

VIRGINIA ACTS OF ASSEMBLY -- 2001 SESSION

CHAPTER 758

An Act to amend and reenact §§ 56-46.1 and 56-265.2:1 of the Code of Virginia, relating to State Corporation Commission approval of construction of certain facilities.

[H 2268]

Approved March 26, 2001

Be it enacted by the General Assembly of Virginia:

1. That §§ 56-46.1 and 56-265.2:1 of the Code of Virginia are amended and reenacted as follows:

§ 56-46.1. Commission to consider environmental, economic and improvements in service reliability factors in approving construction of electrical utility facilities; approval required for construction of certain electrical transmission lines; notice and hearings.

A. Whenever the Commission is required to approve the construction of any electrical utility facility, it shall give consideration to the effect of that facility on the environment and establish such conditions as may be desirable or necessary to minimize adverse environmental impact. In such proceedings it shall receive and give consideration to all reports that relate to the proposed facility by state agencies concerned with environmental protection; and if requested by any county or municipality in which the facility is proposed to be built, to local comprehensive plans that have been adopted pursuant to Article 4 3 (§ ~~45-1-446.1~~ 15.2-2223 et seq.) of Chapter ~~H~~ 22 of Title ~~45-1~~ 15.2. Additionally, the Commission (i) may consider the effect of the proposed facility on economic development within the Commonwealth and (ii) shall consider any improvements in service reliability that may result from the construction of such facility.

B. No overhead electrical transmission line of 150 kilovolts or more shall be constructed unless the State Corporation Commission shall, after at least thirty days' advance notice by (i) publication in a newspaper or newspapers of general circulation in the counties and municipalities through which the line is proposed to be built, ~~and~~ (ii) written notice to the governing body of each such county and municipality, ~~and (iii) causing to be sent a copy of the notice by first class mail to all owners of property within the route of the proposed line, as indicated on the map or sketch of the route filed with the Commission, which requirement shall be satisfied by mailing the notice to such persons at such addresses as are indicated in the land books maintained by the commissioner of revenue, director of finance or treasurer of the county or municipality,~~ approve such line. Such approval shall not be required for transmission lines constructed prior to January 1, 1983, for which the Commission has issued a certificate of convenience and necessity. Such notices shall include a written description of the proposed route the line is to follow, as well as a map or sketch of the route. As a condition to approval the Commission shall determine that the line is needed and that the corridor or route the line is to follow will reasonably minimize adverse impact on the scenic assets, historic districts and environment of the area concerned and, in the case of any application which is filed with the Commission in the years 1991 and 1992, for approval of a line of 500 kilovolts or more, any portion of which is proposed for construction west of the Blue Ridge Mountains, that the applicant will reasonably accommodate requests to wheel or transmit power from new electric generation facilities constructed after January 9, 1991.

C. If, prior to such approval, any interested party shall request a public hearing, the Commission shall, as soon as reasonably practicable after such request, hold such hearing or hearings at such place as may be designated by the Commission. In any hearing the public service company shall provide adequate evidence that existing rights-of-way cannot adequately serve the needs of the company.

If, prior to such approval, written requests therefor are received from twenty or more interested parties, the Commission shall hold at least one hearing in the area which would be affected by construction of the line, for the purpose of receiving public comment on the proposal. If any hearing is to be held in the area affected, the Commission shall direct that a copy of the transcripts of any previous hearings held in the case be made available for public inspection at a convenient location in the area for a reasonable time before such local hearing.

D. For purposes of this section, "interested parties" shall include the governing bodies of any counties or municipalities through which the line is proposed to be built, and persons residing or owning property in each such county or municipality and "environment" or "environmental" shall be deemed to include in meaning "historic," as well as a consideration of the probable effects of the line on the health and safety of the persons in the area concerned.

For purposes of this section, "qualifying facilities" means a cogeneration or small power production facility which meets the criteria of 18 C.F.R. Part 292; "public utility" means a public utility as defined in § 56-265.1; and "reasonably accommodate requests to wheel or transmit power" means:

1. That the applicant will make available to new electric generation facilities constructed after

January 9, 1991, qualifying facilities and other nonutilities, a minimum of one-fourth of the total megawatts of the additional transmission capacity created by the proposed line, for the purpose of wheeling to public utility purchasers the power generated by such qualifying facilities and other nonutility facilities which are awarded a power purchase contract by a public utility purchaser in compliance with applicable state law or regulations governing bidding or capacity acquisition programs for the purchase of electric capacity from nonutility sources, provided that the obligation of the applicant will extend only to those requests for wheeling service made within the twelve months following certification by the State Corporation Commission of the transmission line and with effective dates for commencement of such service within the twelve months following completion of the transmission line.

