

1 HOUSE BILL NO. 403

2 AMENDMENT IN THE NATURE OF A SUBSTITUTE

3 (Proposed by the House Committee on Labor and Commerce

4 on _____)

5 (Patron Prior to Substitute--Delegate Ware)

6 A BILL to amend and reenact § 56-265.4 of the Code of Virginia, relating to electric utilities; temporary
7 power purchase agreements.

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

9 **1. That § 56-265.4 of the Code of Virginia is amended and reenacted as follows:**

10 **§ 56-265.4. Certificate to operate in territory of another certificate holder.**

11 A. Except as provided in § 56-265.4:4, no certificate shall be granted to an applicant proposing to
12 operate in the territory of any holder of a certificate unless and until it shall be proved to the satisfaction
13 of the Commission that the service rendered by such certificate holder in such territory is inadequate to
14 the requirements of the public necessity and convenience; and if the Commission shall be of opinion that
15 the service rendered by such certificate holder in such territory is in any respect inadequate to the
16 requirements of the public necessity and convenience, such certificate holder shall be given reasonable
17 time and opportunity to remedy such inadequacy before any certificate shall be granted to an applicant
18 proposing to operate in such territory. For the purposes of this section, the transportation of natural gas by
19 pipeline, without providing service to end users within the territory, shall not be considered operating in
20 the territory of another certificate holder.

21 B. Notwithstanding the provisions of subsection A or any other provision of law, if the
22 Commission determines that, due to transmission constraints, a certificate holder is not able to furnish
23 adequate electric service to meet the requirements of a new or existing customer located in such certificate
24 holder's service territory that has requested new or increased service within twelve months of an initial

25 request for service, such customer shall be permitted to enter into a temporary power purchase agreement
26 with a third party. Such third party shall be authorized to own and operate a facility that does not combust
27 fuel to generate electricity located on such customer's site to serve the electric service requirements
28 indicated in such customer's request for service. Such authority shall extend for no more than five years,
29 provided that upon the expiration of a temporary power purchase agreement entered into pursuant to this
30 section, a customer may renew such agreement for an additional period of no more than two years if the
31 certificate holder remains unable to meet such customer's requirements. A third party that enters into a
32 temporary power purchase agreement with a customer pursuant to this subsection shall not be considered
33 a public utility.

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