

**GUIDELINES FOR FILING APPLICATIONS UNDER TITLE 56, CHAPTER 4 OF THE  
CODE OF VIRGINIA (AFFILIATES ACT)**

These guidelines should be followed when filing applications under the Affiliates Act (§ 56-76 et seq. of the Code of Virginia) with the Virginia State Corporation Commission (“Commission”). The Affiliates Act can be found at the following link:

[www.scc.virginia.gov/pages/Commission-Authority](http://www.scc.virginia.gov/pages/Commission-Authority)

Section 56-77 of the Code of

Virginia requires filing of a verified copy of the agreement or arrangement. Failure to file such agreement or arrangement will result in an incomplete application. Incomplete applications will not be processed, and the staff will notify the utility regarding the specific deficiency, pursuant to 5 VAC 5-20-160 of the Commission’s Rules of Practice and Procedure found at

[www.scc.virginia.gov/pages/Rules-of-Practice-and-Procedure](http://www.scc.virginia.gov/pages/Rules-of-Practice-and-Procedure)

In the event an applicant

believes that an item requested in the guidelines or Transaction Summary does not apply, the applicant should reference that item and explain why such item does not apply. Additionally, electric cooperatives should follow the Rules Governing the Separation of Regulated and Unregulated Businesses of Electric Cooperatives, which can be found at the following link:

[www.scc.virginia.gov//pages/Guidelines-Rules](http://www.scc.virginia.gov//pages/Guidelines-Rules)

in filing such applications.

Applicants are encouraged to provide additional information believed to demonstrate that the proposed arrangement is in the public interest. Such information should be provided with the application and explained in sufficient detail to support the applicant's position.

1. Applications must be filed with the Document Control Center with an original and fifteen copies, in accordance with the Commission’s Rules of Practice and Procedure effective June, 1, 2001 (5 VAC 5-20-150). Additional copies shall be provided if requested.

The mailing address for the Document Control Center is as follows:

Document Control Center  
Tyler Building-B1  
P. O. Box 2118  
Richmond, VA 23218

2. Applications requiring approval under the Affiliates Act, § 56-77 of the Code of Virginia, include any contract or arrangement providing for the furnishing of management, supervisory, engineering, accounting, legal, financial, construction, or similar services; and contracts or arrangements for the purchase, sale, lease, or exchange of any property, right, or thing; or for the purchase or sale of treasury bonds or treasury capital stock made or entered into with any affiliate. In determining whether an entity is an affiliate, definitions provided in Chapter 4 (§ 56-76 et seq.) of Title 56 of the Code of Virginia should be consulted. All public utilities subject to Commission regulation as to rates and service under the provisions of Chapter 10 (§ 56-232 et seq.) of Title 56 of the Code of Virginia are subject to Chapter 4. For water and wastewater utilities, only those utilities with gross annual revenues of \$500,000 or more are subject to Chapter 4.

3. No filing fees are required for filings under the Affiliate Act.

4. Utilities may request, pursuant to § 56-77 B of the Code of Virginia, exemption from the filing and prior approval requirements of Chapter 4. Such exemptions are not automatic but may be obtained only by filing a formal application for an exemption. The following are examples of the types of contracts for which the Commission has provided exemptions. However, exemptions will be granted on a case-by-case basis:

a. contracts or arrangements that do not have any impact on the utility company's Virginia jurisdictional business;

b. contracts or arrangements that do have an impact on the utility company's Virginia jurisdictional business but for which total annual billings on a total contract

basis are no more than one percent of total operating and maintenance expense up to a maximum exemption of \$250,000; and

c. contracts or arrangements involving utilities whose rates are no longer set based on traditional rate base regulation.

