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SENATE BILL NO. 1370

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance and Appropriations
on February 2, 2023)

(Patron Prior to Substitute—Senator Vogel)

A *BILL to amend and reenact § 56-585.1:5 of the Code of Virginia, relating to electric utilities; pilot program for underground transmission or distribution lines; additional projects.*

Be it enacted by the General Assembly of Virginia:

1. That § 56-585.1:5 of the Code of Virginia is amended and reenacted as follows:

§ 56-585.1:5. Pilot program for underground transmission lines.

A. There is hereby established a pilot program to further the understanding of underground electric transmission lines in regard to electric reliability, construction methods and related cost and timeline estimating, the probability of meeting such projections, and the benefits of underground existing electric transmission lines to promote economic development within the Commonwealth. The pilot program shall consist of the approval to construct qualifying electrical transmission lines of 230 kilovolts or less (but greater than 69 kilovolts) in whole or in part underground. Such pilot program shall consist of a total of ~~two~~ *three* qualifying electrical transmission line projects, constructed in whole or in part underground, as specified and set forth in this section.

B. Notwithstanding any other law to the contrary, as a part of the pilot program established pursuant to this section, the Commission shall approve as a qualifying project a transmission line of 230 kilovolts or less that is pending final approval of a certificate of public convenience and necessity from the Commission as of December 31, 2017, for the construction of an electrical transmission line approximately 5.3 miles in length utilizing both overhead and underground transmission facilities, of which the underground portion shall be approximately 3.1 miles in length, which has been previously proposed for construction within or immediately adjacent to the right-of-way of an interstate highway. Once the Commission has affirmed the project need through an order, the project shall be constructed in part underground, and the underground portion shall consist of a double circuit.

The Commission shall approve such underground construction within 30 days of receipt of the written request of the public utility to participate in the pilot program pursuant to this section. The Commission shall not require the submission of additional technical and cost analyses as a condition of its approval but may request such analyses for its review. The Commission shall approve the underground construction of one contiguous segment of the transmission line that is approximately 3.1 miles in length that was previously proposed for construction within or immediately adjacent to the right-of-way of the interstate highway, for which, by resolution, the locality has indicated general community support. The remainder of the construction for the transmission line shall be aboveground. 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.

The electric utility may proceed to acquire right-of-way and take such other actions as it deems appropriate in furtherance of the construction of the approved transmission line, including acquiring the cables necessary for the underground installation.

C. In reviewing applications submitted by public utilities for certificates of public convenience and necessity for the construction of electrical transmission lines of 230 kilovolts or less filed between July 1, 2018, and October 1, 2020, *or filed between January 1, 2023, and October 1, 2023*, the Commission shall approve, consistent with the requirements of subsection D, one additional application *filed between July 1, 2018, and October 1, 2020, and one additional application filed between January 1, 2023, and October 1, 2023*, as a qualifying project to be constructed in whole or in part underground, as a part of this pilot program. ~~The one two qualifying project projects, one of which shall be the relocation or conversion of an existing 230-kilovolt overhead line to an underground line and one of which shall be a newly proposed 230-kilovolt underground line, shall be in addition to the qualifying project described in subsection B and shall be the relocation or conversion of an existing 230-kilovolt overhead line to an underground line.~~

D. For purposes of subsection C, 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 technically feasible to place the proposed line, in whole or in part, underground; (ii) the governing body of each locality in which a portion of the proposed line will be placed underground indicates, by resolution, general community support for the project and that it supports the transmission line to be placed underground; (iii) a project has been filed with the Commission or is pending issuance of a certificate of public convenience and necessity by (a) October 1, 2020, *or (b) October 1, 2023*; (iv) the estimated additional cost of placing the proposed line, in whole or in part, underground does not exceed

60 \$40 million or, if greater than \$40 million, the cost does not exceed 2.5 times the cost of placing the
61 same line overhead, assuming accepted industry standards for undergrounding to ensure safety and
62 reliability; if the public utility, the affected localities, and the Commission agree, a proposed
63 underground line whose cost exceeds 2.5 times the cost of placing the line overhead may also be
64 accepted into the pilot program; (v) the public utility requests that the project be considered as a
65 qualifying project under this section; and (vi) the primary need of the project shall be for purposes of
66 grid reliability, grid resiliency, or to support economic development priorities of the Commonwealth,
67 including the economic development priorities and the comprehensive plan of the governing body of the
68 locality in which at least a portion of line will be placed, and shall not be to address aging assets that
69 would have otherwise been replaced in due course.

