**South Carolina General Assembly**

119th Session, 2011-2012

**S. 1017**

**STATUS INFORMATION**

General Bill

Sponsors: Senator Knotts

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Introduced in the Senate on January 10, 2012

Currently residing in the Senate Committee on **Judiciary**

Summary: Eliminate ability of public water utility to implement a rate increase pending an appeal

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

11/28/2011 Senate Prefiled

11/28/2011 Senate Referred to Committee on **Judiciary**

1/10/2012 Senate Introduced and read first time ([Senate Journal‑page 14](file:///h:\sj%20archive\2012\01-10-12.docx))

1/10/2012 Senate Referred to Committee on **Judiciary** ([Senate Journal‑page 14](file:///h:\sj%20archive\2012\01-10-12.docx))

1/9/2012 Senate Referred to Subcommittee: Rankin (ch), Hutto, Campbell

**VERSIONS OF THIS BILL**

[11/28/2011](file:///p:\pprever\2011-12\1017_20111128.docx)

**A** **BILL**

TO AMEND SECTION 58‑5‑240, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO FILING SCHEDULES FOR PROPOSED RATES OF PUBLIC UTILITIES SERVICES, SO AS TO ELIMINATE THE ABILITY OF A PUBLIC WATER UTILITY TO IMPLEMENT A RATE INCREASE PENDING AN APPEAL.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 58‑5‑240 of the 1976 Code, as last amended by Act 318 of 2006, is further amended to read:

“Section 58‑5‑240. (A) Whenever a public utility desires to put into operation a new rate, toll, rental, charge, or classification or a new regulation, it shall give to the commission and the regulatory staff not less than thirty days’ notice of its intention to file and shall, after the expiration of the notice period, then file with the commission and provide to the regulatory staff a schedule setting forth the proposed changes. Subject to the provisions of subsections (D) and (E) of this section, the proposed changes must not be put into effect in full or in part until approved by the commission.

(B) After the schedule has been filed, the Commission shall, after notice to the public such as the Commission may prescribe, hold a public hearing concerning the lawfulness or reasonableness of the proposed changes.

(C) The Commission shall rule and issue its order approving or disapproving the changes in full or in part within six months after the date the schedule is filed.

(D)(1) Should the Commission determine that it cannot, due to circumstances reasonably beyond its control, issue such order within the six‑month period prescribed by this section, the Commission, may, by order, extend the six‑month period for an additional five days. Any such order shall set forth such circumstances and make appropriate findings concerning the need for the extended period.

(2) If the Commission rules and issues its order within the time aforesaid, and the utility shall appeal from the order, by filing with the Commission a petition for rehearing, the utility may put the rates requested in its schedule into effect under bond only during the appeal and until final disposition of the case. Such bond must be in a reasonable amount approved by the Commission, with sureties approved by the Commission, conditioned upon the refund, in a manner to be prescribed by order of the Commission, to the persons, corporations, or municipalities, respectively, entitled to the amount of the excess, if the rate or rates put into effect are finally determined to be excessive; or there may be substituted for the bond other arrangements satisfactory to the Commission for the protection of parties interested. During any period in which a utility shall charge increased rates under bond, it shall provide records or other evidence of payments made by its subscribers or patrons under the rate or rates which the utility has put into operation in excess of the rate or rates in effect immediately prior to the filing of the schedule.

(3) Notwithstanding the provisions of item (2), a public water utility may not put the rates requested in its schedule into effect during an appeal.

(4) All increases in rates put into effect under the provisions of this section which are not approved and for which a refund is required shall bear interest at a rate of twelve percent per annum.

(5) The interest shall commence on the date the disallowed increase is paid and continue until the date the refund is made.

(6) In all cases in which a refund is due, the Commission shall order a total refund of the difference between the amount collected under bond and the amount finally approved.

(E) If the Commission fails to rule or issue its order within the time prescribed in subsection (C) or subsection (D) of this section, ~~the~~ a utility other than a public water utility may put into effect the change in rates it requested in its schedule. The change is to be treated as an approval of the new rate schedule by the Commission.

(F) After the date the schedule is filed with the commission and provided to the Office of Regulatory Staff, no further rate change request under this section may be filed until twelve months have elapsed from the date of the filing of the schedule; provided, however, this section shall not apply to a request for a rate reduction.

(G) Notwithstanding the provisions of this section, the Commission may allow rates or tariffs to be put into effect without a hearing upon order of the Commission when such rates or tariffs do not require a determination of the entire rate structure and overall rate of return, or when the rates or tariffs do not result in any rate increase to the public utility, or when the rates or tariffs are for experimental purposes. The provisions of this subsection do not apply to rate increases sought by a public water utility.

(H) The commission’s determination of a fair rate of return must be documented fully in its findings of fact and based exclusively on reliable, probative, and substantial evidence on the whole record. The commission shall specify an allowable operating margin in all water and wastewater orders.”

SECTION 2. This act takes effect upon approval by the Governor.

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