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Full Commission Meeting
Thursday, March 4, 2004 -- 4:00 p.m.
General Assembly Building
Third Floor Conference Room

8 **APPEARANCES:**

9 The Honorable Charles R. Hawkins, Chairman
10 The Honorable Terry G. Kilgore, Vice Chairman
11 Mr. Thomas W. Arthur
12 Ms. Pam Curry for Secretary John Bennett
13 The Honorable Kathy J. Byron
14 The Honorable J. Carlton Courter, III
15 The Honorable Allen W. Dudley
16 Mr. L. Jackson Hite
17 The Honorable Clarke N. Hogan
18 The Honorable Isiah G. Hopkins
19 Mr. Buddy Mayhew
20 Mr. Edward Owens
21 The Honorable Frank M. Ruff
22 The Honorable Matt Erskine for Secretary Mike Schewel
23 The Honorable Mary Sue Terry
24 Mr. John Thomas Taylor
25 The Honorable Gary D. Walker
26 Mr. Harrison A. Moody

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28 **COMMISSION STAFF:**

29 Carthan F. Currin, III, Executive Director
30 Mary Cabell Sherrod, Manager of Communications and Committee Operations
31 Stephanie Wass, Director of Finance
32 Timothy Pfohl, Grants Program Administration Manager
33 Britt Nelson, Grants Program Administrator - Southside
34 Ned Stephenson, Director of Strategic Investments

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36 **ATTORNEY GENERAL'S OFFICE:**

37 Frank F. Ferguson, Senior Assistant Attorney General
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SENATOR HAWKINS: All right, I'll call the meeting to order. Carthan, would you call the roll?

MR. CURRIN: Mr. Arthur?

MR. ARTHUR: Here.

MR. CURRIN: Mr. Bryant?

MR. BRYANT: (No response.)

MR. CURRIN: Delegate Byron?

DELEGATE BYRON: Here.

MR. CURRIN: Commissioner Courter?

COMMISSIONER COURTER: Here.

MR. CURRIN: Delegate Dudley?

DELEGATE DUDLEY: Here.

MR. CURRIN: Mr. Fields?

MR. FIELDS: (No response.)

MR. CURRIN: Mr. Hite?

MR. HITE: Here.

MR. CURRIN: Delegate Hogan?

DELEGATE HOGAN: Here.

MR. CURRIN: Mr. Hopkins?

MR. HOPKINS: Here.

MR. CURRIN: Mr. Jenkins?

MR. JENKINS: (No response.)

MR. CURRIN: Delegate Johnson?

DELEGATE JOHNSON: (No response.)

MR. CURRIN: Mr. Mayhew?

MR. MAYHEW: Here.

MR. CURRIN: Mr. Montgomery?

MR. MONTGOMERY: (No response.)

MR. CURRIN: Mr. Moody?

MR. MOODY: Here.

MR. CURRIN: Mr. Owen?

MR. OWEN: (No response.)

MR. CURRIN: Mr. Owens?

MR. OWENS: Here.

MR. CURRIN: Senator Puckett?

SENATOR PUCKETT: (No response.)

MR. CURRIN: Senator Ruff?

SENATOR RUFF: Here.

MR. CURRIN: Deputy Secretary Erskine?

DEPUTY SECRETARY ERSKINE: Here.

MR. CURRIN: Mr. Stallard?

1 MR. STALLARD: (No response.)

2 MR. CURRIN: Mr. Taylor?

3 MR. TAYLOR: Here.

4 MR. CURRIN: Ms. Terry?

5 MS. TERRY: Here.

6 MR. CURRIN: Mr. Thompson?

7 MR. THOMPSON: (No response.)

8 MR. CURRIN: Mr. Walker?

9 MR. WALKER: Here.

10 MR. CURRIN: Senator Wampler?

11 SENATOR WAMPLER: (No response.)

12 MR. CURRIN: Mr. West?

13 MR. WEST: (No response.)

14 MR. CURRIN: Delegate Wright?

15 DELEGATE WRIGHT: (No response.)

16 MR. CURRIN: Mr. Vice Chairman?

17 DELEGATE KILGORE: Here.

18 MR. CURRIN: Mr. Chairman?

19 SENATOR HAWKINS: Here. We have a quorum. As Commission members, we've
20 got this bill before us dealing with this telecommunications, an update on it, it's going to take us
21 at least about five or ten minutes to go through it. Do you all want to leave a proxy if you've got
22 to go back in the House?

