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HOUSE BILL NO. 543

Offered January 9, 2008

Prefiled January 7, 2008

A *BILL to amend the Code of Virginia by adding in Title 56 a chapter numbered 24, consisting of sections numbered 56-597 through 56-599, relating to alternative ratemaking plans for natural gas utilities.*

Patrons—Nixon, Byron, Nutter and Saxman

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 56 a chapter numbered 24, consisting of sections numbered 56-597 through 56-599 as follows:

CHAPTER 24.**NATURAL GAS CONSERVATION AND RATEMAKING EFFICIENCY ACT.****§ 56-597. Definitions.**

As used in this chapter:

"Allowed distribution revenue" means the average annual, weather-normalized, nongas commodity revenue per customer associated with the rates in effect as adopted in the applicable utility's last Commission-approved rate case or performance-based regulation plan, multiplied by the average number of customers served.

"Conservation and ratemaking efficiency plan" means a plan filed by a natural gas utility pursuant to this chapter that includes a decoupling mechanism.

"Cost-effective conservation and energy efficiency program" means a program that provides benefits to customers or the Commonwealth based upon an analysis that includes the Total Resource Cost Test, the Societal Test, the Utility/Program Administrator Test, the Participant Test, and the Rate Impact Measure Test.

"Decoupling mechanism" means a rate mechanism that decouples the recovery of a utility's allowed distribution revenue from the level of consumption of natural gas by its customers, including (i) a mechanism that adjusts actual nongas distribution revenues per customer to allowed distribution revenues per customer, such as a sales adjustment clause, (ii) rate design changes that substantially align the percentage of fixed charge revenue recovery with the percentage of the utility's fixed costs, such as straight fixed variable rates, or (iii) a combination of clauses (i) and (ii) that decreases the relative amount of nongas distribution revenue affected by changes in per customer consumption of gas.

"Fixed costs" means any and all of the utility's costs of service, together with an authorized return thereon, that are not associated with the cost of the natural gas commodity flowing through and measured by the customer's meter.

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

"Revenue-neutral" means a rate or tariff design that does not shift annualized allowed distribution revenue between customer classes, and does not increase or decrease the utility's average, weather-normalized nongas utility revenue per customer on an intra-class basis by more than 0.25 percent when compared to the volumetric rate design method (i) in effect at the time a conservation and ratemaking efficiency plan is filed pursuant to this chapter, if such volumetric rate design was approved by the Commission in any rate case or performance-based regulation plan within the 36 months preceding the filing, (ii) contained in a class cost of service study filed with a conservation and ratemaking efficiency plan when such plan is filed within 48 months after a final order approving a rate case using the cost of service methodology set forth in § 56-235.2 or a performance-based regulation plan authorized by § 56-235.6, or (iii) contained in the class cost of service study filed with a conservation and ratemaking efficiency plan, when such plan is filed in conjunction with a rate case using the cost of service methodology set forth in § 56-235.2 or a performance-based regulation plan authorized by § 56-235.6.

§ 56-598. Natural gas conservation and ratemaking efficiency.

A. Consistent with the objectives pertaining to energy issues set forth in § 67-101 and the policy elements stated in § 67-102, it is in the public interest to promote the wise use of natural gas and natural gas infrastructure through the development of alternative rate designs and other mechanisms that more closely align the interests of natural gas utilities, their customers, and the Commonwealth generally, and improve the efficiency of ratemaking to more closely reflect the dynamic nature of the

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59 natural gas market, the economy, and public policy regarding conservation and energy efficiency. Such
60 alternative rate designs and other mechanisms should, where feasible:

61 1. Provide utilities with better tools to work with customers to decrease the average customer's
62 annual average weather-normalized consumption of natural gas;

63 2. Provide reasonable assurance of a utility's ability to recover costs of serving the public, including
64 its cost-effective investments in conservation and energy efficiency as well as infrastructure needed to
65 provide or maintain reliable service to the public;

66 3. Reward utilities for meeting or exceeding conservation and energy efficiency goals that may be
67 established pursuant to the Virginia Energy Plan (§ 67-100 et seq.);

68 4. Provide customers with long-term, meaningful opportunities to more efficiently consume natural
69 gas and mitigate their expenditures for the natural gas commodity, while ensuring that the rate design
70 methodology used to set a utility's revenue recovery is not inconsistent with such conservation and
71 energy efficiency goals; and

72 5. Recognize the economic and environmental benefits of efficient use of natural gas.