2. That the wheeling service offered by the applicant, pursuant to subdivision D 1 of this section, will reasonably further the purposes of the Public Utilities Regulatory Policies Act of 1978 (P. L. 95-617), as demonstrated by submitting to the Commission, with its application for approval of the line, the cost methodologies, terms, conditions, and dispatch and interconnection requirements the applicant intends, subject to any applicable requirements of the Federal Energy Regulatory Commission, to include in its agreements for such wheeling service.

E. In the event that, at any time after the giving of the notice required in subsection B of this section, it appears to the Commission that consideration of a route or routes significantly different from the route described in the notice is desirable, the Commission shall cause notice of the new route or routes to be published *and mailed* in accordance with subsection B of this section. The Commission shall thereafter comply with the provisions of this section with respect to the new route or routes to the full extent necessary to give interested parties in the newly affected areas the same protection afforded interested parties affected by the route described in the original notice.

F. Approval of a transmission line pursuant to this section shall be deemed to satisfy the requirements of ~~§ 15-1-456~~ 15.2-2232 and local zoning ordinances with respect to such transmission line.

§ 56-265.2:1. Approval by Commission required for construction of certain gas pipelines and related facilities; notice and hearing.

A. Whenever a certificate is required pursuant to § 56-265.2 for the construction of a pipeline for the transmission or distribution of manufactured or natural gas, the Commission shall consider the effect of the pipeline on the environment, public safety, and economic development in the Commonwealth, and may establish such reasonably practical conditions as may be necessary to minimize any adverse environmental or public safety impact. In such proceedings, the Commission shall receive and consider all reports by state agencies concerned with environmental protection; and, if requested by any county or municipality in which the pipeline is proposed to be constructed, local comprehensive plans that have been adopted pursuant to Article 4 3 (~~§ 15-1-446.1~~ 15.2-2223 et seq.) of Chapter ~~44~~ 22 of Title ~~15-1~~ 15.2.

B. The Commission shall not approve construction of any such pipeline unless the public utility has provided thirty days' advance public notice of the proposed pipeline by (i) publishing a notice in a newspaper or newspapers of general circulation in each of the counties and municipalities through which the pipeline is proposed to be constructed, (ii) providing written notice to the governing body of each such county and municipality, *(iii) causing to be sent a copy of the notice by first class mail to all owners of property within the route of the proposed pipeline, as indicated on the map or sketch of the route filed with the Commission, which requirement shall be satisfied by mailing the notice to such persons at such addresses as are indicated in the land books maintained by the commissioner of revenue, director of finance or treasurer of the county or municipality,* and ~~(iii)~~ iv) filing a copy of any plans, specifications, or maps of the proposed pipeline with the Commission, which plans, specifications, or maps shall be made available for public inspection at the Commission's business office, during normal business hours. *Any notice required by this subsection shall include a written description of the proposed route the line is to follow, a map or sketch of the route, and information regarding the time period during which persons may request a public hearing under subsection C of this section.*

C. If, within ~~thirty~~ *forty-five* days after publication *and mailing of a notice as the notices* required in subsection B of this section, any interested party requests a public hearing, the Commission shall, as soon as reasonably practicable after such request, hold *a such hearing or hearings* at such place as may be designated by the Commission. *If written requests therefor are received from twenty or more interested parties, the Commission shall hold at least one hearing in the area that would be affected by construction of the pipeline, for the purpose of receiving public comment on the proposal. If any hearing is to be held in the area affected, the Commission shall direct that a copy of the transcripts of any previous hearings held in the case be made available for public inspection at a convenient location in the area for a reasonable time before such local hearing.*

D. For the purposes of this section, "interested parties" means the governing bodies of any counties or municipalities through which the pipeline is to be constructed, and persons residing or owning property within one-half mile of such pipeline. For the purposes of this section, "environment" or "environmental" shall be deemed to include in meaning "historic."

E. If a significantly different route is determined more desirable after the giving of the notice required in subsection B of this section, the Commission shall cause notice of the new route or routes to

be published *and mailed* in accordance with subsection B of this section. The Commission shall thereafter comply with the provisions of this section to the full extent necessary to give interested parties in the newly affected areas the same protection afforded interested parties affected by the route described in the original notice.

F. Approval of a pipeline pursuant to this section shall be deemed to satisfy and supersede the requirements of § 15.2-2232 and local zoning ordinances with respect to such pipeline and related facilities; however, the Commission shall not approve the construction of a natural gas compressor station in an area zoned for residential use unless the public utility provides certification from the local governing body that the natural gas compressor station is consistent with the zoning ordinance. The certification required by this subsection shall be deemed to have been waived unless the local governing body informs the Commission and the public utility of the natural gas compressor station's compliance or noncompliance within forty-five days of the public utility's written request.