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SENATE BILL NO. 651

Offered January 23, 2004

A BILL to amend and reenact §§ 56-249.6, 56-577, 56-580, 56-582, 56-583, 56-589, and 56-594 of the Code of Virginia, relating to the Electric Utility Restructuring Act.

Patron—Norment

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That §§ 56-249.6, 56-577, 56-580, 56-582, 56-583, 56-589, and 56-594 of the Code of Virginia are amended and reenacted as follows:

§ 56-249.6. Recovery of fuel costs.

A. 1. Each electric utility ~~which~~*that* purchases fuel for the generation of electricity *and that was not, as of July 1, 1999, bound by a rate case settlement adopted by the Commission that extended in its application beyond January 1, 2002,* shall submit to the Commission its estimate of fuel costs, including the cost of purchased power, for the ~~twelve-~~*12*-month period beginning on the date prescribed by the Commission. Upon investigation of such estimates and hearings in accordance with law, the Commission shall direct each company to place in effect tariff provisions designed to recover the fuel costs determined by the Commission to be appropriate for that period, adjusted for any over-recovery or under-recovery of fuel costs previously incurred.

2. The Commission shall continuously review fuel costs and if it finds that ~~the~~ *any* utility *described in subdivision A. 1.* is in an over-recovery position by more than five percent, or likely to be so, it may reduce the fuel cost tariffs to correct the over-recovery.

B. All fuel costs recovery tariff provisions in effect on January 1, 2004, for any electric utility that purchases fuel for the generation of electricity and that was, as of July 1, 1999, bound by a rate case settlement adopted by the Commission that extended in its application beyond January 1, 2002, shall remain in effect until the earlier of (i) July 1, 2007; (ii) the termination of capped rates pursuant to the provisions of subsection C of § 56-582; or (iii) the establishment of tariff provisions under subsection C. Any such utility shall continue to report to the Commission annually its actual fuel costs, including the cost of purchased power until July 1, 2007.

C. Unless capped rates are terminated pursuant to the provisions of subsection C of § 56-582 prior to July 1, 2007, the Commission shall direct each electric utility described in subsection B to submit to the Commission its estimate of fuel costs, including the cost of purchased power, for the 42-month period beginning July 1, 2007, and ending December 31, 2010. Upon investigation of such estimate and hearing in accordance with law, the Commission shall direct each such utility to place in effect tariff provisions designed to recover the fuel costs determined by the Commission to be appropriate for such period, without adjustment for any over-recovery or under-recovery of fuel costs previously incurred. Such tariff provisions shall remain in effect until the capped rates for such utility expire or are terminated pursuant to the provisions of § 56-582.

~~The~~*D. 1. In proceedings under subsections A and C, the* Commission may, to the extent deemed appropriate, offset against fuel costs and purchased power costs to be recovered ~~hereunder~~ the revenues attributable to sales of power pursuant to interconnection agreements with neighboring electric utilities.

~~The~~*2. In proceedings under subsections A and C, the* Commission shall disallow recovery of any fuel costs that it finds without just cause to be the result of failure of the utility to make every reasonable effort to minimize fuel costs or any decision of the utility resulting in unreasonable fuel costs, giving due regard to reliability of service and the need to maintain reliable sources of supply, economical generation mix, generating experience of comparable facilities, and minimization of the total cost of providing service.

3. The Commission is authorized to promulgate, in accordance with the provisions of this section, all rules and regulations necessary to allow the recovery by electric utilities of all of their prudently incurred fuel costs *under subsections A and C,* including the cost of purchased power, as precisely and promptly as possible, with no over-recovery or under-recovery, in a manner that will tend to assure public confidence and minimize abrupt changes in charges to consumers.

The Commission may, however, dispense with the procedures set forth above for any electric utility if it finds, after notice and hearing, that the electric utility's fuel costs can be reasonably recovered through the rates and charges investigated and established in accordance with other sections of this chapter.