70 E. A transmission line project that is found to meet the criteria of subsection D shall be deemed to
71 satisfy the requirements of subsection B of § 56-46.1 with respect to a finding of the Commission that
72 the line is needed.

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

77 G. The Commission shall report annually to the Commission on Electric Utility Restructuring, the
78 Joint Commission on Technology and Science, and the Governor on the progress of the pilot program
79 by no later than December 1 of each year that this section is in effect. The Commission shall submit a
80 final report to the Commission on Electric Utility Restructuring, the Joint Commission on Technology
81 and Science, and the Governor no later than December 1, 2024, analyzing the entire program and
82 making recommendations about the continued placement of transmission lines underground in the
83 Commonwealth. The Commission's final report shall include analysis and findings of the costs of
84 underground construction and historical and future consumer rate effects of such costs, effect of
85 underground transmission lines on grid reliability, operability (including operating voltage), probability
86 of meeting cost and construction timeline estimates of such underground transmission lines, and
87 economic development, aesthetic or other benefits attendant to the placement of transmission lines
88 underground.

89 H. For the qualifying projects chosen pursuant to this section and not fully recoverable as charges for
90 new transmission facilities pursuant to subdivision A 4 of § 56-585.1, the Commission shall approve a
91 rate adjustment clause. The rate adjustment clause shall provide for the full and timely recovery of any
92 portion of the cost of such project not recoverable under applicable rates, terms, and conditions
93 approved by the Federal Energy Regulatory Commission and shall include the use of the fair return on
94 common equity most recently approved in a State Corporation Commission proceeding for such utility.
95 Such costs shall be entirely assigned to the utility's Virginia jurisdictional customers. The Commission's
96 final order regarding any petition filed pursuant to this subsection shall be entered not more than three
97 months after the filing of such petition.

98 I. The provisions of this section shall not be construed to limit the ability of the Commission to
99 approve additional applications for placement of transmission lines underground. Approval by the
100 Commission of a transmission line for inclusion in the program pursuant to subsection B shall preclude
101 the placement of future overhead electrical transmission lines of at least 69 kilovolts in the same
102 right-of-way as described in subsection B for a period of 10 years from July 1, 2018, but shall not
103 preclude the placement of (i) any underground transmission lines in such right-of-way or (ii) any
104 electrical distribution lines in such right-of-way.

105 J. If ~~two~~ three applications are not submitted to the Commission that meet the requirements of this
106 section, the Commission shall document the failure of the projects to qualify for the pilot program in
107 order to justify approving fewer than ~~two~~ three projects to be placed underground, in whole or in part.

108 K. Insofar as the provisions of this section are inconsistent with the provisions of any other law or
109 local ordinance, the provisions of this section shall be controlling.

110 L. *In addition to the projects described in subsection B or C and notwithstanding any provision of*
111 *this section to the contrary, the pilot program shall consist of one qualifying electrical distribution*
112 *mainline project constructed in whole or in part underground, as specified and set forth in this*
113 *subsection. The qualifying project shall consist of a project to place underground an electric distribution*
114 *mainline as part of a transportation infrastructure improvement project incorporating transit that has*
115 *been initially accepted for partial funding of at least \$250 million pursuant to 49 U.S.C. § 5309. Such*
116 *project shall be qualified to be placed underground if (i) the estimated additional cost of placing the*
117 *proposed mainline, in whole or in part, underground does not exceed \$40 million or, if greater than \$40*
118 *million, the cost does not exceed 2.5 times the cost of placing the same line overhead, assuming*
119 *accepted industry standards for undergrounding to ensure safety and reliability; if the public utility, the*
120 *affected localities, and the Commission agree, a proposed underground line whose cost exceeds 2.5*
121 *times the cost of placing the line overhead may also be accepted into the pilot program and (ii) the*

122 *public utility requests that the project be considered as a qualifying project under this section. The*
123 *provisions of this subsection shall expire on July 1, 2028.*