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HOUSE BILL NO. 1310

Offered January 9, 2008

Prefiled January 9, 2008

A *BILL to amend and reenact § 56-265.3 of the Code of Virginia, relating to State Corporation Commission certification of certain providers of gas services.*

Patron—Morgan

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That § 56-265.3 of the Code of Virginia is amended and reenacted as follows:

§ 56-265.3. Certificate to furnish public utility service; allotment of territory transfers, leases or amendments.

A. No public utility shall begin to furnish public utility service within the Commonwealth without first having obtained from the Commission a certificate of public convenience and necessity authorizing it to furnish such service. Any company engaged in furnishing a public utility service in this Commonwealth as of July 1, 1950, shall, upon filing maps with the Commission within ninety days from such date, showing the territory now being served by it, be entitled to receive a certificate of convenience and necessity authorizing it to begin to furnish such public utility service in such territory. Also, any company that is granted authority under the Public Utilities Securities Act, Chapter 3 (§ 56-55 et seq.) of this title to issue securities for the purpose of constructing or extending facilities described in the application for such authority, shall, if the application was filed with the State Corporation Commission before February 1, 1950, have the same right to a certificate of convenience and necessity that it would have had if the facilities had been in operation and serving the public on February 1, 1950. Any company which was engaged in furnishing a public utility service in this Commonwealth as of July 1, 1950, and which is now so engaged in providing the same kind of service, and which could have filed maps with the Commission in accordance with the requirements of this section but failed to do so, may file such maps not later than January 1, 1974, showing the territory now being served by it, and be entitled to receive a certificate of convenience and necessity authorizing it to continue to furnish the same kind of public utility service in such areas to the same extent as if it had filed maps as of July 1, 1950.

B. On initial application by any company, the Commission, after formal or informal hearing upon such notice to the public as the Commission may prescribe, may, by issuance of a certificate of convenience and necessity, allot territory for development of public utility service by the applicant if the Commission finds such action in the public interest.

C. If the initial application provides for the furnishing of water or sewerage service within any political subdivision in which there has been created an authority for either or both of such purposes pursuant to Chapter 51 (§ 15.2-5100 et seq.) of Title 15.2, the Commission shall not hold any hearing on such application or issue any certificate for the allotment of territory unless the application shall first have been approved by the governing body of the political subdivision in which the territory is located. In any area where a water company was in existence and furnishing water prior to the formation of an authority to provide water, the Commission may hold a hearing on an application and issue a certificate to the water company for that territory which was served prior to the creation of the authority whether or not the governing body of the political subdivision has approved the application. In any area where a sewer company was in existence and furnishing sewer services prior to the formation of an authority to provide sewer services, the Commission may hold a hearing on an application and issue a certificate to the sewer company for that territory which was served prior to the creation of the authority whether or not the governing body of the political subdivision has approved the application.

D. If the Commission finds it to be in the public interest, upon the application of a holder of a water or sewer certificate, such certificate may be transferred, leased or amended after such reasonable notice to the public and opportunity to be heard as the Commission by order may prescribe. The Commission may authorize the transfer, lease, or amendment of the certificate subject to such restrictions as the Commission finds will promote the public interest.

E. *If the Commission finds it to be in the public interest, upon application and after notice and opportunity for hearing, the Commission may grant a provisional certificate of public convenience and necessity to permit, within the certificated service territory of a natural gas utility, an entity other than such utility to provide delivery of natural gas, propane, propane-air mixtures, or other natural or manufactured gas service by way of underground distribution lines, in a designated area in which*

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59 *natural gas distribution service is not currently offered. Such temporary certificate shall be for an initial*
60 *term of 10 years or such other term as the Commission finds proper, and may thereafter be renewed by*
61 *the holder from time to time. Such service shall be subject to the provisions of this title.*
62 *F. The Commission is authorized to promulgate any rules necessary to implement this section.*