§ 56-577. Schedule for transition to retail competition; Commission authority; exemptions; pilot

programs.

A. ~~The~~*Subject to the provisions of subsection C, the* transition to retail competition for the purchase and sale of electric energy shall be implemented as follows:

1. Each incumbent electric utility owning, operating, controlling, or having an entitlement to transmission capacity shall join or establish a regional transmission entity, which entity may be an independent system operator, to which such utility shall transfer the management and control of its transmission system, subject to the provisions of § 56-579.

2. On and after January 1, 2002, retail customers of electric energy within the Commonwealth shall be permitted to purchase energy from any supplier of electric energy licensed to sell retail electric energy within the Commonwealth during and after the period of transition to retail competition, subject to the following:

a. The Commission shall separately establish for each utility a phase-in schedule for customers by class, and by percentages of class, to ensure that by January 1, 2004, all retail customers of each utility are permitted to purchase electric energy from any supplier of electric energy licensed to sell retail electric energy within the Commonwealth.

b. The Commission shall also ensure that residential and small business retail customers are permitted to select suppliers in proportions at least equal to that of other customer classes permitted to select suppliers during the period of transition to retail competition.

3. On and after January 1, 2002, the generation of electric energy shall no longer be subject to regulation under this title, except as specified in this chapter.

4. On and after January 1, 2004, all retail customers of electric energy within the Commonwealth, regardless of customer class, shall be permitted to purchase electric energy from any supplier of electric energy licensed to sell retail electric energy within the Commonwealth.

B. The Commission may delay or accelerate the implementation of any of the provisions of this section, subject to the following:

1. Any such delay or acceleration shall be based on considerations of reliability, safety, communications or market power; and

2. Any such delay shall be limited to the period of time required to resolve the issues necessitating the delay, but in no event shall any such delay extend the implementation of customer choice for all customers beyond January 1, 2005.

The Commission shall, within a reasonable time, report to the General Assembly, or any legislative entity monitoring the restructuring of Virginia's electric industry, any such delays and the reasons therefor.

C. 1. Commencing on July 1, 2004, if a majority of cooperatives file a written notice to the Commission, with copy to the Commission on Electric Utility Restructuring, electing to be exempt from §§ 56-581.1 through 56-585, 56-587, and 56-590, then all cooperatives shall thereafter be exempt from such sections of this chapter. In addition, upon acknowledgement of receipt of such notice by the Commission:

a. All cooperative's rates shall be (i) their capped rates established pursuant to § 56-582 until July 1, 2007, and (ii) determined thereafter by the Commission pursuant to Chapter 10 (§ 56-232 et seq.) of this title; and

b. Any order of the Commission that (i) issued a license to any cooperative pursuant to § 56-587, or (ii) approved any cooperative's functional separation plan under § 56-590 shall have no further force and effect.

2. If cooperatives have elected an exemption under this subsection, a majority of cooperatives may, at any time thereafter, file a written notice to the Commission, with copy to the Commission on Electric Utility Restructuring, waiving such exemption. Upon acknowledgement of receipt of such notice by the Commission, all cooperatives shall thereafter be subject to §§ 56-581.1 through 56-585, 56-587, and 56-590, and any order of the Commission previously rendered inoperative by the provision of subdivision C. 1. b. shall again be in full force and effect.

~~C~~*D.* The Commission may conduct pilot programs encompassing retail customer choice of electricity energy suppliers for each incumbent electric utility that has not transferred functional control of its transmission facilities to a regional transmission entity prior to January 1, 2003. Upon application of an incumbent electric utility, the Commission may establish opt-in and opt-out municipal aggregation pilots and any other pilot programs the Commission deems to be in the public interest, and the Commission shall report to the Legislative Transition Task Force on the status of such pilots by November of each year through 2006.

~~D~~*E.* The Commission shall promulgate such rules and regulations as may be necessary to implement the provisions of this section.

