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SENATE BILL NO. 295

Offered January 20, 1998

A *BILL to amend and reenact §§ 56-240 and 56-265.3 of the Code of Virginia, relating to public service companies; certificate to furnish public utility service; refund or credit for excessive charges.*

Patron—Reynolds

Referred to the Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That §§ 56-240 and 56-265.3 of the Code of Virginia are amended and reenacted as follows:

§ 56-240. Proposed rates, etc., or changes thereof, not suspended effective subject to later change by Commission; refund or credit; appeal; investor-owned public utilities required to show increase complies with § 56-235.2.

Unless the Commission so suspends such schedule of rates, tolls, charges, rules and regulations, or changes thereof, the same shall go into effect as originally filed by any public utility as defined in § 56-232, upon the date specified in the schedule subject, however, to the power of the Commission, upon investigation thereafter, to fix and order substituted therefor such rate or rates, tolls, charges, rules, or regulations, as shall be just and reasonable, as provided in §§ 56-235 and 56-247. The Commission may thereupon, in its discretion, order such public utility to refund or give credit promptly to the parties entitled thereto any portion or all of the charges originally filed by the public utility which may have been collected or received in excess of those charges finally fixed and ordered substituted therefor by the Commission. *Rates of any utility found to be operating in violation of § 56-265.3 may be deemed subject to refund by the Commission, on its own motion, at any time. Any amount refunded or credited from a public utility operating without a certificate of public convenience and necessity shall also include interest.*

From any action of the Commission in prescribing rates, refunds, credits, tolls, charges, rules and regulations or changes thereof, an appeal may be taken by the corporation whose rates, refunds, credits, tolls, charges, rules and regulations or changes thereof are affected, or by the Commonwealth, or by any person deeming himself aggrieved by such action.

No rate increase shall go into effect under the provisions of this section for an investor-owned gas, telephone or electric public utility unless such public utility has filed with its schedule information and data designed to show that any increase complies with the just and reasonable requirements of § 56-235.2, and unless based thereon the Commission finds a reasonable probability that the increase will be justified upon full investigation and hearing. The Commission is authorized to promulgate any rules necessary to implement this provision.

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

A. 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 it to continue to furnish the same kind of public utility service in such areas to the same extent as if it had filed maps as of July 1, 1950. *Any public utility operating without a certificate of convenience and necessity in violation of this section is nevertheless subject to rate suspension and rate refunds with interest as provided for in § 56-240.*

B. On initial application by any company, the Commission, after formal or informal hearing upon

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60 such notice to the public as the Commission may prescribe, may, by issuance of a certificate of
61 convenience and necessity, allot territory for development of public utility service by the applicant if the
62 Commission finds such action in the public interest.

63 C. If the initial application provides for the furnishing of water or sewerage service within any
64 political subdivision in which there has been created an authority for either or both of such purposes
65 pursuant to Chapter 28 (§ 15.1-1239 et seq.) of Title 15.1, the Commission shall not hold any hearing
66 on such application or issue any certificate for the allotment of territory unless the application shall first
67 have been approved by the governing body of the political subdivision in which the territory is located.
68 In any area where a water company was in existence and furnishing water prior to the formation of an
69 authority to provide water, the Commission may hold a hearing on an application and issue a certificate
70 to the water company for that territory which was served prior to the creation of the authority whether
71 or not the governing body of the political subdivision has approved the application. In any area where a
72 sewer company was in existence and furnishing sewer services prior to the formation of an authority to
73 provide sewer services, the Commission may hold a hearing on an application and issue a certificate to
74 the sewer company for that territory which was served prior to the creation of the authority whether or
75 not the governing body of the political subdivision has approved the application.

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

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