23 MR. CURRIN: Frank, will that vote stand?

24 SENATOR HAWKINS: Can we go ahead and proceed with business?

25 MR. FERGUSON: Yes, you can. Let me say this, Mr. Chairman, as I understand
26 Roberts' Rules, once a quorum is present unless there is a quorum call made a quorum is
27 presumed to be present.

28 DELEGATE HOGAN: We'll be downstairs.

29 SENATOR HAWKINS: Thank you all. That's the only item, we just have one item. I
30 apologize to everyone, this is one of these times when it's almost impossible to get the group
31 together, but this matter is too important to keep postponing it, because we've been dealing with
32 this issue for four years now. Ned, do you want to give us an update?

33 MR. STEPHENSON: Mr. Chairman, if it please the Commission, I'd like the Minutes
34 of the previous meeting to stand corrected to reflect the fact that this project is being funded by
35 the Commission to the extent of six million and not six point three five as stated in the Minutes.

36 SENATOR HAWKINS: Is there a motion to correct the Minutes that would reflect
37 that? It's been moved and seconded that the six million dollar figure be inserted where the six
38 point three is now in the Minutes. All in favor say aye? (Ayes.) Opposed? (No response.) The
39 Minutes are now correct.

40 MR. STEPHENSON: There's another correction, Stephane, would you bring that to
41 us, please?

42 MS. WASS: In the January meeting two million dollars was transferred from the
43 reserve fund to the deal closing TROF fund. It actually should be two million twenty-three

1 thousand seven hundred and fifteen dollars to be transferred from the surplus FY03 revenues to
2 the TROF fund.

3 SENATOR HAWKINS: All right. So moved. Does everyone understand that
4 amendment to the Minutes? Any questions? All in favor say aye? (Ayes.) Opposed? (No
5 response.) The Minutes are corrected.

6 MR. STEPHENSON: Mr. Chairman, yesterday the Southside Technology Sub-
7 Committee met and heard debate on three contingencies that were placed upon the funding of
8 this grant for the broadband project. The purpose of that meeting was to secure those
9 contingencies so that the funds could be released to begin the project. You have in your package
10 or on the table the actual motion that the Committee approved yesterday, and that is before this
11 Commission for approval today. I have a copy of it if anyone needs it.

12 For the benefit of the record, Mr. Chairman, I'd like to read it into the record.

13 SENATOR HAWKINS: Please, sir.

14 MR. STEPHENSON: On March 3, 2004 the Southside Technology Committee
15 approved the following four-part motion:

16
17 First, that the Committee approve the recent election of the MBC Board of Directors.

18 Second, that the Committee approve MBC's selection of Adesta as the network
19 operator and that the Committee approve Adesta's proposal for the Regional Backbone Initiative
20 for Southside Virginia, as submitted to MBC on February 17, '04.

21 Third, that the Committee authorize the Staff to negotiate the terms of the subject
22 grant agreement with MBC.

23 Last, that the Committee accept these events as full satisfaction of the three
24 contingencies placed upon the grant to MBC in October, 2003.

25
26 Mr. Chairman, maybe at this point I'd like to give it back to you for questions that
27 people may have.

28 SENATOR HAWKINS: We've just been through a sub-committee that was chaired by
29 Delegate Hogan, and other sub-committee members are here. Any questions or report from the
30 Sub-Committee as such?

31 MS. TERRY: Mr. Chairman, at the meeting a series of questions were asked of Mr.
32 Hudgins. I think for the benefit of those here that I would like to ask the same questions so
33 everyone would know what we're doing here related to the Board of MBC.