~~E~~*F. 1.* By January 1, 2002, the Commission shall promulgate regulations establishing whether and, if so, for what minimum periods, customers who request service from an incumbent electric utility pursuant to subsection D of § 56-582 or a default service provider, after a period of receiving service

from other suppliers of electric energy, shall be required to use such service from such incumbent electric utility or default service provider, as determined to be in the public interest by the Commission.

2. Effective July 1, 2004, and subject further to the availability of capped rate service under § 56-582, retail customers of electric energy (i) purchasing such energy from licensed suppliers and (ii) otherwise subject to minimum stay periods prescribed by the Commission pursuant to subdivision 1, shall nevertheless be exempt from any such minimum stay obligations by agreeing to purchase electric energy at market-based rates from incumbent electric utilities or default providers concurrent with seeking to purchase electric energy from such utilities or providers after a period of obtaining electric energy from another supplier. Such rates shall be determined and approved by the Commission after notice and opportunity for hearing. The methodology established by the Commission for determining such rates shall be consistent with the goals of (a) promoting the development of effective competition and economic development within the Commonwealth as provided in subsection A of § 56-596, and (b) ensuring that neither incumbent utilities nor retail customers that do not choose to obtain electric energy from alternate suppliers are adversely affected.

3. Notwithstanding the provisions of subsection D of § 56-582 and subdivision C 1 of § 56-585, however, any such customers exempted from any applicable minimum stay periods as provided in subdivision 2 shall not be entitled to purchase retail electric energy from their incumbent electric utilities thereafter at the capped rates established under § 56-582, and expiring on July 1, 2007, unless such customers agree to satisfy any minimum stay period then applicable while obtaining retail electric energy at capped rates.

4. The Commission shall promulgate such rules and regulations as may be necessary to implement the provisions of this subsection.

§ 56-580. Transmission and distribution of electric energy.

A. The Commission shall continue to regulate pursuant to this title the distribution of retail electric energy to retail customers in the Commonwealth and, to the extent not prohibited by federal law, the transmission of electric energy in the Commonwealth.

B. The Commission shall continue to regulate, to the extent not prohibited by federal law, the reliability, quality and maintenance by transmitters and distributors of their transmission and retail distribution systems.

C. The Commission shall develop codes of conduct governing the conduct of incumbent electric utilities and affiliates thereof when any such affiliates provide, or control any entity that provides, generation, distribution, transmission or any services made competitive pursuant to § 56-581.1, to the extent necessary to prevent impairment of competition.

D. The Commission shall permit the construction and operation of electrical generating facilities upon a finding that such generating facility and associated facilities (i) will have no material adverse effect upon reliability of electric service provided by any regulated public utility and (ii) are not otherwise contrary to the public interest. In review of a petition for a certificate to construct and operate a generating facility described in this subsection, the Commission shall give consideration to the effect of the facility and associated facilities on the environment and establish such conditions as may be desirable or necessary to minimize adverse environmental impact as provided in § 56-46.1. In order to avoid duplication of governmental activities, any valid permit or approval required for an electric generating plant and associated facilities issued or granted by a federal, state or local governmental entity charged by law with responsibility for issuing permits or approvals regulating environmental impact and mitigation of adverse environmental impact or for other specific public interest issues such as building codes, transportation plans, and public safety, whether such permit or approval is prior to or after the Commission's decision, shall be deemed to satisfy the requirements of this section with respect to all matters that (i) are governed by the permit or approval or (ii) are within the authority of, and were considered by, the governmental entity in issuing such permit or approval, and the Commission shall impose no additional conditions with respect to such matters. Nothing in this section shall affect the ability of the Commission to keep the record of a case open. Nothing in this section shall affect any right to appeal such permits or approvals in accordance with applicable law. In the case of a proposed facility located in a region that was designated as of July 1, 2001, as serious nonattainment for the one-hour ozone standard as set forth in the federal Clean Air Act, the Commission shall not issue a decision approving such proposed facility that is conditioned upon issuance of any environmental permit or approval.

