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HOUSE BILL NO. 611

Offered January 13, 2016

Prefiled January 11, 2016

A BILL to amend and reenact §§ 12.1-30.1, 56-234, and 56-237.1 of the Code of Virginia, relating to the regulation of water and sewer utilities.

Patrons—Bell, Robert B. and Rasoul

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That §§ 12.1-30.1, 56-234, and 56-237.1 of the Code of Virginia are amended and reenacted as follows:

§ 12.1-30.1. Meetings and communications between commissioners and parties or staff.

The Commission shall after public hearing, promulgate rules of practice and procedure pursuant to § 12.1-25 controlling meetings and communications between commissioners and any party, or between commissioners and staff concerning any fact or issue arising out of a proceeding involving the regulation of rates, charges, services or facilities of railroad, telephone, gas ~~or~~, electric, *water, or sewer* companies. The rules shall provide, among other provisions, that no commissioner shall consult with any party or any person acting on behalf of any party with respect to such proceeding without giving adequate notice and opportunity for all parties to participate.

§ 56-234. Duty to furnish adequate service at reasonable and uniform rates.

A. It shall be the duty of every public utility to furnish reasonably adequate service and facilities at reasonable and just rates to any person, firm or corporation along its lines desiring same. Notwithstanding any other provision of law:

1. A telephone company shall not have the duty to extend or expand its facilities to furnish service and facilities when the person, firm or corporation has service available from one or more alternative providers of wireline or terrestrial wireless communications services at prevailing market rates; and

2. A telephone company may meet its duty to furnish reasonably adequate service and facilities through the use of any and all available wireline and terrestrial wireless technologies; however, a telephone company, when restoring service to an existing wireline customer, shall offer the option to furnish service using wireline facilities.

For purposes of subdivisions 1 and 2, the Commission shall have the authority upon request of an individual, corporation, or other entity, or a telephone company, to determine whether the wireline or terrestrial wireless communications service available to the party requesting service is a reasonably adequate alternative to local exchange telephone service.

The use by a telephone company of wireline and terrestrial wireless technologies shall not be construed to grant any additional jurisdiction or authority to the Commission over such technologies.

For purposes of subdivision 1, "prevailing market rates" means rates similar to those generally available to consumers in competitive areas for the same services.

B. It shall be the duty of every public utility to charge uniformly therefor all persons, corporations, or municipal corporations using such service under like conditions. *Use of water or sewer systems under like conditions means use by a group of customers in a contiguous geographic area, which group is served by common facilities such as filtration, pumping, distribution, or wastewater treatment infrastructure. Rates for such a group shall be set on the basis of the costs of serving that group alone and without reference to the costs of serving any other group of customers.* However, no provision of law shall be deemed to preclude voluntary rate or rate design tests or experiments, or other experiments involving the use of special rates, where such experiments have been approved by order of the Commission after notice and hearing and a finding that such experiments are necessary in order to acquire information which is or may be in furtherance of the public interest. The charge for such service shall be at the lowest rate applicable for such service in accordance with schedules filed with the Commission pursuant to § 56-236. But, subject to the provisions of § 56-232.1, nothing contained herein or in § 56-481.1 shall apply to (i) schedules of rates for any telecommunications service provided to the public by virtue of any contract with, (ii) for any service provided under or relating to a contract for telecommunications services with, or (iii) contracts for service rendered by any telephone company to, the state government or any agency thereof, or by any other public utility to any municipal corporation or to the state or federal government. The provisions hereof shall not apply to or in any way affect any proceeding pending in the State Corporation Commission on or before July 1, 1950, and shall not confer on the Commission any jurisdiction not now vested in it with respect to any such proceeding.

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59 C. The Commission may conclude that competition can effectively ensure reasonably adequate retail
60 services in competitive exchanges and may carry out its duty to ensure that a public utility is furnishing
61 reasonably adequate retail service in its competitive exchanges by monitoring individual customer
62 complaints and requiring appropriate responses to such complaints.

63 **§ 56-237.1. Notification of intent to seek rate change in schedules required to be filed under**
64 **§ 56-236.**

65 A. Every public utility which indicates upon existing required schedules, or upon new schedules
66 required to be filed in lieu thereof, changes in rates, tolls, charges, rules and regulations, shall cause to
67 have published, once a week for four successive weeks, in one or more newspapers in circulation in its
68 franchise area and approved by the Commission, a notice of its intention to change its rates, tolls,
69 charges, rules and regulations. The last such publication shall appear no less than 30 days prior to the
70 time any changed rates, tolls, charges, rules and regulations shall take effect. This notice shall be in such
71 form and contain such information as prescribed by the Commission.

72 B. Every public utility ~~which~~ *that* indicates upon existing required schedules, or upon new schedules
73 required to be filed in lieu thereof, changes in rates, tolls, charges, rules, and regulations, shall mail to
74 each of its customers *who receive periodic statements of charges by mail or send electronically to each*
75 *of its customers who receive periodic statements of charges electronically*, along with its periodic
76 invoice, bill, or other statement advising the customer of its charges, a notice of its intention to change
77 its rates, tolls, charges, rules, and regulations. This notice shall be mailed *or sent electronically* no less
78 than 30 days prior to the time any such changed rate, toll, charge, rule, and regulation shall take effect.
79 This notice shall be in such form and contain such information as prescribed by the Commission.

80 C. The Commission may dispense with either or both of the requirements contained in subsections A
81 and B if either or both such requirements are not necessary to provide adequate notice to all of the
82 public utilities' customers. B. The Commission may prescribe additional requirements for notification to
83 a public utility's customers of its intention to change its rates, tolls, charges, rules, and regulations.