

HOUSE BILL NO. 422

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Labor and Commerce

on _____)

(Patron Prior to Substitute—Delegate Cole, N.)

A BILL to amend and reenact § 56-235.4 of the Code of Virginia, relating to water utilities; prohibition of multiple rate increases within three-year period for water utilities.

Be it enacted by the General Assembly of Virginia:**1. That § 56-235.4 of the Code of Virginia is amended and reenacted as follows:****§ 56-235.4. Prohibition of multiple rate increases within certain periods; exception.**

A. The regulated operating revenues of a public utility shall not be increased pursuant to Chapter 9.1 (§ 56-231.15 et seq.), 10 (§ 56-232 et seq.) or 19 (§ 56-531 et seq.) ~~of this title~~ more than once within any twelve-month period. This limitation shall not apply to increases in regulated operating revenues resulting from (i) increases in rates pursuant to § 56-245 or § 56-249.6, (ii) any automatic rate adjustment clause approved by the Commission, (iii) new rate schedules for service not offered under existing rate schedules or for expansion, reduction, or termination of existing services, (iv) initiation, modification or termination of experimental rates under § 56-234, or (v) the making permanent of an experimental program. Notwithstanding any other provisions of this section, a telephone company may apply to the Commission to pass on to its customers as a part of its rates any changes approved by the Commission in the carrier access charges.

B. The Commission may adopt such rules and regulations as may be necessary to carry out the provisions of this section. The Commission may specify, by rule, the time during the calendar year when application may be filed by electric utility and cooperatives, gas utilities, telephone utilities and cooperatives, and other utilities.

The Commission may by rule provide standards and procedures for expedited handling of rate increase applications, and such rules may provide that an expedited rate increase may take effect in less than twelve months after the preceding increase so long as regulated operating revenues are not increased pursuant to the provisions of subsection A of this section more than once in any calendar year.

C. 1. Notwithstanding the provisions of this section or any other provision of law, no public utility authorized to furnish water or water and sewer service shall file an application for a general increase in base rates more frequently than once in any three-year period, measured from the date of filing of its most recent

general rate application. Nothing in this subsection shall prevent such utility from filing (i) an application for a decrease in rates; (ii) an application limited solely to the implementation, modification, or discontinuation of a rate adjustment clause, rider, or surcharge that does not increase base rates; (iii) an application for a temporary increase in rates pursuant to § 56-245; or (iv) an application filed within the three-year period upon a finding by the Commission, after notice and an opportunity for a hearing, that extraordinary circumstances exist. The Commission shall dismiss without prejudice any general rate application filed in violation of this subsection.

2. For the purposes of clause (iv) of subdivision 1, "extraordinary circumstances" may include required compliance with a federal or state court order, consent decree, settlement agreement, administrative order, enforcement action, change in corporate structure or ownership including a merger or acquisition, or regulatory compliance deadline or mandate under the federal Safe Drinking Water Act (42 U.S.C. § 300f et seq.) or federal Clean Water Act (33 U.S.C. § 1251 et seq.), where the failure to act would materially impair the water utility's ability to provide safe and adequate service. In determining whether extraordinary circumstances exist, the Commission shall consider, as applicable, federal or state required compliance timeframes, the availability and timing of federal or state financial assistance, and whether the costs at issue are reasonably necessary to maintain or achieve compliance and to provide safe and adequate service.

3. Upon request of a public utility authorized to furnish water or water and sewer service, the Commission may issue a preliminary, nonbinding determination as to whether a proposed application for a general increase in base rates would, if filed, appear to qualify for consideration under clause (iv) of subdivision 1. No such determination shall affect the Commission's consideration of such application, if filed, on its merits, and no such determination shall be construed to authorize an increase in base rates.

2. That no later than December 1, 2026, and annually thereafter, the State Corporation Commission (the Commission) shall submit a report to the Chairs of the House Committee on Labor and Commerce and the Senate Committee on Commerce and Labor summarizing the number of rate applications considered by the Commission during the preceding year under clause (iv) of subdivision C 1 of § 56-235.4 of the Code of Virginia, as amended by this act. The report shall include the general categories of circumstances asserted in such applications and the dispositions of such applications.