E. Nothing in this section shall impair the distribution service territorial rights of incumbent electric utilities, and incumbent electric utilities shall continue to provide distribution services within their exclusive service territories as established by the Commission. Nothing in this chapter shall impair the Commission's existing authority over the provision of electric distribution services to retail customers in the Commonwealth including, but not limited to, the authority contained in Chapters 10 (§ 56-232 et seq.) and 10.1 (§ 56-265.1 et seq.) of this title.

F. Nothing in this chapter shall impair the exclusive territorial rights of an electric utility owned or operated by a municipality as of July 1, 1999, nor shall any provision of this chapter apply to any such electric utility unless (i) that municipality elects to have this chapter apply to that utility or (ii) that utility, directly or indirectly, sells, offers to sell or seeks to sell electric energy to any retail customer outside the geographic area that was served by such municipality as of July 1, 1999, except any area within the municipality that was served by an incumbent public utility as of that date but was thereafter served by an electric utility owned or operated by a municipality pursuant to the terms of a franchise agreement between the municipality and the incumbent public utility. If an electric utility owned or operated by a municipality as of July 1, 1999, is made subject to the provisions of this chapter pursuant to clause (i) or (ii) of this subsection, then in such event the provisions of this chapter applicable to incumbent electric utilities shall also apply to any such utility, mutatis mutandis.

G. The applicability of this chapter to any investor-owned incumbent electric utility supplying electric service to retail customers on January 1, 2003, whose service territory assigned to it by the Commission is located entirely within Dickenson, Lee, Russell, Scott, and Wise Counties shall be suspended effective July 1, 2003, so long as such utility does not provide retail electric services in any other service territory in any jurisdiction to customers who have the right to receive retail electric energy from another supplier. During any such suspension period, the utility's rates shall be (i) its capped rates established pursuant to § 56-582 for the duration of the capped rate period established thereunder, and (ii) determined thereafter by the Commission on the basis of such utility's prudently incurred costs pursuant to Chapter 10 (§ 56-232 et seq.) of this title.

H. The expiration date of any certificates granted by the Commission pursuant to subsection D, for which applications were filed with the Commission prior to July 1, 2002, shall be extended for an additional two years from the expiration date that otherwise would apply.

§ 56-582. Rate caps.

A. The Commission shall establish capped rates, effective January 1, 2001, ~~and expiring on July 1, 2007,~~ for each service territory of every incumbent utility as follows:

1. Capped rates shall be established for customers purchasing bundled electric transmission, distribution and generation services from an incumbent electric utility.

2. Capped rates for electric generation services, only, shall also be established for the purpose of effecting customer choice for those retail customers authorized under this chapter to purchase generation services from a supplier other than the incumbent utility during this period.

3. The capped rates established under this section shall be the rates in effect for each incumbent utility as of the effective date of this chapter, or rates subsequently placed into effect pursuant to a rate application filed by an incumbent electric utility with the Commission prior to January 1, 2001, and subsequently approved by the Commission, and made by an incumbent electric utility that is not currently bound by a rate case settlement adopted by the Commission that extends in its application beyond January 1, 2002. If such rate application is filed, the rates proposed therein shall go into effect on January 1, 2001, but such rates shall be interim in nature and subject to refund until such time as the Commission has completed its investigation of such application. Any amount of the rates found excessive by the Commission shall be subject to refund with interest, as may be ordered by the Commission. The Commission shall act upon such applications prior to commencement of the period of transition to customer choice. Such rate application and the Commission's approval shall give due consideration, on a forward-looking basis, to the justness and reasonableness of rates to be effective for a period of time ending as late as July 1, 2007. The capped rates established under this section, which include rates, tariffs, electric service contracts, and rate programs (including experimental rates, regardless of whether they otherwise would expire), shall be such rates, tariffs, contracts, and programs of each incumbent electric utility, provided that experimental rates and rate programs may be closed to new customers upon application to the Commission. Such capped rates shall also include rates for new services where, subsequent to January 1, 2001, rate applications for any such rates are filed by incumbent electric utilities with the Commission and are thereafter approved by the Commission. In establishing such rates for new services, the Commission may use any rate method that promotes the public interest and that is fairly compensatory to any utilities requesting such rates.

