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HOUSE BILL NO. 2398

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the House Committee on Commerce and Labor
on January 30, 2007)

(Patron Prior to Substitute—Delegate Athey)

A *BILL to amend and reenact § 56-265.2 of the Code of Virginia, relating to the approval of electrical transmission lines.*

Be it enacted by the General Assembly of Virginia:

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

§ 56-265.2. Certificate of convenience and necessity required for acquisition, etc., of new facilities.

A. It shall be unlawful for any public utility to construct, enlarge or acquire, by lease or otherwise, any facilities for use in public utility service, except ordinary extensions or improvements in the usual course of business, without first having obtained a certificate from the Commission that the public convenience and necessity require the exercise of such right or privilege. Any certificate required by this section shall be issued by the Commission only after opportunity for a hearing and after due notice to interested parties. The certificate for overhead electrical transmission lines of 150 kilovolts or more shall be issued by the Commission only after compliance with the provisions of § 56-46.1.

B. In exercising its authority under this section, the Commission, notwithstanding the provisions of § 56-265.4, may permit the construction and operation of electrical generating facilities, which shall not be included in the rate base of any regulated utility whose rates are established pursuant to Chapter 10 (§ 56-232 et seq.) of this title, upon a finding that such generating facility and associated facilities including transmission lines and equipment (i) will have no material adverse effect upon the rates paid by customers of any regulated public utility in the Commonwealth; (ii) will have no material adverse effect upon reliability of electric service provided by any such regulated public utility; and (iii) are not otherwise contrary to the public interest. In review of its petition for a certificate to construct and operate a generating facility described in this subsection, the Commission shall give consideration to the effect of the facility and associated facilities, including transmission lines and equipment, on the environment and establish such conditions as may be desirable or necessary to minimize adverse environmental impact as provided in § 56-46.1. Facilities authorized by a certificate issued pursuant to this subsection may be exempted by the Commission from the provisions of Chapter 10 (§ 56-232 et seq.) of Title 56.

C. A map showing the location of any proposed ordinary extension or improvement outside of the territory in which the public utility is lawfully authorized to operate shall be filed with the Commission, and prior notice of such ordinary extension shall be given to the public utility or other entity authorized to provide the same utility service within said territory. Ordinary extensions outside the service territory of a public utility shall be undertaken only for use in providing its public utility service and shall be constructed and operated so as not to interfere with the service or facilities of any public utility or other entity authorized to provide utility service within any other territory. If, upon objection of the affected utility or entity filed within thirty days of the aforesaid notice and after investigation and opportunity for a hearing the Commission finds an ordinary extension would not comply with this section, it may alter or amend the plan for such activity or prohibit its construction.

D. Whenever a certificate is required under this section for a pipeline for the transmission or distribution of natural or manufactured gas, the Commission may issue such a certificate only after compliance with the provisions of § 56-265.2:1. As used in this section and § 56-265.2:1, "pipeline for the transmission or distribution of manufactured or natural gas" shall include the pipeline and any related facilities incidental or necessary to the operation of the pipeline.

E. *Whenever a certificate is required under this section for an electrical transmission line or lines with an expected capacity of approximately 500 kilovolts that are proposed to be located in portions of the Lord Fairfax, Northern Virginia, or Rappahannock-Rapidan Planning Districts by an electric utility that was, as of July 1, 1999, bound by a rate case settlement adopted by the Commission that extended in its application beyond January 1, 2002, by an electric utility that divested its generation assets with approval of the Commission pursuant to § 56-590 prior to January 1, 2002, or both, the utility or utilities proposing the transmission line or lines shall, as part of its application to the Commission, identify alternatives to the erection of new towers for the proposed line or lines, including, at a minimum, installation of the transmission line or lines underground, and such other appropriate alternative measures as the utility may propose to increase the capacity of existing facilities to the extent necessary to serve the affected regions of the Commonwealth without building new towers or acquiring additional right-of-way. The Commission shall not conduct hearings on an application for approval of the construction of such line or lines unless the application identifies such alternative*

60 *measures. The Commission shall be authorized to condition its approval of an application for such line*
61 *or lines upon the utility's agreement to adopt any or all of the measures identified as alternatives in its*
62 *application that the Commission finds are in the public interest, including installing such line or lines*
63 *underground.*

64 *F. This section shall be subject to the requirements of § 56-265.3, if any, and nothing herein shall be*
65 *construed to supersede § 56-265.3.*