34 SENATOR HAWKINS: What was the problem before?

35 MS. TERRY: I didn't say it was a problem, I just want you all to understand what
36 we're doing here. I understand and recognize that this group will operate independent of the
37 Tobacco Commission, but that still does not suggest that the Tobacco Commission cannot
38 express its preference going forward as to the ultimate composition of the Board in terms of the
39 number and not individuals. I just wanted to ask Mr. Hudgins some questions.

40 SENATOR HAWKINS: Can you give us an update on the composition of the Board?

41 MR. HUDGINS: As the Board stands now, we have Lee Cobb of Region 2000 up in
42 the northwest corner; we have Longwood University in the Farmville and heartlands area; Joe
43 Cobbe, a CPA in Martinsville, and he will be the Secretary/Treasurer; Ben Davenport, Future of

1 the Piedmont Foundation in the Danville area; and finally, Blue Ridge Power Agency, which
2 buys power for the municipalities, Danville Electric and Blackstone Electric, Bristol Electric.
3 I'm serving as the unpaid and uncompensated Chairman of the Board today. There's provisions
4 as the network expands to add people to the Board. We'll certainly solicit input from this
5 Commission as to what their preferences are, and we're very open to that idea of bringing in
6 expertise if you think it will help the MBC run, and that's where it stands today.

7 SENATOR HAWKINS: The Board size, what's the maximum you're looking at?

8 MR. HUDGINS: Thirteen.

9 SENATOR HAWKINS: Thirteen is the max?

10 MR. HUDGINS: Yes.

11 SENATOR HAWKINS: You're at what level now?

12 MR. HUDGINS: We're at six.

13 SENATOR HAWKINS: So there's a possibility of adding seven members?

14 MR. HUDGINS: Not in that context. We have classes of membership in the co-op,
15 classes of membership like commercial, industrial, they have five members. We are going to
16 elect the persons to the Board to represent their interests. So there's nine slots, if you will, and
17 three open.

18 SENATOR HAWKINS: Three open slots?

19 MR. HUDGINS: Yes.

20 SENATOR HAWKINS: Any other questions?

21 MS. TERRY: I want to develop that. As another uncompensated member of another
22 board, and I can't see you over there, David, this is not an inquisition, and I can summarize, but I
23 just wanted folks to be sure and understand how this works, because I think a lot of people heard
24 about this for the first time yesterday. I'll ask leading questions out of respect.

25 SENATOR HAWKINS: Go ahead.

26 MS. TERRY: There's different classes of Board members, like class A, B and C and
27 whatever?

28 MR. HUDGINS: Correct.

29 MS. TERRY: Of the six members, five are Class A members?

30 MR. HUDGINS: Five new members, yes.

31 MS. TERRY: What that means is that those founding members, which come from
32 either Longwood College, Mecklenburg Committee-op --

33 MR. HUDGINS: No, ma'am. Longwood, Blue Ridge Power Agency, Future of the
34 Piedmont, the Town of South Hill, Old Dominion Electric and Lee Cobb.

35 MS. TERRY: There's only five founding members?

36 MR. HUDGINS: Old Dominion Electric Cooperative, Future of the Piedmont, Blue
37 Ridge Power Agency, the Town of South Hill, Longwood University, those are the five.

38 MS. TERRY: The net effect of that, as I understand it, is that these five entities which
39 were selected each will put up its own Board member for as long as it's a member of the Board,
40 correct?

41 MR. HUDGINS: Correct.

42 MS. TERRY: South Hill will always have a designated member of the Board?

43 MR. HUDGINS: Correct, as long as they want to serve.

1 MS. TERRY: Future of the Piedmont will always select a member of the Board?

2 MR. HUDGINS: Correct.

3 MS. TERRY: That selection is final, it's not a vote by the Board.

4 MR. HUDGINS: Correct.

5 MS. TERRY: For these five members, then, what we're basically doing is that when
6 we close this meeting we will have turned this over to five organizations in Southside. We
7 would have turned it over to Longwood College, the Town of South Hill, the Future of the
8 Piedmont, Blue Ridge Power and Old Dominion Electric Cooperative. Once we do that today
9 the net effect is that anything the Commission says after that in terms of broadening the
10 representation, in terms of subject matter, geography or anything, would be of no effect.

