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SENATE BILL NO. 1163

Offered January 14, 2015

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A BILL to amend the Code of Virginia by adding in Title 56 a chapter numbered 28, consisting of sections numbered 56-610 through 56-613, relating to natural gas system expansion infrastructure; recovery and deferral of costs.

Patron—Saslaw

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 28, consisting of sections numbered 56-610 through 56-613, as follows:

CHAPTER 28.

NATURAL GAS SYSTEM EXPANSION INFRASTRUCTURE.

§ 56-610. Definitions.

As used in this chapter, unless the context requires otherwise:

"Eligible expansion investment" means that portion of the total capital investment made by a natural gas utility in constructing eligible system expansion infrastructure that exceeds those costs that would be considered economic under a natural gas utility's economic test and is net of any contributions in aid of construction received on that project. Contributions in aid to construction shall consist of any amount in excess of the maximum level of investment per new customer provided in a natural gas utility's system expansion plan pursuant to clause (iv) of subsection A of § 56-612.

"Eligible system expansion infrastructure" means natural gas main pipelines and associated facilities, including service lines, meters, and other pertinent facilities, that are constructed and operated by a natural gas utility to deliver natural gas service to new customers located in an unserved area.

"Eligible system infrastructure expansion costs" includes:

1. Return on investment. In calculating the return on investment, the Commission shall use the natural gas utility's weighted average cost of capital, including the cost of debt and equity, based on its regulatory capital structure used in determining the natural gas utility's base rates in effect during the construction period of the eligible system expansion, applied to eligible expansion investment. The investment, as adjusted for the reserve for depreciation and accumulated deferred income taxes, shall be multiplied by the weighted average cost of capital to determine the return on investment;

2. A revenue conversion factor, which factor, including income taxes and an allowance for bad debt expense, shall be applied to the required operating income resulting from the eligible system infrastructure expansion costs;

3. Operating and maintenance expense, the amount of which that is used in the utility's calculations of justifiable new business plant investment shall be consistent with the natural gas utility's standard line extension tariff provisions. Such expense shall include costs for education and outreach for increasing program awareness;

4. Depreciation, the calculation of which by the Commission shall be based on the natural gas utility's current depreciation rates applied to eligible expansion investment; and

5. Property taxes attributable to eligible expansion investment.

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

"New customer" means any premises that receives natural gas service from a natural gas utility through a meter attached directly or indirectly to eligible system expansion infrastructure installed pursuant to this chapter to provide initial natural gas service on or after the effective date of a system expansion plan approved by the Commission pursuant to this chapter. Any premises receiving natural gas service from such meter shall be considered a new customer for purposes of this chapter for the time period established in a system expansion plan or until the termination of the system expansion rider. Any premises receiving natural gas service for which the natural gas utility has received the entire amount required to cover the cost of the eligible system expansion infrastructure as a contribution in aid to construction shall not be considered a new customer.

"System expansion plan" means a plan filed by a natural gas utility that identifies the level of eligible system expansion infrastructure costs that are projected to be incurred over the term of the plan and provides the calculation of a system expansion rider.

"System expansion rider" means a recovery mechanism that will allow for recovery of the eligible

59 system expansion infrastructure costs from new customers, through a separate mechanism from the
60 customer rates established in a rate case using the cost-of-service methodology set forth in § 56-235.2
61 or a performance-based regulation plan authorized by § 56-235.6. A system expansion rider shall be
62 designed to recover the portion of the total capital investment made by a natural gas utility in
63 constructing eligible system expansion infrastructure which is in excess of those costs that would be
64 considered economic under a natural gas utility's economic test up to the maximum level of investment
65 per new customer specified in a system expansion plan.

66 "Unserved area" means a geographic area within a natural gas utility's service territory that
67 requires natural gas infrastructure to meet the demand of potential end-use customers.

68 **§ 56-611. Statement of public interest.**

69 Consistent with the objectives pertaining to energy issues set forth in § 67-101 and the policy
70 elements stated in § 67-102, it is in the public interest to authorize and encourage the expansion of
71 natural gas infrastructure in the Commonwealth and to promote the use of natural gas as an integral
72 component of a diversified portfolio of energy resources through the development of alternative rate
73 designs and other mechanisms that more closely align the interests of natural gas utilities, their
74 customers, and the Commonwealth generally. Further, it is in the public interest to expand, improve,
75 and increase the reliability of Virginia's energy infrastructure by allowing Virginia's natural gas utilities
76 to approach expansion of intrastate infrastructure into unserved and underserved areas on a more
77 proactive basis.

