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HOUSE BILL NO. 2459

Offered January 13, 2025

Prefiled January 8, 2025

A BILL to amend and reenact § 56-265.2 of the Code of Virginia, relating to new solar generation facilities; certificate of convenience and necessity; bond required.

Patron—O'Quinn

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, "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.

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

E. *Whenever a certificate is required under this section for a public utility to construct, enlarge, or*

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59 *acquire a solar generation facility that has a size of over one acre, the Commission may issue such certificate*
60 *only if the public utility has filed with the Commission, on a form prescribed and furnished by the*
61 *Commission, a bond for performance payable to the Commonwealth and conditioned upon the faithful*
62 *performance of all the requirements of the certificate and any other relevant provision of law. The bond shall*
63 *cover the entire area of land on which such solar generation facility shall be constructed, enlarged, or*
64 *acquired. The amount of the bond required for each such facility shall be determined by the Commission and*
65 *shall depend on the size of the solar generation facility. The amount of the bond shall be sufficient to assure*
66 *the completion of land reclamation activities in the event of forfeiture but in no case shall the bond for the*
67 *entire area of any such facility be less than \$10,000.*
68 *F. This section shall be subject to the requirements of § 56-265.3, if any, and nothing herein shall be*
69 *construed to supersede § 56-265.3.*