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SENATE BILL NO. 1759

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Senate Committee on Commerce and Labor
on January 31, 2019)

(Patron Prior to Substitute—Senator Surovell)

A *BILL to amend the Code of Virginia by adding a section numbered 56-585.1:8, relating to electric utilities; pilot program to place electric distribution lines underground in areas of transit-oriented development.*

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 56-585.1:8 as follows:

§ 56-585.1:8. Pilot program for placing certain electric distribution lines underground.

A. The Commission shall establish a pilot program under which each Phase II Utility, as defined in § 56-585.1:3, may submit proposals to place underground certain electric distribution lines in areas of transit-oriented development in conjunction with a transportation infrastructure improvement project that the Commonwealth Transportation Board identifies that reduces congestion, improves mobility, incorporates transit systems, and improves safety. The pilot program shall further the understanding of such underground placement of electric distribution lines in regard to electric reliability, construction methods and related cost and timeline estimating, and the probability of meeting such projections. The pilot program shall consist of the approval to convert qualifying electrical distribution lines in whole or in part underground in areas of transit-oriented developments in conjunction with transportation infrastructure projects identified by the Commonwealth Transportation Board. The pilot program shall consist of a total of two qualifying electrical distribution line projects, converted in whole or in part to be underground, as specified and set forth in this section. The conversion of such underground distribution lines in areas of transit-oriented developments in conjunction with a transportation infrastructure project the Commonwealth Transportation Board identifies is in the public interest.

B. Notwithstanding any other law to the contrary, as a part of the pilot program established pursuant to this section, the Commission shall approve a rate adjustment clause pursuant to clause (iv) of subdivision A 6 of § 56-585.1 for the estimated cost of conversion of an existing electrical distribution line approximately 2.8 miles in length that the Commonwealth Transportation Board has identified and requested the Phase II Utility to place underground as a transportation infrastructure project in an area of transit-oriented development, which rate adjustment clause shall be adjusted based upon the actual costs of such conversion. The rate adjustment clause shall provide for the full and timely recovery of any portion of the cost of such project, including associated feasibility costs, that are not recoverable under applicable rates, net of contributions from the Commonwealth Transportation Board, and the locality in which the distribution line is located, and shall include the use of the fair return on common equity most recently approved in a Commission proceeding for the Phase II Utility. Such costs shall be entirely assigned to the Phase II Utility's Virginia jurisdictional customers.

C. The Commission shall approve a rate adjustment clause described in subsection B within three months after receipt of the written request of the Phase II Utility and of the Commonwealth Transportation Board to participate in the pilot program pursuant to this section and receipt of a resolution of the locality in which the distribution line is located that indicates general community support for the proposed underground distribution lines. The Commission may request the submission of technical and cost analyses as a condition of its approval. The Commission shall not be required to perform any further analysis as to the impacts of this route, including environmental impacts or impacts upon historical resources.

D. The Commonwealth Transportation Board shall be responsible for the acquisition of rights-of-way for the Phase II Utility for the conversion of the existing distribution lines, based upon plans that the Phase II Utility provides. The Phase II Utility shall take such other actions as it deems appropriate in furtherance of the conversion of the approved distribution line, including acquiring the cables necessary for the underground installation.

E. In reviewing applications submitted pursuant to this section by a Phase II Utility for a certificate of public convenience and necessity for the conversion of electrical distribution lines in a transit-oriented development area in conjunction with a transportation infrastructure project that the Commonwealth Transportation Board identifies, the Commission shall approve, consistent with the requirements of subsection F, one additional application as a qualifying project to be constructed in whole or in part underground as a part of this pilot program. The one qualifying project shall be in addition to the qualifying project described in subsection B.

F. For purposes of subsection E, a project shall be qualified to be placed underground, in whole or in part, if it meets all of the following criteria: (i) an engineering analysis demonstrates that it is

60 *technically feasible to place the proposed line, in whole or in part, underground; (ii) the governing body*
61 *of each locality in which a portion of the proposed line will be placed underground indicates, by*
62 *resolution, general community support for the project and that it supports the distribution line to be*
63 *placed underground; (iii) the Commonwealth Transportation Board has identified a transportation*
64 *infrastructure project in a transit-oriented area and has requested that the Phase II Utility place*
65 *underground the distribution lines affected; (iv) the estimated additional cost of converting the proposed*
66 *line, in whole or in part, underground does not exceed 2.5 times the cost of relocating or placing the*
67 *same line overhead, assuming accepted industry standards for undergrounding to ensure safety and*
68 *reliability; however, if the Phase II Utility, the affected localities, and the Commission agree, a*
69 *proposed underground line whose cost exceeds 2.5 times the cost of relocating or placing the line*
70 *overhead may also be accepted into the pilot program; (v) the Phase II Utility requests that the project*
71 *be considered as a qualifying project under this section; and (vi) the primary need of the project shall*
72 *be for purposes of grid reliability, grid resiliency, or to support economic development priorities of the*
73 *Commonwealth and shall not be to address aging assets that would have otherwise been replaced in due*
74 *course.*

75 *G. Approval of a distribution line pursuant to this section for inclusion in the pilot program shall be*
76 *deemed to satisfy the requirements of § 15.2-2232 and local zoning ordinances with respect to such*
77 *distribution line and any associated facilities, such as stations, substations, transition stations and*
78 *locations, and switchyards or stations, that may be required.*

79 *H. The Commission shall report annually to the Commission on Electric Utility Restructuring, the*
80 *Joint Commission on Technology and Science, and the Governor on the progress of the pilot program*
81 *by no later than December 1 of each year that the pilot program established by this section is in effect.*
82 *The Commission shall submit a final report to the Commission on Electric Utility Restructuring, the*
83 *Joint Commission on Technology and Science, and the Governor no later than December 1, 2025,*
84 *analyzing the entire program and making recommendations about the continued placement of*
85 *distribution lines underground in conjunction with transportation projects in areas of transit-oriented*
86 *development in the Commonwealth. The Commission's final report shall include analysis and findings of*
87 *the costs of underground construction and historical and future consumer rate effects of such costs,*
88 *effect of underground distribution lines in transit-oriented development areas on grid reliability,*
89 *operability including operating voltage, probability of meeting cost and construction timeline estimates*
90 *of such underground distribution lines in transit-oriented areas, and aesthetic or other benefits attendant*
91 *to the placement of distribution lines underground in transit-oriented development areas.*

92 *I. The provisions of this section shall not be construed to limit the ability of the Commission to*
93 *approve additional applications for placement of distribution lines underground in conjunction with*
94 *transit-oriented development.*

95 *J. If two applications are not submitted to the Commission that meet the requirements of this act, the*
96 *Commission shall document the failure of the projects to qualify for the pilot program in order to justify*
97 *approving fewer than two projects to be placed underground, in whole or in part.*

98 *K. If the provisions of this section are inconsistent with the provisions of any other law or local*
99 *ordinance, the provisions of this section shall be controlling.*