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HOUSE BILL NO. 770

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the House Committee on Labor and Commerce
on _____)

(Patron Prior to Substitute—Delegate Herring)

A BILL to amend and reenact §§ 56-234 and 56-264.3 of the Code of Virginia, relating to public utilities; water and sewerage companies; discounted rates for low-income customers.

Be it enacted by the General Assembly of Virginia:

1. That §§ 56-234 and 56-264.3 of the Code of Virginia are amended and reenacted as follows:

§ 56-234. Duty to furnish adequate service at reasonable and uniform rates.

A. It shall be the duty of every public utility to furnish reasonably adequate service and facilities at reasonable and just rates to any person, firm or corporation along its lines desiring same. Notwithstanding any other provision of law:

1. A telephone company shall not have the duty to extend or expand its facilities to furnish service and facilities when the person, firm or corporation has service available from one or more alternative providers of wireline or terrestrial wireless communications services at prevailing market rates; and

2. A telephone company may meet its duty to furnish reasonably adequate service and facilities through the use of any and all available wireline and terrestrial wireless technologies; however, a telephone company, when restoring service to an existing wireline customer, shall offer the option to furnish service using wireline facilities.

For purposes of subdivisions 1 and 2, the Commission shall have the authority upon request of an individual, corporation, or other entity, or a telephone company, to determine whether the wireline or terrestrial wireless communications service available to the party requesting service is a reasonably adequate alternative to local exchange telephone service.

The use by a telephone company of wireline and terrestrial wireless technologies shall not be construed to grant any additional jurisdiction or authority to the Commission over such technologies.

For purposes of subdivision 1, "prevailing market rates" means rates similar to those generally available to consumers in competitive areas for the same services.

B. It shall be the duty of every public utility to charge uniformly therefor all persons, corporations or municipal corporations using such service under like conditions. However, no provision of law shall be deemed to preclude voluntary rate or rate design tests or experiments, or other experiments involving the use of special rates, where such experiments have been approved by order of the Commission after notice and hearing and a finding that such experiments are necessary in order to acquire information which is or may be in furtherance of the public interest. The Commission's final order regarding any petition filed by an investor-owned electric utility for approval of a voluntary rate or rate design test or experiment shall be entered the earlier of not more than six months after the filing of the petition or not more than three months after the date of any evidentiary hearing concerning such petition. The charge for such service shall be at the lowest rate applicable for such service in accordance with schedules filed with the Commission pursuant to § 56-236. But, subject to the provisions of § 56-232.1, nothing contained herein or in § 56-481.1 shall apply to (i) schedules of rates for any telecommunications service provided to the public by virtue of any contract with, (ii) for any service provided under or relating to a contract for telecommunications services with, or (iii) contracts for service rendered by any telephone company to, the state government or any agency thereof, or by any other public utility to any municipal corporation or to the state or federal government. The provisions hereof shall not apply to or in any way affect any proceeding pending in the State Corporation Commission on or before July 1, 1950, and shall not confer on the Commission any jurisdiction not now vested in it with respect to any such proceeding.

C. The Commission may conclude that competition can effectively ensure reasonably adequate retail services in competitive exchanges and may carry out its duty to ensure that a public utility is furnishing reasonably adequate retail service in its competitive exchanges by monitoring individual customer complaints and requiring appropriate responses to such complaints.

D. An electric utility formed under or subject to Chapter 9.1 (§ 56-231.15 et seq.) may meet its duty to furnish reasonably adequate service through unregulated sales of electric power directly from one or more of its affiliates to any customer located within the cooperative's certificated service territory that contracts for electric utility services to serve a demand that is reasonably expected to exceed 90 megawatts.

E. Notwithstanding the provisions of this section, a public utility engaged in the business of furnishing water or sewerage facilities may propose and the Commission may approve rates and tariff provisions that provide discounted service to customers with an annual household income equal to or less than 200 percent of the federal poverty level, as determined by the Department of Social Services. Such rates and tariff provisions may include a tiered discount system. The utility may recover the costs of providing such

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discounted service through its base and general rates for service.

§ 56-264.3. Cost allocation and rate design.

A. The provisions of this section shall apply in any proceeding in which the Commission is required to determine, pursuant to § 56-234, if (i) rates charged by water and sewerage companies with fewer than 10,000 customer accounts, inclusive of their subsidiaries, are reasonable and just and (ii) customers using water and sewerage services under like conditions are being charged uniformly for such services.

B. Any rate application or proposal submitted to the Commission that would allocate the revenue requirement of a water or sewerage company with fewer than 10,000 customer accounts, inclusive of their subsidiaries, among more than one class of customers shall be supported by a class cost-of-service study that is designed to allocate revenues on the basis of cost causation and to assign credit for contributions in aid of construction, not previously addressed in a utility acquisition transaction or the most recent approved rate case application, to the customer class that made the contributions.

C. In setting rates, the Commission shall not find that any allocation of the revenue requirement to a particular class of customers that is greater than the portion of the revenue requirement that can be attributed to that class on the basis of a cost-of-service study of the type described in subsection B is just and reasonable (i) unless the allocation is otherwise supported by substantial evidence or (ii) except as provided in subsection E.

D. In any proceeding pursuant to § 56-234 regarding the rates charged by water and sewerage companies, the revenues to be produced by rates as designed for any particular class of customers shall not provide an anticipated return on equity more than 25 percent greater or less than the return on equity used to set rates for the company as a whole, (i) unless otherwise supported by clear and convincing evidence or (ii) except as provided in subsection E. The effect of this provision on class rate design shall not be considered in establishing the return on equity used to set rates for the company as a whole.

E. Notwithstanding the provisions of this section or the duty of a water or sewerage company to furnish adequate service at reasonable and uniform rates as described in § 56-234, such a company may propose and the Commission may approve rates and tariff provisions that provide discounted service to customers with an annual household income equal to or less than 200 percent of the federal poverty level, as determined by the Department of Social Services. Such rates and tariff provisions may include a tiered discount system. The company may recover the costs of providing such discounted service through its base and general rates for service.

2. That the provisions of this act shall become effective on January 1, 2027.