11 SENATOR HAWKINS: Well, I think we can make recommendations, but it's my
12 understanding there are legalities of this thing that we need to deal with.

13 MS. TERRY: I understand that, Mr. Chairman, but I just want folks to be clear that,
14 originally I thought we were going to have a Board of nine, and that's what we were told in a
15 previous meeting.

16 MR. HUDGINS: There were two e-mails sent out soliciting input to expand the
17 Board, and we didn't receive any response.

18 MS. TERRY: I beg to differ; Mr. Gary Walker made input asking for Board members
19 from the heartland.

20 MR. HUDGINS: That was after the fact.

21 MS. TERRY: What I'm saying is that there is no real magic here to put together a
22 board. The Technology Committee was told in the January meeting that there were going to be
23 nine members of the Board, and yesterday we learned there were six members and five are
24 members that are selected by five localities in Virginia.

25 MR. HUDGINS: That's all correct.

26 SENATOR HAWKINS: When you look at the localities, it's population-based, plus
27 your university, plus your power producers, I'm sure there is some kind of cross-section there to
28 build from. I don't think there is a conspiracy to isolate any one particular region, it seems fairly
29 broad-based. We're looking at a time frame, and I'd like to see us go ahead and move this as
30 quickly as possible if everyone understands what we're doing. This is one of our premiere
31 initiatives, and we have some other conversations ongoing, but we need to have things in place
32 so we can go ahead and get this completed.

33 MS. TERRY: Mr. Chairman, the concern about the Board, and it's been since October,
34 and some of us learned yesterday that the Board was six.

35 MR. HUDGINS: Ms. Terry, that's not my fault. Every commissioner received those
36 two e-mails; this is a six million dollar decision we're asking.

37 MS. TERRY: That's exactly right, and that's why we're asking the questions.

38 MR. HUDGINS: This has been going on since October, and I'm up against a deadline.

39 SENATOR HAWKINS: No, we've gone too far, Carthan.

40 MR. CURRIN: Mr. Hudgins, did you state that the Board can and will be expanded?

41 MR. HUDGINS: When the Commission as a body comes together and makes that
42 recommendation, absolutely.

43 MR. CURRIN: Mr. Chairman, I would suggest to the Commission that that issue is on

1 the table, and it has just been expressed that the Board will be expanded and can be worked on
2 between now and our May meeting. I think that would address Ms. Terry's concern about
3 additional members of the Board and give this Commission some additional input into a very
4 important process.

5 MR. ARTHUR: Mr. Chairman, I might mention that the Sub-Committee last night
6 voted unanimously that the three conditions had been met and that we recommended that we
7 move forward.

8 SENATOR HAWKINS: Is that a motion?

9 MR. ARTHUR: That's the motion.

10 SENATOR HAWKINS: Is there a second to the motion?

11 MR. MAYHEW: Second.

12 SENATOR HAWKINS: Any discussion on the motion?

13 MR. STEPHENSON: Mr. Chairman, we have been advised by Counsel that we
14 should clarify to the Commission the precise status of the EDA funding. I'd like to ask David if
15 he would do that so the Commission understands exactly where we are.

16 MR. ARTHUR: Are you offering this as discussion? All right, very good.

17 MR. HUDGINS: The exact, the EDA letter received for the solicitation was
18 dependent on the six million dollars from the Tobacco Commission. Are you asking how it's
19 disbursed, how the funding is disbursed?

20 MR. FERGUSON: Mr. Chairman, maybe I can help.

21 SENATOR HAWKINS: Please, Frank.

22 MR. FERGUSON: The reason why I wanted this understood and to be part of what
23 the Commission votes on. The Minutes from October, the three contingencies, one of which was
24 EDA funding be obtained. My understanding is we have as strong a commitment as we can have
25 at this point in the process, given it's a chicken and egg situation and we need to do what is
26 before the Commission today in order to move forward with receiving that funding. It's my
27 understanding we have a commitment from EDA, and they will provide that funding assuming
28 we do what we have represented we will do. I just want the Minutes to reflect that everyone
29 understands and is comfortable with that, that this motion that has been made encompasses the
30 recognition by the Commission that that contingency, along with the other two that have been
31 discussed, has also been met.

