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HOUSE BILL NO. 1770

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the House Committee on Commerce and Labor
on January 29, 2013)

(Patron Prior to Substitute—Delegate Miller)

A BILL to amend the Code of Virginia by adding a section numbered 56-235.10, relating to natural gas utilities; recovery of eligible safety activity costs.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 56-235.10 as follows:

§ 56-235.10. Recovery of eligible safety activity costs; administration; procedure.

A. As used in this section:

"Eligible safety activity costs" means a natural gas utility's operation and maintenance expenditures that are related to (i) the development, implementation, or execution of the natural gas utility's integrity management program developed in conformance with 49 CFR Part 192, Subpart P - Gas Distribution Pipeline Integrity Management or (ii) programs or measures implemented to comply with regulations issued by the Commission or a federal regulatory body with jurisdiction over pipeline safety.

"Natural gas utility" means any investor-owned public service company engaged in the business of furnishing natural gas service to the public.

B. In order to enhance pipeline safety in the Commonwealth, when the requirements of this section have been satisfied, a natural gas utility shall be permitted to recover eligible safety activity costs incurred on and after January 1, 2013, in future rates as provided in this section. The natural gas utility shall maintain the burden of demonstrating that the eligible safety activity costs have been reasonably and prudently incurred and that the criteria of this section have been satisfied.

C. A natural gas utility may account for eligible safety activity costs to be recovered pursuant to this section as deferred costs. The accumulated unrecovered balance of eligible safety activity costs deferred pursuant to this section shall not exceed four percent of the natural gas utility's net plant investment that was utilized in establishing or confirming base rates in the natural gas utility's most recent rate case using the cost of service methodology set forth in § 56-235.2 or performance-based regulation plan authorized by § 56-235.6. The eligible safety activity costs deferred hereunder shall be included in new base rates and charges instituted pursuant to a Commission order establishing or confirming customer rates in a rate case using the cost of service methodology set forth in § 56-235.2 or a performance-based regulation plan authorized by § 56-235.6. Such deferred costs shall not be subject to write-off or write-down by the Commission in an earnings test filing made pursuant to Commission rules governing utility rate increases and annual informational filings except as provided in this subsection. The natural gas utility shall be deemed to have recovered eligible safety activity costs to the extent that the return on equity earned by the natural gas utility in an earnings test filing for a given year, after consideration of the treatment of regulatory assets, is in excess of the mid-point of the rate of return on equity range specified or confirmed in the natural gas utility's most recent rate case or performance-based regulation plan. Notwithstanding the foregoing, in the event that a utility's base rates include eligible safety activity costs, the utility shall only be permitted to defer the level of eligible safety activity costs that are in excess of the level reflected in base rates.

D. Any natural gas utility that has on its books eligible safety activity costs deferred pursuant to this section shall include an earnings test filing as part of any application for an annual informational filing or rate proceeding.