

VIRGINIA ACTS OF ASSEMBLY -- 2008 SESSION

CHAPTER 867

An Act to amend the Code of Virginia by adding a section numbered 56-235.9, relating to the recovery of funds used for capital projects prior to a rate case for strategic natural gas facilities.

[S 145]

Approved April 23, 2008

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 56-235.9 as follows:

§ 56-235.9. Recovery of funds used for capital projects prior to a rate case for strategic natural gas facilities.

A. As used in this section:

"Capitalized carrying cost" includes the return on the investment, depreciation, and tax.

"Natural gas utility" means any investor-owned public service company engaged in the business of furnishing natural gas service to the public.

"Strategic natural gas facility" includes, without limitation, a natural gas distribution or transmission pipeline, storage facility, compressor station, liquefied natural gas facility, peaking facility or other appurtenant facility, used to furnish natural gas service in the Commonwealth that, for a natural gas utility with fewer than 150,000 customers, adds stand-alone design day deliverability or designed send-out of at least 10,000 dekaTherms per day or two or more such facilities, regardless of size, that add design day deliverability or designed send out of at least 75,000 dekaTherms per day in the aggregate, and for a natural gas utility with 150,000 or more customers, adds stand-alone design day deliverability or designed send out of at least 20,000 dekaTherms per day or two or more such facilities, regardless of size, that add design day deliverability or designed send out of at least 100,000 dekaTherms per day in the aggregate.

B. Any natural gas utility that places a strategic natural gas facility into service on or after July 1, 2008, to serve its customers shall have the right to recover through its rates charged to those customers the entire prudently incurred costs of the facility including: planning, development and construction costs; costs of infrastructure associated therewith; an allowance for funds used during construction; and the capitalized carrying cost from the time construction is completed and the asset is placed into service until the time that the Commission establishes new rates that include recovery of all costs as defined herein. Such recovery shall be permitted by allowing such costs to be recorded in the utility's plant accounts and included in rate base for purposes of cost recovery (i) in new rate schedules for service not offered under existing rate schedules or new rate schedules for expansion of existing services as permitted by § 56-235.4, (ii) in a rate case using the cost of service methodology set forth in § 56-235.2, or (iii) in a performance-based regulation plan authorized by § 56-235.6, subject to Commission determination that such costs were prudently incurred. The allowance for funds used during construction and the return on investment shall be calculated utilizing the weighted average cost of capital, including the cost of debt and cost of equity used in determining the natural gas utility's base rates in effect during the construction period of the strategic natural gas facility.

C. Nothing in this section shall be construed to prohibit the Commission from granting similar treatment to other natural gas facilities when the Commission deems such treatment to be in the public interest.

2. That nothing in this act shall either authorize or deny the recovery of any costs submitted to the Commission prior to January 1, 2008, where such costs were the subject of a final order of the Commission entered by that date that expressly determined whether such costs were prudently incurred, and such order expressly provided for the final accounting and ratemaking treatment of such costs.