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SENATE BILL NO. 385

Senate Amendments in [] — January 31, 1996

A BILL to amend and reenact §§ 56-487, 56-493, 56-494, 56-501, 56-502, and 56-508 of the Code of Virginia, relating to public service companies; telephone cooperatives.

Patrons—Goode, Hanger, Hawkins, Holland, Lucas and Wampler; Delegate: Dudley

Referred to the Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That §§ 56-487, 56-493, 56-494, 56-501, 56-502, and 56-508 of the Code of Virginia are amended and reenacted as follows:

§ 56-487. Definitions.

The following terms, whenever used or referred to in this chapter, shall have the following meanings, unless a different meaning appears from the context:

(1) "Cooperative" shall mean a telephone corporation formed under this chapter.

(2) "Municipality" shall mean any city or incorporated town of the Commonwealth.

(3) "Person" shall mean and include natural persons, firms, associations, cooperatives, corporations, business trusts, partnerships and bodies politic.

(4) "Telephone service" shall mean and include service over wire or cable lines, including voice carrier, service by voice carrier system over electric distribution and transmission lines, service over radio circuits, and any other service involving the transmission of voice ~~or sound~~, video or data between fixed points.

(5) "Acquire" shall mean and include construct, acquire by purchase, lease, devise, gift or the exercise of the power of eminent domain, or other mode of acquisition.

(6) "System" shall mean and include any plant, works, system, facilities, or properties, or any part or parts thereof, together with all appurtenances thereto, used or useful in connection with the transmission of voice ~~or sound, or both~~, video or data.

(7) "Obligations" shall mean and include bonds, interim certificates or receipts, notes, debentures, and all other evidences of indebtedness either issued or the payment thereof assumed by a cooperative.

(8) "Federal agency" shall mean and include the United States of America, the President of the United States of America, and any and all other authorities, agencies, and instrumentalities of the United States of America, heretofore or hereafter created.

(9) "Improve" shall mean and include construct, reconstruct, improve, replace, extend, enlarge, alter, better or repair.

(10) "Board" shall mean the board of directors of a cooperative formed under this chapter.

(11) "Member" shall mean and include each ~~natural person signing the certificate of incorporation of a cooperative and each person~~ admitted to membership ~~therein~~ in the cooperative pursuant to law or its bylaws.

§ 56-493. Membership; voting; nonprofit operation.

A cooperative ~~shall~~ may issue to its members certificates of membership. Only members shall be entitled to vote at the meetings of the members of the cooperative. A member entitled to vote may vote in person or, unless the articles of incorporation or the bylaws otherwise provide, may vote by proxy executed in writing by the member, appointing some other member to cast his vote, or may vote by his duly authorized attorney-in-fact, who shall be a member. If a member is not voting in person, by proxy, or by attorney-in-fact, the spouse of such member shall be entitled to vote for the member, in person or by proxy, if permitted by the articles of incorporation or bylaws. No proxy shall be valid after eleven months from its date unless otherwise provided in the proxy. When directors or officers are to be elected by members, the bylaws may provide that such elections may be conducted by mail. The liability of each member shall be limited to the unpaid portion of his membership fee or subscription to capital stock, and any unpaid bills for telephone service from the cooperative. The equity of members of a nonstock cooperative shall be in proportion to the revenue paid the cooperative by each member. A cooperative shall be operated on a nonprofit basis for the mutual benefit of its members. The bylaws of the cooperative or its contract with its members shall contain such provisions relative to the disposition of revenues and receipts as may be necessary and appropriate to establish and maintain its nonprofit and cooperative character.

§ 56-494. Service to members; to nonmembers.

Except as hereinafter provided, the corporate purpose of each cooperative formed hereunder shall be to render service to its members only, and no person shall become or remain a member unless such

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60 person uses telephone service supplied by the cooperative and shall have complied with the terms and
61 conditions in respect to membership contained in the bylaws of the cooperative. Should the cooperative
62 acquire any telephone facilities already dedicated or devoted to the public use it may, for the purpose of
63 continuing existing service and avoiding hardship, continue to serve the persons served directly from
64 such facilities at the time of such acquisition without requiring that such persons become members. ~~In~~
65 ~~no event shall the number of such nonmembers served exceed forty-nine per centum of the total number~~
66 ~~of persons served by the cooperative. Such nonmember customers shall have the right to become~~
67 ~~members upon nondiscriminatory terms.~~

68 The rates to such nonmembers shall be on a cost basis similar to those charged members.

69 § 56-501. Rates and services.

70 A. A cooperative formed hereunder shall be required to furnish reasonably adequate services and
71 facilities ~~for [the transmission of voice between fixed points telephone service]~~, subject to the
72 regulations of the State Corporation Commission, as provided in § 56-502. The charge made by any
73 such cooperative for any service rendered or to be rendered, either directly or in connection therewith,
74 shall be nondiscriminatory, reasonable and just, and every discriminatory, unjust or unreasonable charge
75 for such service is prohibited and declared unlawful. Reasonable and just charges for service within the
76 meaning of this section shall be such charges as shall produce sufficient revenue to pay all legal and
77 other necessary expense incident to:

78 1. The operation of its system, to include maintenance cost, operating charges, interest charges on
79 bonds or other obligations;

80 2. The providing for the liquidation of bonds or other evidences of indebtedness;

81 3. The providing of adequate funds to be used as working capital, as well as reasonable reserves and
82 funds for making replacements; and

83 4. The providing for the payment of any taxes that may be assessed against such cooperative or its
84 property.

85 B. The intent and purpose of this section is that the charges described in subsection A of this section
86 shall produce an income sufficient to maintain such cooperative property in a sound physical and
87 financial condition to render adequate and efficient service. Any rate too low to meet the foregoing
88 requirements shall be unlawful. The Commission is authorized to promulgate any rules necessary to
89 implement this provision.

90 § 56-502. Regulation by State Corporation Commission.

91 Every cooperative organized under this chapter shall be subject to the jurisdiction of the State
92 Corporation Commission ~~with respect to [telephone] services and facilities [for the transmission of~~
93 ~~voice between fixed points]~~ in the same manner and to the same extent as are other similar utilities
94 under the laws of Virginia except that the powers of the Commission over the rates and service of
95 cooperatives shall be as defined by this chapter [, and except that where a cooperative establishes a
96 cable television system it shall be subject to § 15.1-23.1] .

97 § 56-508. Extension of service to territory not being served.

98 If, from any rural territory not now being served, application be made to the State Corporation
99 Commission by a group of five or more persons, natural or artificial, to require an extension of
100 telephone service to such territory [~~for the transmission of voice between fixed points~~] , the
101 Commission shall, if necessary to accomplish the purposes sought, fix a time for hearing upon the
102 application, on such terms and conditions as the Commission prescribes, and, if it be established to the
103 satisfaction of the Commission that a proper guaranteed revenue for a sufficient number of years will
104 accrue to any company which may be required to construct the desired extension, and that a reasonable
105 return will accrue to the company constructing the extension, then the Commission is authorized to
106 require the nearest, or most advantageously located public telephone company to such territory to
107 construct such extension to such point or points in such territory and to serve such customer or
108 customers therein, as in its judgment is deemed right and proper.