

# VIRGINIA ACTS OF ASSEMBLY -- 2008 SESSION

## CHAPTER 799

*An Act to establish a pilot program to place certain transmission lines underground.*

[H 1319]

Approved April 2, 2008

### **Be it enacted by the General Assembly of Virginia:**

**1.** § 1. *There is hereby established a pilot program to construct qualifying electrical transmission lines of 230 kilovolts or less in whole or in part underground. Such pilot program shall consist of a total of four qualifying electrical transmission line projects, constructed in whole or in part underground, as set forth in this act.*

§ 2. A. *Notwithstanding any other law to the contrary, as a part of the pilot program established pursuant to this act, the State Corporation Commission shall approve as a qualifying project a transmission line of 230 kilovolts or less that has received a certificate of public convenience and necessity from the State Corporation Commission prior to the effective date of this act that approved construction of an electrical transmission line in a right of way located upon land owned by a regional park authority used by the general public for park and recreation purposes, provided that the construction of such electrical transmission line has not commenced prior to the effective date of this act. The project shall be constructed in part underground, and the underground portion shall consist of a double circuit.*

*The State Corporation 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 1.8 miles in length that was previously approved for construction upon or immediately adjacent to the right of way of the regional park authority, provided that the underground construction shall be located within the boundaries of such existing right of way upon the land owned by the regional park authority, excluding any substation or transition locations which may be required as a part thereof. The Commission shall make a finding establishing the termini of the underground portion of the line. The remainder of the construction for the previously approved transmission line shall be aboveground pursuant to the terms of the certificate of public convenience and necessity. 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 approval for constructing the above-described portion of the previously approved electrical transmission line as a double circuit underground shall not impair or delay the implementation of the certificate of public convenience and necessity and no further notice, testimony, or hearings shall be required in connection with such approval. 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. Approval of a transmission line pursuant to this section for inclusion in the pilot program shall be deemed to satisfy the requirements of § 15.2-2232 and local zoning ordinances with respect to such transmission line and any substations or transition locations that may be required.*

B. *If the qualifying project approved in subsection A provides only radial, rather than networked, electric service, there shall be a presumption of need in applications filed for a certificate of public convenience and necessity for electrical transmission lines that will complete the network for such qualifying project. The State Corporation Commission shall give priority on its docket for any such application of a public utility. Upon written request of the public utility for participation in the pilot program pursuant to this section, the Commission shall approve the construction of such additional network facilities in whole or in part underground, and such additional network facilities shall be considered a qualifying project for purposes of this act. The Commission shall not require the submission of additional technical and cost analyses as a condition of such approval, but may request such analyses for its review.*

§ 3. *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 the effective date of this act and July 1, 2012, the State Corporation Commission shall approve three applications for qualifying projects to be constructed in whole or in part underground, as a part of the pilot program. The three qualifying projects shall be in addition to the qualifying project described in subsection A of § 2. If a public utility submits an application for a certificate of public convenience and necessity for an electrical transmission line that completes the network for a qualifying project as set*

forth in subsection B of § 2, the approval of such application shall constitute one of the three additional projects to be approved pursuant to this section.

§ 4. For purposes of this act, a project shall be qualified to be placed underground, in whole or in part, if it meets all of the following criteria:

1. An engineering analysis demonstrates that it is technically feasible to place the proposed line, in whole or in part, underground;

2. The estimated additional cost of placing the proposed line, in whole or in part, underground 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 State Corporation Commission agree, a proposed underground line whose cost exceeds 2.5 times the cost of placing the line overhead may also be accepted into the pilot program; and

3. 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 line to be placed underground.

§ 5. A. If the State Corporation Commission identifies an application as a potentially qualified project for purposes of the pilot program, the Commission shall request that the public utility provide technical and cost analyses for placing the proposed line overhead and for placing the proposed line, in whole or in part, underground.

B. If any application relates to the construction of a proposed line to meet a specific and identifiable industry's needs, and the project must be completed by the public utility within a specific amount of time to facilitate an economic development agreement, then such application need not include the two analyses, so long as the public utility provides documentation regarding the economic development agreement.

§ 6. The State Corporation Commission shall report annually to the Commission on Electric Utility Restructuring, the Joint Commission on Technology and Science, and the Governor on the progress of the pilot program by no later than December 1 of each year that this act is in effect. The State Corporation Commission shall submit a final report to the Commission on Electric Utility Restructuring, the Joint Commission on Technology and Science, and the Governor no later than December 1, 2012, analyzing the entire program and making recommendations about the continued placement of transmission lines underground in the Commonwealth.

§ 7. For any qualifying project chosen pursuant to this act (regardless of whether such project is chosen pursuant to § 2 or 3) and not fully recoverable as charges for new transmission facilities pursuant to subdivision A 4 of § 56-585.1, the State Corporation Commission shall approve a rate adjustment clause. The rate adjustment clause shall provide for the full and timely recovery of any 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 Commission proceeding for such utility, as defined by subsection A of § 56-585.1. Such costs shall be entirely assigned to the utility's Virginia jurisdictional 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.

§ 8. If a transmission line is included in the pilot program pursuant to § 3 that includes only radial, rather than networked, electric service, there shall be a presumption of need in applications for a certificate of public convenience and necessity for electrical transmission lines that will complete the network for such qualifying project. The State Corporation Commission shall give priority on its docket for any such application of a public utility.

§ 9. Approval of a proposed transmission line for inclusion in this program shall not preclude the placing of existing or future overhead facilities in the same area or corridor by other transmission projects.

§ 10. Public utility companies granted a certificate of public convenience and necessity for a proposed transmission line not included in this program or not otherwise being placed underground shall seek to implement low-cost and effective means to improve the aesthetics of new overhead transmission lines and towers.

§ 11. The provisions of this act shall not be construed to limit the ability of the State Corporation Commission to approve additional applications for placement of transmission lines underground.

§ 12. If four applications are not submitted to the State Corporation Commission that meet the requirements of this act, the State Corporation Commission shall document the failure of the projects to qualify for the pilot program in order to justify approving fewer than four projects to be placed underground, in whole or in part.

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

**2. That an emergency exists and this act is in force from its passage.**