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SENATE BILL NO. 1321

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Senate Committee on Commerce and Labor
on January 30, 2023)

(Patrons Prior to Substitute—Senators McClellan and Deeds)

A *BILL to amend and reenact § 56-581 of the Code of Virginia, relating to Virginia Electric Utility Regulation Act; regulation of rates.*

Be it enacted by the General Assembly of Virginia:

1. That § 56-581 of the Code of Virginia is amended and reenacted as follows:

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

A. ~~After the expiration or termination of capped rates except as provided in § 56-585.1, the~~ The Commission shall regulate the rates of investor-owned incumbent electric utilities for the transmission of electric energy, to the extent not prohibited by federal law, and for the generation of electric energy and the distribution of electric energy to retail customers pursuant to *this section and § 56-585.1.*

B. *In any proceeding to review base rates for a Phase I Utility that commences after July 1, 2023, if the Commission determines in its sole discretion that the utility's existing base rates will, on a going-forward basis, either produce (i) revenues in excess of the utility's authorized rate of return or (ii) revenues below the utility's authorized rate of return, then, notwithstanding any provision of law governing rate proceedings, the Commission shall order any reductions or increases, as applicable and necessary, to such base rates that it deems appropriate to ensure the resulting base rates (a) are just and reasonable and (b) provide the utility an opportunity to recover its costs of providing services over the rate period ending on December 31 of the year of the utility's succeeding review and earn a fair rate of return authorized pursuant to the provisions governing such review proceeding. Such determination shall be limited to the Phase I Utility's base rates and shall not consider the costs or revenues recovered in any rate adjustment clause authorized pursuant to this chapter.*

C. *In any proceeding to review base rates for a Phase II Utility that commences after July 1, 2023, if the Commission determines in its sole discretion that the utility's existing base rates will, on a going-forward basis, either produce (i) revenues in excess of the utility's authorized rate of return or (ii) revenues below the utility's authorized rate of return, then, notwithstanding any provision of subdivision A 8 of § 56-585.1, the Commission shall order any reductions or increases, as applicable and necessary, to such base rates that it deems appropriate to ensure the resulting base rates (a) are just and reasonable and (b) provide the utility an opportunity to recover its costs of providing services over the rate period ending on December 31 of the year of the utility's succeeding review and earn a fair rate of return authorized pursuant to the provisions governing such review proceeding. Such determination shall be limited to the Phase II Utility's base rates and shall not consider the costs or revenues recovered in any rate adjustment clause authorized pursuant to subdivision A 6 of § 56-585.1 that has not been combined with the utility's base rates. The Commission shall use the most recently ended 12-month test period, along with normalization of nonrecurring test period costs and annualized adjustments for future costs, as the basis for determining the appropriateness of any rate adjustment. In any such filing to review base rates, a Phase II Utility shall separately project future costs over each 12-month period ending on December 31 of the year of the utility's succeeding review period. The Commission may, to the extent it finds such action aligns with the utility's projected cost of service, direct that any reduction or increase to the utility's rates for generation and distribution services be implemented on a staggered basis at the commencement and midpoint of the succeeding rate period.*

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

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

F. *As used in this section:*

"Base rates" means rates for generation and distribution services.

"Phase I Utility" has the same meaning as provided in subdivision A 1 of § 56-585.1.

"Phase II Utility" has the same meaning as provided in subdivision A 1 of § 56-585.1.