Chair shall direct the operations of VEPGA and shall perform all other duties incident to such office.

(e) Vice-Chair

The Vice-Chair shall have the powers and duties incident to that office and shall have such other powers and duties as may be prescribed from time to time by the Board.

(f) Secretary/Treasurer

The Secretary/Treasurer shall be responsible for insuring the recordation of the minutes and for preparing and maintaining custody of the minutes of all meetings of the Members, the Board, and when required, of all standing committees. The Secretary/Treasurer shall also serve and give all notices of VEPGA and shall be responsible for responding to Freedom of Information Act requests. The Secretary/Treasurer shall be the custodian of the records and such other books, records, and papers as the Board may direct; authenticate the records of VEPGA; and perform such other duties as may be incident to such office or as prescribed by the Board.

The Secretary/Treasurer shall see that regular and full accounts are maintained and that proper financial reports are made to the Board. The Secretary/Treasurer shall have such other powers and perform such other duties as are assigned to the Secretary/Treasurer by these Bylaws or as may be assigned to the Secretary/Treasurer by the Board or the Chair. The Board may require that the Secretary/Treasurer give bond to VEPGA, with sufficient sureties, conditioned on the faithful performance of the duties of the Secretary/Treasurer.

9. Contracts, Loans, Checks, and Deposits

(a) Contracts

Either the Chair or the Vice Chair may execute contracts on behalf of and in the name of VEPGA. The Board may authorize any other officer or officers, agent or agents to enter into any contract or execute any instrument in the name of and on behalf of VEPGA, and such authority may be general or confined to specific instances.

(b) Loans

No loans shall be contracted on behalf of VEPGA and no evidence of indebtedness shall be issued in its name unless authorized by the Board.

(c) Checks, Drafts, etc.

All checks, drafts, bills of exchange and other negotiable instruments (except promissory notes) of VEPGA connected therewith shall be signed by the Chair, Vice-Chair, the Secretary/Treasurer, or by such other officer or agent of VEPGA as may be authorized so to do by the Board.

(d) Deposits and Investments

All funds of VEPGA not otherwise employed shall be deposited from time to time in such banks or other depositories as the Board may select or invested as allowed under state law.

10. Termination of Association

In accordance with the JPA Agreement, VEPGA may be terminated at any time upon the concurrence of all Members at the time of such termination.

In the event of termination of VEPGA, the remaining funds available to VEPGA, after providing for all outstanding obligations, shall be distributed to Members at the time of such termination through a formula determined by the Board.

11. Notices

Unless otherwise provided for in these Bylaws, any notices, approvals, requests, consents and other communications required by these Bylaws shall be deemed to have been given when delivered in person, by fax , by E-mail or by first class mail, addressed to the principal Designated Representative of a Member on the Member List maintained by the Secretary/Treasurer. In addition, the Board may utilize a website or similar method to inform Members of VEPGA meetings, Board nominations, requests for proposals, contract awards, and other matters of interest to Members.

12. Amendments

These Bylaws may be amended at any time by the concurrence of two-thirds of the Board or two-thirds of the Members as long as (a) such amended Bylaws are consistent with the JPA Agreement and (b) Members shall have the right to withdraw from VEPGA prior to the effective date of such amendment. The Board, at least 30 days prior to the adoption of amended Bylaws, shall make a copy of such proposed amended Bylaws available to Members.

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