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HOUSE BILL NO. 2386

Offered January 13, 2025

Prefiled January 8, 2025

A BILL to amend and reenact § 56-265.2 of the Code of Virginia, relating to public utilities; certificate of convenience and necessity for certain new transmission lines.

Patron—Higgins

Referred to Committee on Labor and Commerce

Be it enacted by the General Assembly of Virginia:

1. That § 56-265.2 of the Code of Virginia is amended and reenacted as follows:

§ 56-265.2. Certificate of convenience and necessity required for acquisition, etc., of new facilities.

A. 1. Subject to the provisions of subdivision 2, it shall be unlawful for any public utility to construct, enlarge, or acquire, by lease or otherwise, any facilities for use in public utility service, except ordinary extensions or improvements in the usual course of business, without first having obtained a certificate from the Commission that the public convenience and necessity require the exercise of such right or privilege. Any certificate required by this section shall be issued by the Commission only after opportunity for a hearing and after due notice to interested parties. The certificate for overhead electrical transmission lines of 138 kilovolts or more shall be issued by the Commission only after compliance with the provisions of § 56-46.1.

2. For construction of any transmission line of 138 kilovolts and associated facilities, a public utility shall either (i) obtain a certificate pursuant to subdivision 1 or (ii) obtain approval pursuant to the requirements of (a) § 15.2-2232 and (b) any applicable local zoning ordinances by the locality or localities in which the transmission line will be located. Issuance by the Commission of a certificate pursuant to subdivision 1 approving construction of a 138 kilovolt transmission line and any associated facilities shall be deemed to satisfy the requirements of § 15.2-2232 and all local zoning ordinances with respect to the transmission line and its associated facilities. For purposes of this subdivision and subdivision 3, "associated facilities" include any station, substation, transition station, and switchyard facilities to be constructed outside of any county operating under the county executive form of government that is located in Planning District 8 in association with a 138 kilovolt transmission line.

3. For construction of any overhead transmission line of 230 kilovolts and associated facilities, a public utility shall demonstrate that either the construction of such line remains within an existing right-of-way or that no alternatives, including the use of advanced conductors, are feasible within the existing right-of-way.

B. In exercising its authority under this section, the Commission, notwithstanding the provisions of § 56-265.4, may permit the construction and operation of electrical generating facilities, which shall not be included in the rate base of any regulated utility whose rates are established pursuant to Chapter 10 (§ 56-232 et seq.), upon a finding that such generating facility and associated facilities including transmission lines and equipment (i) will have no material adverse effect upon the rates paid by customers of any regulated public utility in the Commonwealth; (ii) will have no material adverse effect upon reliability of electric service provided by any such regulated public utility; and (iii) are not otherwise contrary to the public interest. In review of its petition for a certificate to construct and operate a generating facility described in this subsection, the Commission shall give consideration to the effect of the facility and associated facilities, including transmission lines and equipment, on the environment and establish such conditions as may be desirable or necessary to minimize adverse environmental impact as provided in § 56-46.1. Facilities authorized by a certificate issued pursuant to this subsection may be exempted by the Commission from the provisions of Chapter 10 (§ 56-232 et seq.).

C. A map showing the location of any proposed ordinary extension or improvement outside of the territory in which the public utility is lawfully authorized to operate shall be filed with the Commission, and prior notice of such ordinary extension shall be given to the public utility or other entity authorized to provide the same utility service within said territory. Ordinary extensions outside the service territory of a public utility shall be undertaken only for use in providing its public utility service and shall be constructed and operated so as not to interfere with the service or facilities of any public utility or other entity authorized to provide utility service within any other territory. If, upon objection of the affected utility or entity filed within 30 days of the aforesaid notice and after investigation and opportunity for a hearing the Commission finds an ordinary extension would not comply with this section, it may alter or amend the plan for such activity or prohibit its construction.

D. Whenever a certificate is required under this section for a pipeline for the transmission or distribution of natural or manufactured gas, the Commission may issue such a certificate only after compliance with the provisions of § 56-265.2:1. As used in this section and § 56-265.2:1, "pipeline for the transmission or

59 distribution of manufactured or natural gas" shall include the pipeline and any related facilities incidental or  
60 necessary to the operation of the pipeline.

61 E. This section shall be subject to the requirements of § 56-265.3, if any, and nothing herein shall be  
62 construed to supersede § 56-265.3.