

VIRGINIA ACTS OF ASSEMBLY -- 1995 SESSION

CHAPTER 311

An Act to amend and reenact § 56-265.2 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 56-265.2:1, relating to construction of certain gas pipelines and related facilities.

[H 1953]

Approved March 16, 1995

Be it enacted by the General Assembly of Virginia:

1. That § 56-265.2 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 56-265.2:1 as follows:

§ 56-265.2. Certificate of convenience and necessity required for acquisition, etc., of new facilities.

A. It shall be unlawful for any public utility to construct, enlarge or acquire, by lease or otherwise, any facilities for use in public utility service, except ordinary extensions or improvements in the usual course of business ~~within the territory in which it is lawfully authorized to operate~~, without first having obtained a certificate from the Commission that the public convenience and necessity require the exercise of such right or privilege. ~~The~~ Any certificate *required by this section* shall be issued by the Commission only after ~~formal or informal opportunity for a hearing~~ and after due notice to interested parties. The certificate for overhead electrical transmission lines of 150 kilovolts or more shall be issued by the Commission only after compliance with the provisions of § 56-46.1.

B. *A map showing the location of any proposed ordinary extension or improvement outside of the territory in which the public utility is lawfully authorized to operate shall be filed with the Commission, and prior notice of such ordinary extension shall be given to the public utility or other entity authorized to provide the same utility service within said territory. Ordinary extensions outside the service territory of a public utility shall be undertaken only for use in providing its public utility service and shall be constructed and operated so as not to interfere with the service or facilities of any public utility or other entity authorized to provide utility service within any other territory. If, upon objection of the affected utility or entity filed within thirty days of the aforesaid notice and after investigation and opportunity for a hearing the Commission finds an ordinary extension would not comply with this section, it may alter or amend the plan for such activity or prohibit its construction.*

C. *Whenever a certificate is required under this section for a pipeline for the transmission or distribution of natural or manufactured gas, the Commission may issue such a certificate only after compliance with the provisions of § 56-265.2:1. As used in this section and § 56-265.2:1, "pipeline for the transmission or distribution of manufactured or natural gas" shall include the pipeline and any related facilities incidental or necessary to the operation of the pipeline.*

§ 56-265.2:1. *Approval by Commission required for construction of certain gas pipelines and related facilities; notice and hearing.*

A. *Whenever a certificate is required pursuant to § 56-265.2 for the construction of a pipeline for the transmission or distribution of manufactured or natural gas, the Commission shall consider the effect of the pipeline on the environment, public safety, and economic development in the Commonwealth, and may establish such reasonably practical conditions as may be necessary to minimize any adverse environmental or public safety impact. In such proceedings, the Commission shall receive and consider all reports by state agencies concerned with environmental protection; and, if requested by any county or municipality in which the pipeline is proposed to be constructed, local comprehensive plans that have been adopted pursuant to Article 4 (§ 15.1-446.1 et seq.) of Chapter 11 of Title 15.1.*

B. *The Commission shall not approve construction of any such pipeline unless the public utility has provided thirty days' advance public notice of the proposed pipeline by (i) publishing a notice in a newspaper or newspapers of general circulation in each of the counties and municipalities through which the pipeline is proposed to be constructed, (ii) providing written notice to the governing body of each such county and municipality, and (iii) filing a copy of any plans, specifications, or maps of the proposed pipeline with the Commission, which plans, specifications, or maps shall be made available for public inspection at the Commission's business office, during normal business hours.*

C. *If, within thirty days after publication of a notice as required in subsection B of this section, any interested party requests a public hearing, the Commission shall, as soon as reasonably practicable after such request, hold a hearing at such place as may be designated by the Commission.*

D. *For the purposes of this section, "interested parties" means the governing bodies of any counties or municipalities through which the pipeline is to be constructed, and persons residing or owning property within one-half mile of such pipeline. For the purposes of this section, "environment" or "environmental" shall be deemed to include in meaning "historic."*

E. *If a significantly different route is determined more desirable after the giving of the notice*

required in subsection B of this section, the Commission shall cause notice of the new route or routes to be published in accordance with subsection B of this section. The Commission shall thereafter comply with the provisions of this section to the full extent necessary to give interested parties in the newly affected areas the same protection afforded interested parties affected by the route described in the original notice.

F. Approval of a pipeline pursuant to this section shall be deemed to satisfy and supersede the requirements of § 15.1-456 and local zoning ordinances with respect to such pipeline and related facilities; however, the Commission shall not approve the construction of a natural gas compressor station in an area zoned for residential use unless the public utility provides certification from the local governing body that the natural gas compressor station is consistent with the zoning ordinance. The certification required by this subsection shall be deemed to have been waived unless the local governing body informs the Commission and the public utility of the natural gas compressor station's compliance or noncompliance within forty-five days of the public utility's written request.