5. It is the responsibility of each utility company to file for approval of such contracts or arrangements regardless of the amount involved. Contracts and arrangements must be approved prior to the utility entering into them (unless the Commission has granted an exemption). If approval is sought after entering into the contracts or arrangements, a detailed explanation as to why this occurred must be included in the application. Any such contract or arrangement may be voided by the Commission. The explanation must include the following: the length of time the contract or arrangement has been in effect and the dollar amount that has transferred between the utility and the affiliate as a result of the contract or arrangement.

6. It is the responsibility of each utility to conform to the appropriate Uniform System of Accounts and adhere to established accounting principles.

7. Companies required to file SEC Form U-36 with the Securities and Exchange Commission are requested to submit copies of such filings with the Commission's Director of Utility Accounting and Finance.

### **Pricing Guidelines**

A. Staff recommends use of the following guidelines in pricing the provision of goods or services between the regulated utility and its affiliates:

1. Goods and services provided by the regulated utility to an unregulated or regulated affiliate pursuant to a regulated tariff should be provided at the tariffed rate.

2. Non-tariffed goods and services provided by the regulated utility to an unregulated affiliate should be provided at the higher of fully distributed cost (to include a return component) or the market value, or market price.

3. Non-tariffed goods and services provided between regulated utilities should be provided at fully distributed cost.

4. Goods and services provided by an unregulated affiliate to the regulated utility should be provided at the lower of cost (which may include a return component) or the fair market value, or the market price.

5. The determination of fair market value should be an ongoing process using such methods as competitive bids, appraisals, catalog listings, sales to third parties, and replacement cost of assets. If appraisals are used in determining fair market value, such value should be determined by averaging two or more independent appraisals.

B. When goods or services are proposed to be provided between the regulated utility and its affiliate and costs of providing such services are charged or allocated to the recipient, the Staff recommends that the following guidelines be followed:

1. Costs should be directly charged or assigned where possible.

2. Direct costs include labor costs and expenses that can be identified through a work order or similar system as being applicable to services performed for a single company or group of companies. Costs incidental to or related to a directly charged item should be classified as direct costs.

3. Indirect costs include those costs of a general overhead nature such as general services, housekeeping costs, and other support costs that cannot be separately identified to a single company or group of companies and, therefore, should be allocated.

4. Costs that cannot be directly charged or assigned should be allocated. Allocations should be made based on a direct cost factor such as labor and other costs when costs can be identified with a particular activity.

5. Cost allocations that cannot be associated with a particular activity and, therefore, cannot be allocated based on some direct cost factor should be allocated based on a formula. Allocations made based on a general allocator (formula approach) should be used only as a last resort and should be limited to 5% of total charges relative to the provision of goods and services pursuant to a particular arrangement or agreement.

6. If allocations or cost assignments are to be made based on estimates, true-ups should be made on a quarterly basis and no less than an annual basis. If true-ups are different than those suggested here, explain any deviation.

C. Additional pricing guidelines follow:

1. Explain, in detail, any proposed pricing that would deviate from the above guidelines.

2. Section 56-233.1 of the Code of Virginia requires that every public utility shall use competitive bidding, to the extent possible, in its purchasing practices. Indicate whether competitive bidding was used in the proposed arrangement and provide a copy of the request for proposal (RFP) and the names of vendors contacted as well as a summary of the bids received and the prices quoted. The above-referenced information may be provided as confidential information. If competitive bidding was not used, explain why not. Also, provide justification for the vendor selected.

3. If a return component is used in determining costs, include an explanation as to how such component is determined and state what the current component is.

4. The burden of proof will be with the utility to show that transfers of goods or services with affiliates have been valued at either the higher or lower of cost or fair market value as appropriate. In accordance with §§ 56-78 and 56-79 of the Code of Virginia, the utility should be prepared to provide the costs of providing such goods or services by the utility or the affiliate to the Commission Staff as requested.

5. Transfers of individual items of tangible personal property with a net book value of less than \$10,000 may, at the option of the utility, be valued at cost. The purpose of this exception is to provide an alternative to the market determination for smaller items.