32 SENATOR HAWKINS: I appreciate that.

33 MR. ARTHUR: Mr. Chairman, this is the letter from the EDA stating exactly what
34 Frank has said, given to us and provided by Mr. Hudgins last night.

35 SENATOR HAWKINS: This is a major thrust for him as well. Any other questions,
36 any other comments? It's been moved and seconded. Yes, sir.

37 MR. WALKER: Will this motion prevent us from going back and as Ms. Terry has
38 said, talking about the size of the Board?

39 MR. ARTHUR: At another meeting, no.

40 SENATOR HAWKINS: We can discuss that later on after we pass the motion. All
41 right. It's been moved and seconded that the motion made by Mr. Arthur, does everyone
42 understand the motion? All those in favor say aye? (Ayes.) Opposed? (No response.) The
43 motion is carried. Getting back to the question, Gary, as I said before, I think it is understood

1 by all of us that we want a Board that reflects the communities in which we serve. To do that we
2 have to start at some point. I think David understands also that we are very serious in trying to
3 work as a Commission to make recommendations to reflect the diversity of our rural
4 communities. I can assure you that we'll make sure that that reflection is in the Board.

5 MS. TERRY: Mr. Chairman, how will that happen, because we were promised, and it
6 is in the Minutes of the Technology Committee meeting, that the Technology Committee would
7 meet and have input into the Board. We never met, and we were just told to offer names. It was
8 a very closely held group of people who approved those names and presented them to us for
9 ratification yesterday. How will that process be different going forward adding members to this
10 Board and having an open process where we all vote on them as opposed to having them hand-
11 picked?

12 MR. CURRIN: Mr. Chairman, --

13 MS. TERRY: -- I'd like for Mr. Chairman to answer the question.

14 SENATOR HAWKINS: What we're going to do is make sure that there's adequate
15 opportunities to submit names and go through the sub-committees that we serve on to make
16 recommendations and make sure they are done in a block to guarantee that there is diversity of
17 the appointments throughout the region. We're going to do that. This is something that we have
18 been working on for four years now, and it's time to pull the trigger and get this thing moving to
19 serve our communities that we represent.

20 MS. TERRY: Mr. Chairman, I've taken the time to come here for something that I
21 have concerns about, and I'm part of the quorum. It's not that I'm not trying to be a team player
22 of this whole operation, but I am concerned, and commitments were made in October and
23 January which were not fulfilled. All I'm asking you is what it is that we are agreeing to do in
24 terms of additions to the Commission and what the process might be.

25 MR. CURRIN: Mr. Chairman, I would suggest and echo Ms. Terry's point, and the
26 Staff will be happy to work with Chairman Hogan to put a Technology Committee meeting
27 together at the appropriate time between now and our May meeting to discuss that issue.

28 SENATOR HAWKINS: I would make a suggestion to supply us names for the Board
29 and the geographic location of the Board and make those recommendations to guarantee that we
30 meet the recommendations of the Commission to fulfill our obligations to the rest of our
31 communities.

32 MR. HUDGINS: Is this a geographical basis?

33 SENATOR HAWKINS: Taking in geographical considerations is part of it because of
34 the diversity of the areas that we represent, but I think that's one of the pieces we need to look at.

35 MR. HUDGINS: Charging us with the criteria you would like to be --

36 SENATOR HAWKINS: -- The criteria is going to be set by the Technology Sub-
37 Committee as to what they're looking for, and we can't do it today, because I'm not sure what the
38 criteria is we want.

39 MR. ERSKINE: Mr. Chairman, could we also have the Staff work on a very clear
40 explanation of the Bylaws related to the Commission's understanding, just so the Commission
41 understands how many seats we have left, the timeline when we can move on that.

42 SENATOR HAWKINS: Has the Staff got that?

43 MR. CURRIN: Yes, sir.

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My Commission Expires: October 31, 2006.