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HOUSE BILL NO. 944

Offered January 11, 2006

Prefiled January 10, 2006

A BILL to amend and reenact § 56-232 of the Code of Virginia, relating to commercial mobile radio service constituting a public utility.

Patron—Morgan

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:**1. That § 56-232 of the Code of Virginia is amended and reenacted as follows:**

§ 56-232. Public utility and schedules defined.

A. The term "public utility" as used in §§ 56-233 to 56-240 and 56-246 to 56-250:

1. Shall mean and embrace every corporation (other than a municipality), company, individual, or association of individuals or cooperative, their lessees, trustees, or receivers, appointed by any court whatsoever, that now or hereafter may own, manage or control any plant or equipment or any part of a plant or equipment within the Commonwealth for the conveyance of telephone messages or for the production, transmission, delivery, or furnishing of heat, chilled air, chilled water, light, power, or water, or sewerage facilities, either directly or indirectly, to or for the public.

2. Notwithstanding any provision of subdivision 1 of this subsection or subsection G of § 13.1-620, shall also include any governmental entity established pursuant to the laws of any other state, corporation (other than a municipality established under the laws of this Commonwealth), company, individual, or association of individuals or cooperative, their lessees, trustees, or receivers, appointed by any court whatsoever, that at any time owns, manages or controls any plant or equipment, or any part thereof, located within the Commonwealth, which plant or equipment is used in the provision of sewage treatment services to or for an authority as defined in § 15.2-5101; however, the Commission shall have no jurisdiction to regulate the rates, terms and conditions of sewage treatment services that are provided by any such public utility directly to persons pursuant to the terms of a franchise agreement between the public utility and a municipality established under the laws of this Commonwealth.

3. Except as provided in subdivision 2, shall not be construed to include any corporation created under the provisions of Title 13.1 unless the articles of incorporation expressly state that the corporation is to conduct business as a public service company.

B. Notwithstanding any provision of law to the contrary, no person, firm, corporation, or other entity shall be deemed a public utility or public service company, solely by virtue of engaging in production, transmission, or sale at retail of electric power as a qualifying small power producer using renewable or nondepletable primary energy sources within the meaning of regulations adopted by the Federal Energy Regulatory Commission in implementation of the Public Utility Regulatory Policies Act of 1978 (P.L. 95-617) and not exceeding 7.5 megawatts of rated capacity, nor solely by virtue of serving as an aggregator of the production of such small power producers, provided that the portion of the output of any qualifying small power producer which is sold at retail shall not be sold to residential consumers.

C. No qualifying small power producer, within the meaning of regulations adopted by the Federal Energy Regulatory Commission, shall be deemed a public utility within the meaning of Chapter 7 (§ 62.1-80 et seq.) of Title 62.1.

D. The term "public utility" as herein defined shall not be construed to include any chilled water air-conditioning cooperative serving residences in less than a one square mile area, or any company which is excluded from the definition of "public utility" by subdivision (b) (4) or (b) (8) of § 56-265.1.

E. Subject to the provisions of § 56-232.1, the term "schedules" as used in §§ 56-234 through 56-245 shall include schedules of rates and charges for service to the public and also contracts for rates and charges in sales at wholesale to other public utilities or for divisions of rates between public utilities, but shall not include contracts of telephone companies with the state government or contracts of other public utilities with municipal corporations or the federal or state government, or any contract executed prior to July 1, 1950.

F. Except to the extent preempted by federal law, the term "public utility" as used in §§ 56-247 and 56-249 shall include commercial mobile radio service as defined in Part 20.3 of Title 47 of the Code of Federal Regulations, as amended.

INTRODUCED

HB944