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SENATE BILL NO. 708

Offered January 19, 2024

A *BILL to amend and reenact § 56-585.1:5 of the Code of Virginia, relating to pilot program for underground transmission lines; qualifying projects.*

Patrons—Perry and Subramanyam

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That § 56-585.1:5 of the Code of Virginia is amended and reenacted as follows:

§ 56-585.1:5. Pilot program for underground transmission lines.

A. There is hereby established a pilot program to further the understanding of underground electric transmission lines in regard to electric reliability, construction methods and related cost and timeline estimating, the probability of meeting such projections, and the benefits of undergrounding existing electric transmission lines to promote economic development within the Commonwealth. The pilot program shall consist of the approval to construct qualifying electrical transmission lines of 230 500 kilovolts or less (but greater than 69 kilovolts) in whole or in part underground. ~~Such pilot program shall consist of a total of two qualifying electrical transmission line projects, constructed in whole or in part underground, as specified and set forth in this section.~~

B. Notwithstanding any other law to the contrary, as a part of the pilot program established pursuant to this section, the Commission shall approve as a qualifying project a transmission line of 230 kilovolts or less that is pending final approval of a certificate of public convenience and necessity from the Commission as of December 31, 2017, for the construction of an electrical transmission line approximately 5.3 miles in length utilizing both overhead and underground transmission facilities, of which the underground portion shall be approximately 3.1 miles in length, which has been previously proposed for construction within or immediately adjacent to the right-of-way of an interstate highway. Once the Commission has affirmed the project need through an order, the project shall be constructed in part underground, and the underground portion shall consist of a double circuit.

The Commission shall approve such underground construction within 30 days of receipt of the written request of the public utility to participate in the pilot program pursuant to this section. The Commission shall not require the submission of additional technical and cost analyses as a condition of its approval but may request such analyses for its review. The Commission shall approve the underground construction of one contiguous segment of the transmission line that is approximately 3.1 miles in length that was previously proposed for construction within or immediately adjacent to the right-of-way of the interstate highway, for which, by resolution, the locality has indicated general community support. The remainder of the construction for the transmission line shall be aboveground. The Commission shall not be required to perform any further analysis as to the impacts of this route, including environmental impacts or impacts upon historical resources.

The electric utility may proceed to acquire right-of-way and take such other actions as it deems appropriate in furtherance of the construction of the approved transmission line, including acquiring the cables necessary for the underground installation.

C. In reviewing applications submitted by public utilities for certificates of public convenience and necessity for the construction of electrical transmission lines of 230 kilovolts or less filed between July 1, 2018, and October 1, 2020, the Commission shall approve, consistent with the requirements of subsection ~~D~~ E, ~~one~~ *an* additional application as a qualifying project to be constructed in whole or in part underground, as a part of this pilot program. The ~~one~~ qualifying project shall be in addition to the qualifying project described in subsection B and shall be the relocation or conversion of an existing 230-kilovolt overhead line to an underground line. *For purposes of this subsection, a project shall be qualified to be placed underground, in whole or in part, if it meets all of the following criteria: (i) an engineering analysis demonstrates that it is technically feasible to place the proposed line, in whole or in part, underground; (ii) the governing body of each locality in which a portion of the proposed line will be placed underground indicates, by resolution, general community support for the project and that it supports the transmission line to be placed underground; (iii) a project has been filed with the Commission or is pending issuance of a certificate of public convenience and necessity by October 1, 2020; (iv) the estimated additional cost of placing the proposed line, in whole or in part, underground does not exceed \$40 million or, if greater than \$40 million, the cost does not exceed 2.5 times the cost of placing the same line overhead, assuming accepted industry standards for undergrounding to ensure safety and reliability; if the public utility, the affected localities, and the Commission agree, a proposed*

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59 underground line whose cost exceeds 2.5 times the cost of placing the line overhead may also be
60 accepted into the pilot program; (v) the public utility requests that the project be considered as a
61 qualifying project under this section; and (vi) the primary need of the project shall be for purposes of
62 grid reliability, grid resiliency, or to support economic development priorities of the Commonwealth,
63 including the economic development priorities and the comprehensive plan of the governing body of the
64 locality in which at least a portion of line will be placed, and shall not be to address aging assets that
65 would have otherwise been replaced in due course.

66 D. In reviewing applications submitted by public utilities for certificates of public convenience and
67 necessity for the construction of electrical transmission lines of 500 kilovolts or less filed between
68 January 1, 2024, and December 31, 2024, the Commission shall approve applications for qualifying
69 projects to be constructed in whole or in part underground, as part of this pilot program. The qualifying
70 projects shall traverse along highways in developed areas and where the route of the proposed
71 transmission lines and towers traverse areas protected by a scenic easement, a view shed easement,
72 areas of registered historic designation, or areas with conservation easements, where such easements
73 run to the benefit of the public and are held by the governing body of the federal, state, or local
74 jurisdiction in which the transmission line is to be placed and where the project is required to meet
75 reliability requirements and at least a portion of the project is needed to support and promote economic
76 development of the Commonwealth and its localities. If a qualifying project is approved pursuant to this
77 subsection for purposes of the pilot program, the Commission shall request that the public utility
78 provide technical and cost analyses for placing the proposed line overhead and for placing the proposed
79 line, in whole or in part, underground.

