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HOUSE BILL NO. 1288

Offered January 20, 2022

A BILL to amend and reenact §§ 56-234.2, 56-235, 56-235.2, and 56-581 of the Code of Virginia, relating to public utilities; rate review by the State Corporation Commission.

Patrons—Hudson and Ware

Referred to Committee on Commerce and Energy

Be it enacted by the General Assembly of Virginia:

1. That §§ 56-234.2, 56-235, 56-235.2, and 56-581 of the Code of Virginia are amended and reenacted as follows:

§ 56-234.2. Review of rates.

The Commission shall review the rates of any public utility on an annual basis when, in the opinion of the Commission, such annual review is in the public interest, provided that the rates of a public utility subject to § 56-585.1 shall be reviewed in accordance with subsection A of that section. *If the Commission finds that the rates of a public utility subject to § 56-585.1 are not just and reasonable pursuant to § 56-235.2, the Commission may take any corrective action authorized in § 56-235.*

§ 56-235. When Commission may fix rates, schedules, etc.; conformance with chapter.

If upon investigation the rates, tolls, charges, schedules, or joint rates of any public utility operating in ~~this~~ the Commonwealth, *including any public utility subject to § 56-585.1*, shall be found to be unjust, unreasonable, insufficient, or unjustly discriminatory or to be preferential or otherwise in violation of any of the provisions of law, the State Corporation Commission shall have power to fix and order substituted therefor such rate or rates, tolls, charges, or schedules as shall be just and reasonable. *The Commission may conduct such investigation on its own initiative or upon application by an affected party.* All rates, tolls, charges, or schedules set by the Commission shall be valid only if they are in full conformance with the provisions of this chapter. *Nothing in subsection C of § 56-585.1 shall limit the Commission's authority under this section to ensure that rates are just and reasonable pursuant to § 56-235.2 for any public utility subject to § 56-585.1.*

§ 56-235.2. All rates, tolls, etc., to be just and reasonable to jurisdictional customers; findings and conclusions to be set forth; alternative forms of regulation for electric companies.

A. Any rate, toll, charge, or schedule of any public utility operating in ~~this~~ the Commonwealth, *including any public utility subject to § 56-585.1*, shall be considered to be just and reasonable only if: ~~(1)~~ (i) the public utility has demonstrated that such rates, tolls, charges, or schedules in the aggregate provide revenues not in excess of the aggregate actual costs incurred by the public utility in serving customers within the jurisdiction of the Commission, including such normalization for nonrecurring costs and annualized adjustments for future costs as the Commission finds reasonably can be predicted to occur during the rate year, and a fair return on the public utility's rate base used to serve those jurisdictional customers, which return shall be calculated in accordance with § 56-585.1 for utilities subject to such section; ~~(1a)~~ (ii) the investor-owned public electric utility has demonstrated that no part of such rates, tolls, charges, or schedules includes costs for advertisement, except for advertisements either required by law or rule or regulation; or for advertisements ~~which~~ that solely promote the public interest, conservation, or more efficient use of energy; and ~~(2)~~ (iii) the public utility has demonstrated that such rates, tolls, charges, or schedules contain reasonable classifications of customers. Notwithstanding § 56-234, the Commission may approve, either in the context of or apart from a rate proceeding after notice to all affected parties and *public* hearing, special rates, contracts, or incentives to individual customers or classes of customers where it finds such measures are in the public interest. Such special charges shall not be limited by the provisions of § 56-235.4. In determining costs of service, the Commission may use the test year method of estimating revenue needs. In any Commission order establishing a fair and reasonable rate of return for an investor-owned gas, telephone, or electric public utility, the Commission shall set forth the findings of fact and conclusions of law upon which such order is based.

For ratemaking purposes, the Commission shall determine the federal and state income tax costs for investor-owned water, gas, or electric utility that is part of a ~~publicly-traded~~ *publicly traded*, consolidated group as follows: ~~(1)~~ (a) such utility's apportioned state income tax costs shall be calculated according to the applicable statutory rate, as if the utility had not filed a consolidated return with its affiliates, and ~~(1b)~~ (b) such utility's federal income tax costs shall be calculated according to the applicable federal income tax rate and shall exclude any consolidated tax liability or benefit adjustments originating from any taxable income or loss of its affiliates.

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59 B. The Commission shall, before approving special rates, contracts, incentives, or other alternative
60 regulatory plans under subsection A, ensure that such action (i) protects the public interest, (ii) will not
61 unreasonably prejudice or disadvantage any customer or class of customers, and (iii) will not jeopardize
62 the continuation of reliable electric service.

63 C. After notice and public hearing, the Commission shall issue guidelines for special rates adopted
64 pursuant to subsection A that will ensure that other customers are not caused to bear increased rates as a
65 result of such special rates.

66 **§ 56-581. Regulation of rates subject to Commission's jurisdiction.**

67 A. After the expiration or termination of capped rates except as provided in § 56-585.1, the
68 Commission shall regulate the rates of investor-owned incumbent electric utilities for the transmission of
69 electric energy, to the extent not prohibited by federal law, and for the generation of electric energy and
70 the distribution of electric energy to retail customers pursuant to § 56-585.1. *However, if the Commission*
71 *finds that the rates of a public utility subject to § 56-585.1 are not just and reasonable pursuant to*
72 *§ 56-235.2, the Commission may take any corrective action authorized in § 56-235.*

73 B. Beginning July 1, 1999, and thereafter, no cooperative that was a member of a power supply
74 cooperative on January 1, 1999, shall be obligated to file any rate rider as a consequence of an increase
75 or decrease in the rates, other than fuel costs, of its wholesale supplier, nor must any adjustment be
76 made to such cooperative's rates as a consequence thereof.

77 C. Except for the provision of default services under § 56-585 or emergency services in § 56-586,
78 nothing in this chapter shall authorize the Commission to regulate the rates or charges for electric
79 service to the Commonwealth and its municipalities.