B. The Commission may adjust such capped rates in connection with the following: (i) utilities' recovery of fuel costs pursuant to § 56-249.6, (ii) any changes in the taxation by the Commonwealth of incumbent electric utility revenues, (iii) any financial distress of the utility beyond its control, (iv) with respect to cooperatives that were not members of a power supply cooperative on January 1, 1999, and as long as they do not become members, their cost of purchased wholesale power and discounts from capped rates to match the cost of providing distribution services, and (v) with respect to cooperatives that were members of a power supply cooperative on January 1, 1999, their recovery of fuel costs, through the wholesale power cost adjustment clauses of their tariffs pursuant to § 56-231.33. Notwithstanding the provisions of § 56-249.6, the Commission may authorize tariffs that include incentives designed to encourage an incumbent electric utility to reduce its fuel costs by permitting

retention of a portion of cost savings resulting from fuel cost reductions or by other methods determined by the Commission to be fair and reasonable to the utility and its customers.

C. A utility may petition the Commission to terminate the capped rates to all customers any time after January 1, 2004, and such capped rates may be terminated upon the Commission finding of an effectively competitive market for generation services within the service territory of that utility. If the capped rates are continued after January 1, 2004, an incumbent electric utility ~~which~~*that* is not, as of the effective date of this chapter, bound by a rate case settlement adopted by the Commission that extends in its application beyond January 1, 2002, may petition the Commission for approval of a one-time change in ~~the nongeneration components of such~~ *its* rates*, and if the capped rates are continued after July 1, 2007, such incumbent electric utility may at any time after July 1, 2007, petition the Commission for approval of a one-time change in its rates*.

D. Until the expiration or termination of capped rates as provided in this section, the incumbent electric utility, consistent with the functional separation plan implemented under § 56-590, shall make electric service available at capped rates established under this section to any customer in the incumbent electric utility's service territory, including any customer that, until the expiration or termination of capped rates, requests such service after a period of utilizing service from another supplier.

E. During the period when capped rates are in effect for an incumbent electric utility, such utility may file with the Commission a plan describing the method used by such utility to assure full funding of its nuclear decommissioning obligation and specifying the amount of the revenues collected under either the capped rates, as provided in this section, or the wires charges, as provided in § 56-583, that are dedicated to funding such nuclear decommissioning obligation under the plan. The Commission shall approve the plan upon a finding that the plan is not contrary to the public interest.

F. The capped rates established pursuant to this section shall expire on December 31, 2010, unless sooner terminated by the Commission pursuant to the provisions of subsection C.

§ 56-583. Wires charges.

A. To provide the opportunity for competition and consistent with § 56-584, the Commission shall calculate wires charges for each incumbent electric utility, effective upon the commencement of customer choice, which shall be the excess, if any, of the incumbent electric utility's capped unbundled rates for generation over the projected market prices for generation, as determined by the Commission; however, where there is such excess, the sum of such wires charges, the unbundled charge for transmission and ancillary services, the applicable distribution rates established by the Commission and the above projected market prices for generation shall not exceed the capped rates established under § 56-582 A 1 applicable to such incumbent electric utility. The Commission shall adjust such wires charges not more frequently than annually and shall seek to coordinate adjustments of wires charges with any adjustments of capped rates pursuant to § 56-582. No wires charge shall be less than zero. The projected market prices for generation, when determined under this subsection, shall be adjusted for any projected cost of transmission, transmission line losses, and ancillary services subject to the jurisdiction of the Federal Energy Regulatory Commission which the incumbent electric utility (i) must incur to sell its generation and (ii) cannot otherwise recover in rates subject to state or federal jurisdiction.