73 B. Natural gas utilities are authorized pursuant to this chapter to implement alternative natural gas
74 utility rate designs and other mechanisms, in addition to or in conjunction with the cost of service
75 methodology set forth in § 56-235.2 and performance-based regulation plans authorized by § 56-235.6,
76 that:

77 1. Replace existing utility rate designs or other mechanisms that can promote inefficient use of
78 natural gas with rate designs or other mechanisms that ensure a utility's recovery of its authorized
79 revenues is independent of the amount of customers' natural gas consumption;

80 2. Provide incentives for natural gas utilities to promote conservation and energy efficiency by
81 granting recovery of the costs associated with cost-effective conservation and energy efficiency
82 programs, together with a return thereon; and

83 3. Reward utilities that meet or exceed conservation and energy efficiency goals on a
84 weather-normalized, annualized average customer basis.

85 C. This chapter shall be construed liberally to accomplish these purposes.

86 § 56-599. Conservation and ratemaking efficiency plans.

87 A. Notwithstanding any provision of law to the contrary, each natural gas utility shall have the
88 option to file a conservation and ratemaking efficiency plan as provided in this chapter. Such a plan
89 may include one or more residential, small commercial, or small general service classes, but shall not
90 apply to large commercial or large industrial classes of customers. Such plan shall include a
91 normalization component that removes the effect of weather from the determination of conservation and
92 energy efficiency results. The Commission may approve such a plan after such notice and opportunity
93 for hearing as the Commission may prescribe, subject to the provisions of this chapter.

94 B. The Commission shall approve or deny, within 60 days, any revenue-neutral conservation and
95 ratemaking efficiency plan that allocates annual per-customer fixed costs on an intra-class basis in
96 reliance upon a revenue study or class cost of service study supporting the rates in effect at the time the
97 plan is filed, if those rates have been approved by the Commission in any rate case or
98 performance-based regulation plan within the 36 months preceding the utility's filing of its conservation
99 and ratemaking efficiency plan. The Commission shall approve such a plan if it finds that the plan's
100 proposed decoupling mechanism is revenue-neutral and is otherwise consistent with this chapter. If the
101 Commission denies such a plan, it shall set forth with specificity the reasons for such denial and the
102 utility shall have the right to refile, without prejudice, an amended plan within 30 days, and the
103 Commission shall thereafter have 30 days to approve or deny the amended plan. The time period for
104 Commission review provided for in this subsection shall not apply if the conservation and ratemaking
105 efficiency plan is filed in conjunction with a rate case using the cost of service methodology set forth in
106 § 56-235.2 or a performance-based regulation plan authorized by § 56-235.6.

107 C. The Commission shall approve or deny, within 120 days, any revenue-neutral conservation and
108 ratemaking efficiency plan that allocates annual per-customer fixed costs on an intra-class basis in
109 reliance upon a class cost of service study filed with the plan, when such plan is filed within 48 months
110 following the final order approving a rate case using the cost of service methodology set forth in
111 § 56-235.2 or a performance-based regulation plan authorized by § 56-235.6. The Commission shall
112 approve such a plan if it finds that the plan's proposed decoupling mechanism is revenue-neutral and is
113 otherwise consistent with this chapter. If the Commission denies such a plan, it shall set forth with
114 specificity the reasons for such denial and the utility shall have the right to refile, without prejudice, an
115 amended plan within 30 days, and the Commission shall thereafter have 30 days to approve or deny the
116 amended plan. The time period for Commission review provided for in this subsection shall not apply if
117 the conservation and ratemaking efficiency plan is filed in conjunction with a rate case using the cost of
118 service methodology set forth in § 56-235.2 or a performance-based regulation plan authorized by
119 § 56-235.6.

