

VIRGINIA ACTS OF ASSEMBLY -- 2001 SESSION

CHAPTER 576

An Act to amend and reenact § 56-579 of the Code of Virginia, relating to electric utility restructuring; eminent domain.

[S 1257]

Approved March 24, 2001

Be it enacted by the General Assembly of Virginia:

1. That § 56-579 of the Code of Virginia is amended and reenacted as follows:

§ 56-579. Regional transmission entities.

A. As set forth in § 56-577, on or before January 1, 2001, each incumbent electric utility owning, operating, controlling, or having an entitlement to transmission capacity shall join or establish a regional transmission entity (RTE) to which such utility shall transfer the management and control of its transmission assets, subject to the following:

1. No such incumbent electric utility shall transfer to any person any ownership or control of, or any responsibility to operate, any portion of any transmission system located in the Commonwealth without obtaining the prior approval of the Commission, as hereinafter provided.

2. The Commission shall develop rules and regulations under which any such incumbent electric utility owning, operating, controlling, or having an entitlement to transmission capacity within the Commonwealth, may transfer all or part of such control, ownership or responsibility to an RTE, upon such terms and conditions that the Commission determines will:

a. Promote:

(1) Practices for the reliable planning, operating, maintaining, and upgrading of the transmission systems and any necessary additions thereto; and

(2) Policies for the pricing and access for service over such systems, which are safe, reliable, efficient, not unduly discriminatory and consistent with the orderly development of competition in the Commonwealth;

b. Be consistent with lawful requirements of the Federal Energy Regulatory Commission;

c. Be effectuated on terms that fairly compensate the transferor;

d. Generally promote the public interest, and are consistent with (i) ensuring the successful development of interstate regional transmission entities and (ii) meeting the transmission needs of electric generation suppliers both within and without this Commonwealth.

B. The Commission shall also adopt rules and regulations, with appropriate public input, establishing elements of regional transmission entity structures essential to the public interest, which elements shall be applied by the Commission in determining whether to authorize transfer of ownership or control from an incumbent electric utility to a regional transmission entity.

C. The Commission shall, to the fullest extent permitted under federal law, participate in any and all proceedings concerning regional transmission entities furnishing transmission services within the Commonwealth, before the Federal Energy Regulatory Commission. Such participation may include such intervention as is permitted state utility regulators under FERC rules and procedures.

D. Nothing in this section shall be deemed to abrogate or modify:

1. The Commission's authority over transmission line or facility construction, enlargement or acquisition within this Commonwealth, as set forth in Chapter 10.1 (§ 56-265.1 et seq.) of this title;

2. The laws of this Commonwealth concerning the exercise of the right of eminent domain by a public service corporation pursuant to the provisions of Article 5 (§ 56-257 et seq.) of Chapter 10 of this title; however, on and after January 1, 2002, *a petition may not be filed to exercise* the right of eminent domain ~~may not be exercised~~ in conjunction with the construction or enlargement of any utility facility whose purpose is the generation of electric energy; or

3. The Commission's authority over retail electric energy sold to retail customers within the Commonwealth by licensed suppliers of electric service, including necessary reserve requirements, all as specified in § 56-587.

E. For purposes of this section, transmission capacity shall not include capacity that is primarily operated in a distribution function, as determined by the Commission, taking into consideration any binding federal precedents.

F. On or after January 1, 2002, the Commission shall report to the Legislative Transition Task Force its assessment of the success in the practices and policies of the RTE facilitating the orderly development of competition in the Commonwealth.