B. Customers that choose suppliers of electric energy, other than the incumbent electric utility, or are subject to and receiving default service, prior to the ~~expiration of the period for capped rates, as provided for in § 56-582,~~ *earlier of July 1, 2007, or the termination by the Commission of capped rates pursuant to the provisions of subsection C of § 56-582* shall pay a wires charge determined pursuant to subsection A based upon actual usage of electricity distributed by the incumbent electric utility to the customer (i) during the period from the time the customer chooses a supplier of electric energy other than the incumbent electric utility or (ii) during the period from the time the customer is subject to and receives default service until ~~capped rates expire or are terminated, as provided in § 56-582~~ *the earlier of (a) July 1, 2007, or (b) the termination by the Commission of capped rates pursuant to the provisions of subsection C of § 56-582*.

C. The Commission shall permit any customer, at its option, to pay the wires charges owed to an incumbent electric utility on an accelerated or deferred basis upon a finding that such method is not (i) prejudicial to the incumbent electric utility or its ratepayers or (ii) inconsistent with the development of effective competition, provided that all deferred wires charges shall be paid in full by July 1, 2007.

D. A supplier of retail electric energy may pay any or all of the wires charge owed by any customer to an incumbent electric utility. The supplier may not only pay such wires charge on behalf of any customer, but also contract with any customer to finance such payments. Further, on request of a supplier, the incumbent electric utility shall enter into a contract allowing such supplier to pay such wires charge on an accelerated or deferred basis. Such contract shall contain terms and conditions, specified in rules and regulations promulgated by the Commission to implement the provisions of this subsection, that fully compensate the incumbent electric utility for such wires charge, including reasonable compensation for the time value of money.

E. 1. Notwithstanding the provisions of subsection D of § 56-582 and subsection C of § 56-585, and effective July 1, 2004, and subject further to the availability of capped rate service under § 56-582, (i) individual customers within the industrial and commercial rate classes of incumbent electric utilities, subject to such demand criteria as may be established by the Commission, and (ii) aggregated customers of incumbent electric utilities in all rate classes, subject to such demand criteria as may be established by the Commission, may elect, upon giving prior notice to such utilities, to purchase retail electric energy from licensed suppliers thereof without the obligation to pay wires charges to any such utilities as otherwise provided under this section.

2. Any such customers (i) making such election and (ii) thereafter exercising that election by obtaining retail electric energy from suppliers without paying wires charges to their incumbent electric utilities, as authorized herein, shall not be entitled to purchase retail electric energy from their incumbent electric utilities thereafter at the capped rates established under § 56-582, for the duration of the capped rate period expiring on July 1, 2007.

3. Customers making and exercising such election may thereafter, however, purchase retail electric energy from their incumbent electric utilities at market-based rates for generation capacity and energy. Such rates shall be determined and approved by the Commission after notice and opportunity for hearing. The methodology established by the Commission for determining such rates shall be consistent with the goals of (i) promoting the development of effective competition and economic development within the Commonwealth as provided in subsection A of § 56-596, and (ii) ensuring that neither incumbent utilities nor retail customers that do not choose to obtain electric energy from alternate suppliers are adversely affected.

4. The Commission shall promulgate such rules and regulations as may be necessary to implement the provisions of this subsection.

§ 56-589. Municipal and state aggregation.

A. Counties, cities, and towns (hereafter municipalities) and other political subdivisions of the Commonwealth may, at their election and upon authorization by majority votes of their governing bodies, aggregate electrical energy and demand requirements for the purpose of negotiating the purchase of electrical energy requirements from any licensed supplier within this Commonwealth, as follows:

1. Any municipality or other political subdivision of the Commonwealth may aggregate the electric energy load of residential, commercial, and industrial retail customers within its boundaries on ~~a voluntary,~~ *an* opt-in *or opt-out* basis ~~in which each such customer must affirmatively select such municipality or other political subdivision as its aggregator. The municipality or other political subdivision may not earn a profit but must recover the actual costs incurred in such aggregation~~.