120 D. The Commission shall approve or deny, within 270 days, any revenue-neutral conservation and

121 ratemaking efficiency plan that allocates per-customer fixed costs on an intra-class basis according to a
122 class cost of service study filed with the plan, when such plan is filed in conjunction with a rate case
123 using the cost of service methodology set forth in § 56-235.2 or a performance-based regulation plan
124 authorized by § 56-235.6. The Commission shall approve such a plan if it finds that the plan's proposed
125 decoupling mechanism is revenue-neutral, is consistent with this chapter, and is otherwise in the public
126 interest, including any findings required by § 56-235.2 or 56-235.6. If the Commission denies such a
127 plan, it shall set forth with specificity the reasons for its denial and the utility shall have the right to
128 refile, without prejudice, an amended plan within 30 days; the Commission shall thereafter have 30 days
129 to approve or deny the amended plan.

130 E. The Commission shall allow any natural gas utility that implements a conservation and
131 ratemaking efficiency plan under this chapter to recover, through its regulated rates, its costs, together
132 with a return thereon, associated with cost-effective conservation and energy efficiency programs that
133 are designed to encourage the reduction of annualized, weather-normalized natural gas consumption per
134 customer. Ratemaking treatment may include placing appropriate technology and program cost
135 investments in the respective utility's rate base, or recovering the utility's technology and program costs
136 through another ratemaking methodology approved by the Commission. Such conservation and energy
137 efficiency programs may also be jointly conducted or sponsored with other utilities, federal, state or
138 local government agencies, nonprofit organizations, trade associations, homebuilders, and other
139 for-profit vendors. Costs recovered pursuant to this subsection shall be in addition to all other costs that
140 the utility is permitted to recover, shall not be considered an offset to other Commission-approved costs
141 of service or revenue requirements, and shall not be included in any computation relative to a
142 performance-based regulation plan revenue sharing mechanism.

143 F. The Commission shall require every natural gas utility operating under a conservation and
144 ratemaking efficiency plan approved pursuant to this chapter to file annual reports showing the year
145 over year weather-normalized use of natural gas on a per customer basis, by customer class. The
146 Commission shall grant utilities that demonstrate a reduction in annualized, weather-normalized usage
147 per customer, below the five-year historical average for the utility on an intra-class basis, an incentive
148 retention factor of 10 percent of the net realized commodity savings to customers. Net realized
149 commodity savings shall be calculated on an annual basis and a factor shall be included in the utility's
150 respective Purchased Gas Adjustment mechanism that will allow the utility to recover 10 percent of such
151 savings. Net realized commodity savings shall be computed by multiplying the reduction in average
152 usage by customer measured in cubic feet, or in therms if measured based on heat content, by the
153 weighted average cost per cubic foot, or therm, if applicable, of natural gas distributed by the utility
154 during the year multiplied by the average number of customers served. The incentives authorized by this
155 subsection shall be in addition to any other revenue requirements or rates established pursuant to
156 § 56-235.2 or § 56-235.6 and independent of any computation of shared revenues under an approved
157 performance-based regulation plan.

158 G. Notwithstanding any other provision of law, the Commission shall not reduce an authorized
159 return on common equity or other measure of utility profit as a result of the implementation of a natural
160 gas conservation and ratemaking efficiency plan pursuant to this chapter. However, the Commission
161 shall consider authorizing a greater return on common equity or other measure of utility profit when a
162 natural gas conservation and ratemaking efficiency plan is implemented in conjunction with a rate case
163 using the cost of service methodology set forth in § 56-235.2 or a performance-based regulation plan
164 authorized by § 56-235.6.

165 2. That by December 1, 2008, and annually by such date each year thereafter until December 1,
166 2012, the State Corporation Commission shall provide a report to the Governor, the Speaker of
167 the House of Delegates, the President Pro Tempore of the Senate, and the Chairs of the House and
168 Senate Committees on Commerce and Labor regarding the implementation of this act.