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HOUSE BILL NO. 1804

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the House Committee on Commerce and Labor
on January 25, 2005)

(Patron Prior to Substitute—Delegate Marshall, R.G.)

A BILL to amend and reenact § 56-1 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 56-1.3, relating to the regulation of voice-over-Internet protocol service.

Be it enacted by the General Assembly of Virginia:

1. That § 56-1 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 56-1.3, as follows:

§ 56-1. Definitions.

Whenever used in any chapter under this title, the following terms, words and phrases shall have the meaning and shall include what is specified in this section, unless the contrary plainly appears, that is to say unless the context requires a different meaning:

"Broadband connection," for purposes of this section, means a connection where transmission speeds exceed 200 kilobits per second in both directions.

The words "the Commission" shall mean the State Corporation Commission.

The word "corporation" or "company" shall include all corporations created by acts of the General Assembly of Virginia, or under the general incorporation laws of this Commonwealth, or doing business therein, and shall exclude all municipal corporations, other political subdivisions, and public institutions owned or controlled by the Commonwealth.

The words "interexchange telephone service" shall mean telephone service between points in two or more exchanges, which is not classified as local exchange telephone service. "Interexchange telephone service" shall not include voice-over-Internet protocol service for purposes of regulation by the Commission, including the imposition of certification processing fees and other administrative requirements, and the filing or approval of tariffs. Nothing herein shall be construed to either mandate or prohibit the payment of switched network access rates or other intercarrier compensation, if any, related to voice-over-Internet protocol service.

The words "Virginia limited liability company" shall mean (i) any limited liability company organized under Chapter 12 (§ 13.1-1000 et seq.) of Title 13.1, or (ii) any foreign limited liability company that is organized or is domesticated by filing articles of organization that meet the requirements of §§ 13.1-1003 and 13.1-1011 and include (a) the name of the foreign limited liability company immediately prior to the filing of the articles of organization; (b) the date on which and the jurisdiction in which the foreign limited liability company was first formed, organized, created or otherwise came into being; and (c) the jurisdiction that constituted the seat, siege social, or principal place of business or central administration of the foreign limited liability company, or any equivalent thereto under applicable law, immediately prior to the filing of the articles of organization. The terms and conditions of a domestication of a foreign limited liability company as a limited liability company shall be approved in the manner provided for by the document, instrument, agreement or other writing, as the case may be, governing the internal affairs of the foreign limited liability company in the conduct of its business or by applicable law other than the law of this Commonwealth, as appropriate. The provisions governing the status, powers, obligations, and choice of law applicable under § 13.1-1010.3 shall apply to any limited liability company domesticated or organized in accordance with this process.

The words "local exchange telephone service" shall mean telephone service provided in a geographical area established for the administration of communication services and consists of one or more central offices together with associated facilities which are used in providing local exchange service. Local exchange service, as opposed to interexchange service, consists of telecommunications between points within an exchange or between exchanges which are within an area where customers may call at rates and charges specified in local exchange tariffs filed with the Commission. "Local exchange telephone service" shall not include voice-over-Internet protocol service for purposes of regulation by the Commission, including the imposition of certification processing fees and other administrative requirements, and the filing or approval of tariffs. Nothing herein shall be construed to either mandate or prohibit the payment of switched network access rates or other intercarrier compensation, if any, related to voice-over-Internet protocol service.

The word "person" shall include "Person" includes individuals, partnerships and corporations.

The words "public service corporation" or "public service company" shall include gas, pipeline, electric light, heat, power and water supply companies, sewer companies, telephone companies, telegraph companies, and all persons authorized to transport passengers or property as a common carrier. "Public service corporation" or "public service company" shall not include a municipal

60 corporation, other political subdivision or public institution owned or controlled by the Commonwealth;
61 however, if such an entity has obtained a certificate to provide services pursuant to § 56-265.4:4, then
62 such entity shall be deemed to be a public service corporation or public service company and subject to
63 the authority of the Commission with respect only to its provision of the services it is authorized to
64 provide pursuant to such certificate.

65 The word "railroad" shall include "Railroad" includes all railroad or railway lines, whether operated
66 by steam, electricity, or other motive power, except when otherwise specifically designated.

67 The words "railroad "Railroad company" shall include includes any company, trustee or other person
68 owning, leasing or operating a railroad.

69 The word "rate" shall be considered to mean "Rate" means "rate charged for any service rendered or
70 to be rendered."

71 The words "rate"Rate," "charge" and "regulation" shall include joint rates, joint charges and joint
72 regulations, respectively.

73 The words "transportation "Transportation company" shall include includes any railroad company,
74 any company transporting express by railroad, and any ship or boat company.

75 "Virginia limited liability company" means (i) any limited liability company organized under Chapter
76 12 (§ 13.1-1000 et seq.) of Title 13.1, or (ii) any foreign limited liability company that is organized or is
77 domesticated by filing articles of organization that meet the requirements of §§ 13.1-1003 and 13.1-1011
78 and include (a) the name of the foreign limited liability company immediately prior to the filing of the
79 articles of organization; (b) the date on which and the jurisdiction in which the foreign limited liability
80 company was first formed, organized, created or otherwise came into being; and (c) the jurisdiction that
81 constituted the seat, siege social, or principal place of business or central administration of the foreign
82 limited liability company, or any equivalent thereto under applicable law, immediately prior to the filing
83 of the articles of organization. The terms and conditions of a domestication of a foreign limited liability
84 company as a limited liability company shall be approved in the manner provided for by the document,
85 instrument, agreement or other writing, as the case may be, governing the internal affairs of the foreign
86 limited liability company in the conduct of its business or by applicable law other than the law of this
87 Commonwealth, as appropriate. The provisions governing the status, powers, obligations, and choice of
88 law applicable under § 13.1-1010.3 shall apply to any limited liability company domesticated or
89 organized in accordance with this process.

90 "Voice-over-Internet protocol service" or "VoIP service" means any Internet protocol enabled
91 services utilizing a broadband connection, actually terminating in Internet Protocol form at either or
92 both ends of a channel of communication offering real time, multi-directional voice functionality,
93 including, but not limited to, services that mimic traditional telephone service. Transmission paths to
94 facilitate Voice-over-Internet protocol applications or services, or both, utilize the Internet, a global,
95 packet switched group of networks consisting of interconnected public, private, managed and
96 non-managed Internet protocol networks. Internet protocol-enabled services consist of IP networks.

97 § 56-1.3. Regulation of voice-over-Internet protocol service.

98 Notwithstanding any provision of law to the contrary:

99 1. "Telecommunications service" and "telephone service" shall not include the provision of
100 voice-over-Internet protocol service for purposes of regulation by the Commission.

101 2. The Commission shall not have jurisdiction with respect to the regulation of voice-over-Internet
102 protocol service, including but not limited to the imposition of regulatory fees, certification
103 requirements, and the filing or approval of tariffs.

104 3. Nothing herein shall be construed to either mandate or prohibit the payment of switched network
105 access rates or other intercarrier compensation, if any, related to voice-over-Internet protocol service,
106 as may be determined by the Commission.