

BILL NO.

A BILL to amend the Code of Virginia by adding in Chapter 9.1 of Title 56 an article numbered 3, consisting of sections numbered 56-231.53 through 56-231.56, relating to utility consumer services cooperatives; member regulation.

Patrons--

Referred to

Be it enacted by the General Assembly of Virginia:

1. That § 56-582 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Chapter 9.1 of Title 56 an Article numbered 3, consisting of sections numbered 56-231.53 through 56-231.56, as follows:

ARTICLE 3 – MEMBER REGULATION

§ 56-231.53. Definitions.

As used in this article:

“Board” means the elected board of directors of a cooperative formed under or subject to Article 1 of this chapter.

“Cooperative” means a utility consumer services cooperative formed under or subject to Article 1 of this chapter.

“Member” means any person that holds any class of membership in a cooperative formed under or subject to Article 1 of this chapter.

“Member-regulated cooperative” means a cooperative that has elected member regulation in accordance with this article.

“Member regulation” means regulation by the board of a cooperative that has delivered a certificate of adoption of member regulation to the Commission pursuant to § 56-231.54 D rather than regulation by the Commission, with respect to rates and conditions of electric distribution service as described in this article.

“Referendum” means a referendum of members in accordance with §56-231.54.

§ 56-231.54 Member regulation.

A. After July 1, 2002, within 45 days of the adoption by the board of a cooperative of a resolution recommending member regulation, or within 45 days of the submission to the cooperative of a petition recommending member regulation and signed by one percent or more of the members, the cooperative shall publish notice of a referendum for member regulation. The notice of referendum will pose the following question: “Shall the members of [name of cooperative], through the board, regulate the rates, terms and conditions of electric distribution service of the cooperative as set out in Va. Code §§ 56-231.54, and terminate the regulation of such rates, terms and conditions of service by the Virginia State Corporation Commission?”

B. The notice will set forth the time and place of an annual or special meeting, in accordance with the bylaws of the cooperative, at which the referendum will be held.

C. If two thirds of the votes cast on a referendum are affirmative, then the referendum shall pass, and the cooperative shall thereupon certify to the Commission the adoption of member regulation by the cooperative within 30 days of the passage of a referendum.

1 D. Upon certification by the cooperative to the Commission of the passage of the referendum and
2 except as provided for in this Article, the Commission shall not regulate the rates, terms and
3 conditions of electric distribution service of a member-regulated cooperative but shall adjudicate
4 rate disputes as set forth in 56-231.56.

5 E. Each member- regulated cooperative shall remain subject to the provisions of §§56-582, §56-
6 583, and 56-584 of this title, and shall provide default service to their members in accordance
7 with the provisions of §56-585. If the capped rates provided for in § 56-582 are continued after
8 January 1, 2004, a member-regulated cooperative may adopt a one-time change in the
9 nongeneration components of such rates, terms and conditions of service, notwithstanding the
10 provisions of § 56-582 C that require a petition to the Commission for approval of such one-time
11 change.

12 F. Each member-regulated cooperative shall remain subject to the provisions of § 56-231.34:1
13 and §56-231.34:2. For the purposes of applying §56-231.34:1 and § 56-231.34:2 to a member-
14 regulated cooperative, “regulated utility services” shall mean utility services that would be
15 subject to regulation as to rates or service by the Commission, but for the election of member
16 regulation under this article. For purposes of Chapter 3 (§56 –55 et seq.) and Chapter 4 (§56-76
17 et seq.) of this title, a member-regulated cooperative shall be deemed to be a “public service
18 company.”

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20 § 56-231.55 Resumption of regulation of rates, terms and conditions of electric distribution
21 service by the Commission.

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23 A. A cooperative that has elected member-regulation shall publish notice of a referendum for
24 resumption of Commission regulation within 45 days after (i) the adoption by the board of a
25 cooperative of a resolution recommending resumption of such regulation. (ii) after the
26 submission to the cooperative of a petition recommending resumption of such regulation and
27 signed by one percent or more of the members, or (iii) the issuance of an order by the
28 Commission determining, after notice and an opportunity for hearing, that the resumption of
29 regulation by the Commission may be in the public interest. The notice of referendum will pose
30 the following question: “Shall the State Corporation Commission resume regulation of the rates,
31 terms and conditions of electric distribution service of [name of cooperative] and terminate the
32 regulation of such rates, terms and conditions of electric distribution service by the members of
33 the cooperative acting through the board?”

34 B. The notice will set forth the time and place of an annual or special meeting, in accordance
35 with Article 1 of this chapter and the bylaws of the cooperative, at which the referendum will be
36 held.

37 C. If two thirds of the votes cast on a referendum are affirmative, then the referendum shall pass.

38 D. Within 30 days of the passage of a referendum for resumption of Commission regulation, the
39 cooperative shall certify to the commission the resumption of Commission regulation.

40 E. Within 60 days of certification of the resumption of Commission regulation, a cooperative
41 will file temporary rates, and a rate application, along with such supporting exhibits as shall be
42 necessary for the Commission to resume regulation of the electric distribution rates and services
43 of the cooperative.

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45 § 56-231.56. Adjudication of Rate Disputes by Commission

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47 A. A member-regulated cooperative shall be required to furnish reasonably adequate electric
48 distribution and default energy services and facilities to each customer. The charges made by any

1 member-regulated cooperative for any such services shall be nondiscriminatory, reasonable and
2 just and consistent with the provisions of § 56-231.33. Every charge for service shall otherwise
3 be unlawful.

4 B. A member-regulated cooperative shall make a copy of its current rates, terms and conditions
5 of service for electric distribution and default energy services available for public inspection
6 during regular business hours in its designated business office where bills can be paid. A
7 member-regulated cooperative shall publish notice at least 45 days in advance of any changes in
8 rates, terms and conditions of electric distribution service. Such notice shall identify the nature
9 and effective date of such changes.

10 C. Any member may address a complaint or dispute regarding the lawfulness of any rate, term
11 or condition of electric distribution service of a member-regulated cooperative to the
12 Commission complaint bureau established and maintained pursuant to § 56-592.E. The
13 Commission shall be authorized to record all such complaints and disputes and inquire into and
14 attempt to mediate any complaints that the Commission, in its sole discretion, deems potentially
15 meritorious.

16 D. Upon complaint to the Commission by at least 25% of those members in a customer class
17 that a rate, term or condition of service for electric distribution services of a member-regulated
18 cooperative is discriminatory, unjust or unreasonable, a hearing shall be held after notice is
19 provided to the member-regulated cooperative and all customers in the particular customer class.
20 The Commission shall investigate such claim and may find that such rates, terms and conditions
21 of electric distribution service of such member-regulated cooperative are not nondiscriminatory
22 or just and reasonable in accordance with the standards set forth in § 56-231.56.A. in which case
23 the member-regulated cooperative shall develop such new rates, charges, fees and rules and
24 regulations as shall be necessary to correct any defect.

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