

VIRGINIA ACTS OF ASSEMBLY -- 1997 SESSION

CHAPTER 110

An Act to amend the Code of Virginia by adding in Article 6 of Chapter 1 of Title 56 a section numbered 56-46.3, relating to public service companies; foreign utility companies; penalties.

[S 846]

Approved March 6, 1997

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 6 of Chapter 1 of Title 56 a section numbered 56-46.3 as follows:

§ 56-46.3. Foreign utility companies; penalties.

A. The provisions of § 33 (a) (2) of the Public Utility Holding Company Act of 1935 (PUHCA), as amended, 15 U.S.C. § 79 et seq., stipulate that certain exemptions afforded a foreign utility company (FUCO) under § 33 (a) (1) of PUHCA are not applicable unless every state commission having jurisdiction over the retail electric or gas rates of a public utility company that is an associate company or an affiliate of a company otherwise exempted under said § 33 (a) (1) (other than a public utility company that is an associate company or an affiliate of a registered holding company under PUHCA) has certified to the United States Securities and Exchange Commission (SEC) that it has the authority and resources to protect ratepayers subject to its jurisdiction and that it intends to exercise its authority.

B. Upon application to the Commission by any person which (i) is an affiliated interest of a public service company, as such terms are defined in Chapter 4 (§ 56-76 et seq.) of this title, (ii) proposes to invest in or acquire a specific FUCO, and (iii) is not a registered holding company under PUHCA, and subject to the proviso contained herein, the Commission shall have the authority to impose upon, and require of, the applicant, the public service company, and any other "affiliated interests" of such public service company, such terms, conditions, limitations, restrictions, undertakings and commitments as the Commission deems necessary to protect the public interest from any adverse effects attributable to such proposed FUCO investment or acquisition, including such provisions for the enforcement thereof as the Commission shall deem necessary; and, upon doing so, may certify to the SEC that the Commission has the authority and resources to protect the ratepayers of such public service company subject to its jurisdiction and that it intends to exercise its authority; provided, however, that such applicant, the public service company, and such other affiliated interests of such public service company shall have furnished to the Commission, prior to delivery of said certification to the SEC, and in the manner prescribed by the Commission, a written statement accepting all such terms, conditions, limitations, restrictions, undertakings and commitments, as the Commission shall have so specified.

C. The Commission shall have the power to enforce the terms, conditions, limitations, restrictions, undertakings and commitments upon which said certification was based, including the power to penalize for and enjoin the violation or attempted violation thereof, and to issue mandatory injunctions requiring such actions as may be in the public interest to remedy any such violation or attempted violation. Any person committing any such violation or attempted violation, or failing or refusing to obey any order or injunction of the Commission issued under this section, may be fined by the Commission such sum, not exceeding \$100,000, as the Commission may deem proper, and each day's continuance of such condition shall be a separate offense.