80 D. E. For purposes of subsection C, a project shall be qualified to be placed underground, in
81 whole or in part, if it meets all of the following criteria: (i) an engineering analysis demonstrates that it
82 is technically feasible to place the proposed line, in whole or in part, underground; (ii) the governing
83 body of each locality in which a portion of the proposed line will be placed underground indicates, by
84 resolution, general community support for the project and that it supports the transmission line to be
85 placed underground; (iii) a project has been filed with the Commission or is pending issuance of a
86 certificate of public convenience and necessity by ~~October 1, 2020~~ December 31, 2024; and (iv) the
87 estimated additional cost of placing the proposed line, in whole or in part, underground does not exceed
88 \$40 million or, if greater than \$40 million, the cost does not exceed 2.5 times the cost of placing the
89 same line overhead, assuming accepted industry standards for undergrounding to ensure safety and
90 reliability; if the public utility, the affected localities, and the Commission agree, a proposed
91 underground line whose cost exceeds 2.5 times the cost of placing the line overhead may also be
92 accepted into the pilot program; (v) the public utility requests that the project be considered as a
93 qualifying project under this section; and (vi) the primary need of the project shall be for purposes of
94 grid reliability, grid resiliency, or to support economic development priorities of the Commonwealth,
95 including the economic development priorities and the comprehensive plan of the governing body of the
96 locality in which at least a portion of line will be placed, and shall not be to address aging assets that
97 would have otherwise been replaced in due course.

98 E. F. A transmission line project that is found to meet the criteria of subsection D or E shall be
99 deemed to satisfy the requirements of subsection B of § 56-46.1 with respect to a finding of the
100 Commission that the line is needed.

101 F. G. Approval of a transmission line pursuant to this section for inclusion in the pilot program shall
102 be deemed to satisfy the requirements of § 15.2-2232 and local zoning ordinances with respect to such
103 transmission line and any associated facilities, such as stations, substations, transition stations and
104 locations, and switchyards or stations, that may be required.

105 G. H. The Commission shall report annually to the Commission on Electric Utility Restructuring, the
106 Joint Commission on Technology and Science, and the Governor on the progress of the pilot program
107 by no later than December 1 of each year that this section is in effect. The Commission shall submit a
108 final report to the Commission on Electric Utility Restructuring, the Joint Commission on Technology
109 and Science, and the Governor no later than December 1, 2024, analyzing the entire program and
110 making recommendations about the continued placement of transmission lines underground in the
111 Commonwealth. The Commission's final report shall include analysis and findings of the costs of
112 underground construction and historical and future consumer rate effects of such costs, effect of
113 underground transmission lines on grid reliability, operability (including operating voltage), probability
114 of meeting cost and construction timeline estimates of such underground transmission lines, and
115 economic development, aesthetic or other benefits attendant to the placement of transmission lines
116 underground.

117 H. I. For the qualifying projects chosen pursuant to this section and not fully recoverable as charges
118 for new transmission facilities pursuant to subdivision A 4 of § 56-585.1, the Commission shall approve
119 a rate adjustment clause. The rate adjustment clause shall provide for the full and timely recovery of any
120 portion of the cost of such project not recoverable under applicable rates, terms, and conditions

approved by the Federal Energy Regulatory Commission and shall include the use of the fair return on common equity most recently approved in a State Corporation Commission proceeding for such utility. ~~Such~~ *For a qualifying project of 230 kilovolts or less, such costs shall be entirely assigned to the utility's Virginia jurisdictional customers. For a qualifying project of 500 kilovolts or less, such costs shall be entirely assigned to the utility's data center customers.* The Commission's final order regarding any petition filed pursuant to this subsection shall be entered not more than three months after the filing of such petition.

~~I. J.~~ The provisions of this section shall not be construed to limit the ability of the Commission to approve additional applications for placement of transmission lines underground. Approval by the Commission of a transmission line for inclusion in the program pursuant to subsection B shall preclude the placement of future overhead electrical transmission lines of at least 69 kilovolts in the same right-of-way as described in subsection B for a period of 10 years from July 1, 2018, but shall not preclude the placement of (i) any underground transmission lines in such right-of-way or (ii) any electrical distribution lines in such right-of-way.

~~J. If two applications are not submitted to the Commission that meet the requirements of this section, the Commission shall document the failure of the projects to qualify for the pilot program in order to justify approving fewer than two projects to be placed underground, in whole or in part.~~

K. Insofar as the provisions of this section are inconsistent with the provisions of any other law or local ordinance, the provisions of this section shall be controlling.