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HOUSE BILL NO. 1052

Offered January 13, 2010

Prefiled January 13, 2010

A BILL to amend and reenact §§ 56-237, 56-238, 56-240, and 56-245 of the Code of Virginia, relating to interim or temporary electric utility rate increases.

Patrons—Armstrong, Crockett-Stark, Merricks and Phillips; Senator: Reynolds

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That §§ 56-237, 56-238, 56-240, and 56-245 of the Code of Virginia are amended and reenacted as follows:

§ 56-237. How changes in rates effected; notice required; changes to be indicated on schedules.

No change shall be made in any schedule filed pursuant to the preceding section (§ 56-236) § 56-236, including schedules of joint rates, except after ~~thirty~~ 30 days' notice to the Commission, in such manner as the Commission may require, and to the public, in such manner as prescribed in § 56-237.1, and all such changed rates, tolls, charges, rules, and regulations shall be plainly indicated upon existing schedules or by filing new schedules in lieu thereof not less than ~~thirty~~ 30 days prior to the time the same are to take effect; provided, that (i) the Commission may, in particular cases, authorize or prescribe a less time in which changes may be made; and provided further that, (ii) in the case of water companies, the notice to the public shall set forth the proposed rates and charges; and (iii) *in the case of electric public utilities, no change shall be made in any schedule filed pursuant to § 56-236 unless and until approved by the Commission.*

§ 56-238. Suspension of proposed rates, etc.; investigation; effectiveness of rates pending investigation and subject to bond; fixing reasonable rates, etc.

The Commission, either upon complaint or on its own motion, may suspend the enforcement of any or all of the proposed rates, tolls, charges, rules or regulations, for a period not exceeding 150 days from the date of filing, during which time it shall investigate the reasonableness or justice of the proposed rates, tolls, charges, rules and regulations and thereupon fix and order substituted therefor such rates, tolls, charges, rules and regulations as shall be just and reasonable. Notice of the suspension of any proposed rate, toll, charge, rule or regulation shall be given by the Commission to the public utility, prior to the expiration of the ~~thirty~~ 30 days' notice to the Commission and the public heretofore provided for. If the proceeding has not been concluded and an order made at the expiration of the suspension period, after notice to the Commission by the public utility making the filing, the proposed rates, tolls, charges, rules or regulations shall go into effect. Where increased rates, tolls or charges are thus made effective, the Commission shall, by order, require the public utility to furnish a bond, to be approved by the Commission, to refund any amounts ordered by the Commission, to keep accurate accounts in detail of all amounts received by reason of such increase, and upon completion of the hearing and decision, to order such public utility to refund, with interest at a rate set by the Commission, the portion of such increased rates, tolls or charges by its decision found not justified. The Commission shall prescribe all necessary rules and regulations to effectuate the purposes of this section on or before September 1, 1980. *This section does not apply to electric public utilities, which are not authorized to make a change in any schedule filed pursuant to § 56-236 unless and until a proposed change is approved by the Commission.*

§ 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 *other than an electric public utility*, 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, as of the date of the Commission's order finding that the utility was operating in violation of § 56-265.3. Such

59 rates shall then be interim in nature and subject to refund until such time as the Commission has
60 determined the appropriateness of the rates. Any amount of the rates found excessive by the
61 Commission shall be subject to refund with interest, as may be ordered by the Commission.

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

66 No rate increase shall go into effect under the provisions of this section for an investor-owned gas;
67 or telephone or electric public utility unless such public utility has filed with its schedule information
68 and data designed to show that any increase complies with the just and reasonable requirements of
69 § 56-235.2, and unless based thereon the Commission finds a reasonable probability that the increase
70 will be justified upon full investigation and hearing. *No electric public utility shall make a change in*
71 *any schedule filed pursuant to § 56-236 unless and until a proposed change is approved by the*
72 *Commission.* The Commission is authorized to promulgate any rules necessary to implement this
73 provision.

74 § 56-245. Temporary increase in rates.

75 Whenever the Commission, upon petition of any public utility *other than an electric public utility*, is
76 of the opinion and so finds, after an examination of the reports, annual or otherwise, filed with the
77 Commission by such public utility, together with any other facts or information which the Commission
78 may acquire or receive from an investigation of the books, records or papers, or from an inspection of
79 the property of such public utility, or upon evidence introduced by such public utility, that an emergency
80 exists, and that the public utility has made a preliminary showing of all the elements of § 56-235.2
81 sufficient to demonstrate a reasonable probability that the increase will be justified upon full
82 investigation and hearing and is of the opinion and so finds that a hearing to determine all of the issues
83 involved in the final determination of the rates or service will require more than ~~ninety~~ 90 days of
84 elapsed time, the Commission may, in case of such emergency, enter a temporary order fixing a
85 temporary schedule of rates, which order shall be forthwith binding upon such utility and its customers;
86 provided, however, that when the Commission orders an increase in the rates or charges of any public
87 utility by means of such temporary order, it shall require such utility to enter into bond in such amount
88 and with such security as the Commission shall approve, payable to the Commonwealth, and conditioned
89 to insure prompt refund by such public utility, to those entitled thereto, of all amounts which such
90 public utility shall collect or receive in excess of such rates and charges as may be finally fixed and
91 determined by the Commission; and provided, further, however, that no such temporary order shall
92 remain in force or effect for a longer period than nine months from its effective date, and a further
93 period not to exceed three months in addition if so ordered by the Commission.