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## HOUSE BILL NO. 755

Offered January 23, 1998

A *BILL to amend and reenact §§ 56-265.2 and 56-265.3 of the Code of Virginia, relating to public utilities; certificate of convenience and necessity; acquisition of new facilities.*

Patron—Scott

Referred to Committee on Corporations, Insurance and Banking

**Be it enacted by the General Assembly of Virginia:****1. That §§ 56-265.2 and 56-265.3 of the Code of Virginia are amended and reenacted as follows:**

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

A. ~~It~~ *Except as provided herein*, 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, without first having obtained a certificate from the Commission that the public convenience and necessity require the exercise of such right or privilege. Any certificate required by this section shall be issued by the Commission only after 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.

D. This section shall be subject to the requirements of § 56-265.3, if any, and nothing herein shall be construed to supersede § 56-265.3.

E. *The provisions of this section shall not be applicable to any public utility, as it relates to a non-nuclear electric generating facility, located in a portion of the Commonwealth for which one or more independent system operators has been approved by the Federal Energy Regulatory Commission to coordinate and control the operation of the interconnected electric energy transmission grid system.*

§ 56-265.3. Certificate to furnish public utility service; allotment of territory transfers, leases or amendments.

A. ~~No~~ *Except as provided herein*, no public utility shall begin to furnish public utility service within the Commonwealth without first having obtained from the Commission a certificate of public convenience and necessity authorizing it to furnish such service. Any company engaged in furnishing a public utility service in this Commonwealth as of July 1, 1950, shall, upon filing maps with the Commission within ninety days from such date, showing the territory now being served by it, be entitled to receive a certificate of convenience and necessity authorizing it to begin to furnish such public utility service in such territory. Also, any company that is granted authority under the Public Utilities Securities Act, Chapter 3 (§ 56-55 et seq.) of this title to issue securities for the purpose of constructing or extending facilities described in the application for such authority, shall, if the application was filed with the State Corporation Commission before February 1, 1950, have the same right to a certificate of convenience and necessity that it would have had if the facilities had been in operation and serving the public on February 1, 1950. Any company which was engaged in furnishing a public utility service in this Commonwealth as of July 1, 1950, and which is now so engaged in providing the same kind of service, and which could have filed maps with the Commission in accordance with the requirements of this section but failed to do so, may file such maps not later than January 1, 1974, showing the territory now being served by it, and be entitled to receive a certificate of convenience and necessity authorizing

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60 it to continue to furnish the same kind of public utility service in such areas to the same extent as if it  
61 had filed maps as of July 1, 1950.

62 B. On initial application by any company, the Commission, after formal or informal hearing upon  
63 such notice to the public as the Commission may prescribe, may, by issuance of a certificate of  
64 convenience and necessity, allot territory for development of public utility service by the applicant if the  
65 Commission finds such action in the public interest.

66 C. If the initial application provides for the furnishing of water or sewerage service within any  
67 political subdivision in which there has been created an authority for either or both of such purposes  
68 pursuant to Chapter 2851 (§ ~~45.1-1239~~ 15.2-5100 et seq.) of Title ~~45.1~~ 15.2, the Commission shall not  
69 hold any hearing on such application or issue any certificate for the allotment of territory unless the  
70 application shall first have been approved by the governing body of the political subdivision in which  
71 the territory is located. In any area where a water company was in existence and furnishing water prior  
72 to the formation of an authority to provide water, the Commission may hold a hearing on an application  
73 and issue a certificate to the water company for that territory which was served prior to the creation of  
74 the authority whether or not the governing body of the political subdivision has approved the  
75 application. In any area where a sewer company was in existence and furnishing sewer services prior to  
76 the formation of an authority to provide sewer services, the Commission may hold a hearing on an  
77 application and issue a certificate to the sewer company for that territory which was served prior to the  
78 creation of the authority whether or not the governing body of the political subdivision has approved the  
79 application.

80 D. If the Commission finds it to be in the public interest, upon the application of a holder of a water  
81 or sewer certificate, such certificate may be transferred, leased or amended after such reasonable notice  
82 to the public and opportunity to be heard as the Commission by order may prescribe. The Commission  
83 may authorize the transfer, lease, or amendment of the certificate subject to such restrictions as the  
84 Commission finds will promote the public interest.

85 E. The Commission is authorized to promulgate any rules necessary to implement this section.

86 *F. The provisions of this section shall not be applicable to any public utility, as it relates to a*  
87 *non-nuclear electric generating facility, located in a portion of the Commonwealth for which one or*  
88 *more independent system operators has been approved by the Federal Energy Regulatory Commission to*  
89 *coordinate and control the operation of the interconnected electric energy transmission grid system.*