78 **§ 56-612. Petition to establish or amend expansion plan; cost recovery; procedures.**

79 A. Notwithstanding any provisions of law to the contrary, a natural gas utility may file a system
80 expansion plan as provided in this chapter. Such a plan shall provide for (i) a business rationale
81 explaining that the expansion plan is in the public interest and of benefit to the affected customers and
82 the areas to be served from the expansion, (ii) the period the system expansion rider is proposed to be
83 in effect, (iii) the estimated eligible system expansion infrastructure costs and a maximum level of
84 investment to be included in the program, (iv) a maximum level of investment per new customer, (v) the
85 projected number of customers by rate class that will be served by the proposed investment, (vi) a
86 schedule for recovery of the related eligible system expansion infrastructure costs through a system
87 expansion rider, (vii) a methodology for deferral of unrecovered eligible system infrastructure expansion
88 costs, calculated as determined pursuant to § 56-613, (viii) the class or classes of customers eligible to
89 participate in a system expansion plan, and (ix) the period of time that a premises receiving natural gas
90 service from eligible system expansion infrastructure will be considered a new customer for purposes of
91 this chapter. The natural gas utility shall demonstrate that the system expansion plan is prudent and
92 reasonable. The Commission may approve such a plan after such notice and opportunity for a hearing
93 as the Commission may prescribe, subject to the provisions of this chapter.

94 B. A natural gas utility's system expansion plan shall be considered reasonable and prudent if it (i)
95 includes the components set forth in subsection A and (ii) provides for the recovery of eligible system
96 expansion infrastructure costs in accordance with the provisions of this chapter. In a final order
97 approving a natural gas utility's system expansion plan, the Commission may require the natural gas
98 utility to file an annual report with the Commission demonstrating whether the natural gas utility's
99 recovery of eligible system expansion infrastructure costs pursuant to its system expansion plan complies
100 with the requirements of clause (ii). Upon a finding by the Commission that a natural gas utility's
101 system expansion plan does not comply with the requirements of clause (ii), the Commission may direct,
102 by order, the natural gas utility to exclude from deferral any recovered costs in excess of costs that may
103 be recovered by a system expansion rider.

104 C. The Commission shall approve or deny, within 180 days, a natural gas utility's initial application
105 for a system expansion plan. A plan filed pursuant to this section shall not require the filing of rate
106 schedules. The Commission shall approve or deny, within 120 days, a natural gas utility's application to
107 amend a previously approved plan. If the Commission denies such a plan or amendment, it shall set
108 forth with specificity the reasons for such denial, and the utility shall have the right to refile, without
109 prejudice, an amended plan or amendment within 60 days, and the Commission shall thereafter have 60
110 days to approve or deny the amended plan or amendment. The time period for Commission review
111 provided for in this subsection shall not apply if the system expansion plan is filed in conjunction with a
112 rate case using the cost-of-service methodology set forth in § 56-235.2 or a performance-based rate
113 regulation plan authorized by § 56-235.6.

114 D. Any system expansion plan and any system expansion rider that is submitted to and approved by
115 the Commission shall allocate and charge costs in accordance with the appropriate cost causation
116 principles in order to avoid any undue cross-subsidization between rate classes.

117 E. No other revenue requirement or ratemaking issues may be examined in consideration of the
118 application filed pursuant to the provisions of this chapter.

119 F. Costs recovered pursuant to this chapter shall be in addition to all other costs that the natural
120 gas utility is permitted to recover, shall not be considered an offset to other Commission-approved costs

of service or revenue requirements, and shall not be included in any computation relative to a performance-based regulation plan revenue-sharing mechanism.

G. A natural gas utility shall have the opportunity to seek recovery of any costs associated with eligible expansion investment not yet recovered at the end of a system expansion plan in a rate case using the cost-of-service methodology set forth in § 56-235.2 or performance-based regulation plan authorized by § 56-235.6. Such recovery shall be subject to Commission approval based upon a determination that the benefits provided by new customers added under the system expansion plan or plans equal or exceed the impact of recovering such costs from existing customers of the natural gas utility.

§ 56-613. Deferral of eligible system expansion infrastructure costs.

A. A natural gas utility shall account for the difference between actual monthly eligible system expansion infrastructure costs incurred on the cumulative investment in eligible system expansion infrastructure and revenue collected through a system expansion rider as a deferred cost. Such deferred costs shall be accounted for as a regulatory asset and shall not be subject to write-off or write-down by the Commission in an earnings test filing made pursuant to Commission rules governing utility rate increases and annual informational filings.

B. Notwithstanding the provisions of clause (ii) of subsection A of § 56-612, a natural gas utility may extend the system expansion rider beyond the period it is proposed to be in effect if necessary to recover any uncollected deferral of eligible system expansion infrastructure costs. If a natural gas utility collects all of the deferred eligible system expansion infrastructure costs, as well as all eligible expansion investment, through a system expansion rider prior to the expiration of the time period specified in its system expansion plan pursuant to clause (ii) of subsection A of § 56-612, the system expansion rider shall immediately terminate upon the collection of such costs. A natural gas utility shall notify the Commission of any extension or termination of a system expansion rider within 30 days of its extension or termination.

C. Deferral of costs recovered pursuant to this chapter shall have no effect on the recovery of any other cost by the natural gas utility and shall not be included in any computation relative to a performance-based regulation plan revenue-sharing mechanism.