**A** **BILL**

TO AMEND SECTION 58‑5‑710 OF THE 1976 SOUTH CAROLINA CODE OF LAWS SO AS TO PROVIDE THAT A WATER OR SEWER UTILITY SYSTEM THAT FAILED TO PROVIDE SERVICE BECAUSE OF FAILURE TO PLAN FOR REASONABLY FORESEEABLE CIRCUMSTANCES WOULD NOT RECEIVE A RATE OF RETURN FOR THE PERIOD IN WHICH THE UTILITY DID NOT PROVIDE SERVICE, TO PROVIDE THAT THE PUBLIC SERVICE COMMISSION MAY REVIEW AND MODIFY THE UTILITY’S RATE OF RETURN UPON A FINDING OF EGREGIOUS CIRCUMSTANCES BY THE UTILITY FOR FAILURE TO PROVIDE SERVICES, AND TO PROVIDE THAT THE COMMISSION MUST CONSIDER A UTILITY’S HISTORY OF FAILURE TO PROVIDE SERVICE IN DETERMINING THE UTILITY’S RATE OF RETURN IN A PROCEEDING PURSUANT TO SECTION 58‑5‑240.

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

SECTION 1. Section 58‑5‑710 of the 1976 Code of Laws is amended to read:

“Section 58‑5‑710. (A) The Public Service Commission, upon petition by any interested party, shall have the right to require any person or corporation, as defined in Section 58‑5‑10, operating a water or sewer utility system for which prior consent or approval by the commission is required to appear before the commission on proper notice and show cause why that utility should not be required to take steps as are necessary to provide adequate and proper service to its customers. If the commission upon hearing determines that the service is not being provided, it shall issue an order requiring the utility to take steps as are necessary to the provision of the service within a reasonable time as prescribed by the commission. If the commission finds that a water or sewer utility system failed to provide service because the utility failed to plan for circumstances that were reasonably foreseeable, the utility must not receive a rate of return for the period in which the utility did not provide service.

(B) Upon failure of the utility to provide the service within the time prescribed without cause or excuse, as shall be determined by the commission, the commission shall impose a penalty or fine against the utility in an amount not less than one hundred dollars per day but not more than one thousand dollars per day. Each day the failure or noncompliance continues shall be considered a separate and distinct breach or violation of the order. Any fine or penalty so imposed or assessed by the commission, upon proper filing in the appropriate county office or offices, constitutes a lien upon the properties and assets of the utility in like manner and form as any other judgment at law. Any fine or penalty so imposed by the commission shall go into the general fund of the State, unless otherwise provided by law. If the commission finds egregious circumstances by the utility for its failure to provide service, the commission may also review and modify the utility’s rate of return.

(C) The commission must consider a utility’s history of failure to provide service when the commission determines the utility’s rate of return in a proceeding pursuant to Section 58‑5‑240.”

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

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