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## HOUSE BILL NO. 3153

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 Nixon)

*A BILL to amend and reenact § 56-235.2 of the Code of Virginia, relating to the use of reported income tax expenses in setting the rates of certain public utilities.*

**Be it enacted by the General Assembly of Virginia:**

**1. That § 56-235.2 of the Code of Virginia is amended and reenacted as follows:**

§ 56-235.2. All rates, tolls, etc., to be just and reasonable to jurisdictional customers; findings and conclusions to be set forth; alternative forms of regulation for electric companies.

A. Any rate, toll, charge or schedule of any public utility operating in this Commonwealth shall be considered to be just and reasonable only if: (1) the public utility has demonstrated that such rates, tolls, charges or schedules in the aggregate provide revenues not in excess of the aggregate actual costs incurred by the public utility in serving customers within the jurisdiction of the Commission, subject to such normalization for nonrecurring costs and adjustments for known future increases in costs as the Commission may deem reasonable, and a fair return on the public utility's rate base used to serve those jurisdictional customers; (1a) the investor-owned public electric utility has demonstrated that no part of such rates, tolls, charges or schedules includes costs for advertisement, except for advertisements either required by law or rule or regulation, or for advertisements which solely promote the public interest, conservation or more efficient use of energy; and (2) the public utility has demonstrated that such rates, tolls, charges or schedules contain reasonable classifications of customers. Notwithstanding § 56-234, the Commission may approve, either in the context of or apart from a rate proceeding after notice to all affected parties and hearing, special rates, contracts or incentives to individual customers or classes of customers where it finds such measures are in the public interest. Such special charges shall not be limited by the provisions of § 56-235.4. In determining costs of service, the Commission may use the test year method of estimating revenue needs, but shall not consider any adjustments or expenses that are speculative or cannot be predicted with reasonable certainty. In any Commission order establishing a fair and reasonable rate of return for an investor-owned gas, telephone or electric public utility, the Commission shall set forth the findings of fact and conclusions of law upon which such order is based.

*For ratemaking purposes, every investor-owned electric or natural gas utility shall report its federal and apportioned state income tax expense using the applicable statutory rate, excluding any consolidated tax liability or benefit adjustments originating from the taxable income or loss of its affiliates. The Commission shall use this report in determining rate base and the cost of service in rates established pursuant to this title for any utility that is part of an investor-owned, publicly-traded, consolidated group.*

B. Upon application of any public service company furnishing electric service or on the Commission's own motion, the Commission may approve after notice to all affected parties and hearing, an alternative form of regulation. Alternatives may include, but are not limited to, the use of price regulation, ranges of authorized returns, categories of services, price indexing or other alternative forms of regulation.

C. The Commission shall, before approving special rates, contracts, incentives or other alternative regulatory plans under subsections A and B, ensure that such action (i) protects the public interest, (ii) will not unreasonably prejudice or disadvantage any customer or class of customers, and (iii) will not jeopardize the continuation of reliable electric service.

D. After notice and public hearing, the Commission shall issue guidelines for special rates adopted pursuant to subsection A that will ensure that other customers are not caused to bear increased rates as a result of such special rates.

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