2. Any municipality or other political subdivision of the Commonwealth may aggregate the electric energy load of its governmental buildings, facilities, and any other governmental operations requiring the consumption of electric energy. Aggregation pursuant to this subdivision shall not require licensure pursuant to § 56-588.

3. Two or more municipalities or other political subdivisions within ~~this~~*the* Commonwealth may aggregate the electric energy load of their governmental buildings, facilities, and any other governmental operations requiring the consumption of electric energy. Aggregation pursuant to this subdivision shall not require licensure pursuant to § 56-588 when such municipalities or other political subdivisions are acting jointly to negotiate or arrange for themselves agreements for their energy needs directly with licensed suppliers or aggregators.

Nothing in this subsection shall prohibit the Commission's development and implementation of pilot programs for opt-in, opt-out, or any other type of municipal aggregation, as provided in § 56-577.

B. The Commonwealth, at its election, may aggregate the electric energy load of its governmental buildings, facilities, and any other government operations requiring the consumption of electric energy for the purpose of negotiating the purchase of electricity from any licensed supplier within ~~this~~*the* Commonwealth. Aggregation pursuant to this subsection shall not require licensure pursuant to § 56-588.

§ 56-594. Net energy metering provisions.

A. The Commission shall establish by regulation a program, to begin no later than July 1, 2000, which affords eligible customer-generators the opportunity to participate in net energy metering. The regulations may include, but need not be limited to, requirements for (i) retail sellers; (ii) owners and/or operators of distribution or transmission facilities; (iii) providers of default service; (iv) eligible customer-generators; or (v) any combination of the foregoing, as the Commission determines will facilitate the provision of net energy metering, provided that the Commission determines that such requirements do not adversely affect the public interest.

B. For the purpose of this section:

"Eligible customer-generator" means a customer that owns and operates an electrical generating facility that (i) has a capacity of not more than ten kilowatts for residential customers and ~~twenty-five~~ *500* kilowatts for nonresidential customers; (ii) uses as its total source of fuel solar, wind, or hydro energy; (iii) is located on the customer's premises; (iv) is interconnected and operated in parallel with an

electric company's transmission and distribution facilities; and (v) is intended primarily to offset all or part of the customer's own electricity requirements.

"Net energy metering" means measuring the difference, over the net metering period, between (i) electricity supplied to an eligible customer-generator from the electric grid and (ii) the electricity generated and fed back to the electric grid by the eligible customer-generator.

"Net metering period" means the ~~twelve~~*12*-month period following the date of final interconnection of the eligible customer-generator's system with an electric service provider, and each ~~twelve~~*12*-month period thereafter.

C. The Commission's regulations shall ensure that the metering equipment installed for net metering shall be capable of measuring the flow of electricity in two directions, and shall allocate fairly the cost of such equipment and any necessary interconnection. An eligible customer-generator's solar, wind or hydro electrical generating system shall meet all applicable safety and performance standards established by the National Electrical Code, the Institute of Electrical and Electronics Engineers, and accredited testing laboratories such as Underwriters Laboratories. Beyond the requirements set forth in this section, a customer-generator whose solar, wind or hydro electrical generating system meets those standards and rules shall bear the reasonable cost, if any, as determined by the Commission, to (i) install additional controls, (ii) perform or pay for additional tests, or (iii) purchase additional liability insurance.

D. The Commission shall establish minimum requirements for contracts to be entered into by the parties to net metering arrangements. Such requirements shall protect the customer-generator against discrimination by virtue of its status as a customer-generator. Where electricity generated by the customer-generator over the net metering period exceeds the electricity consumed by the customer-generator, the customer-generator shall not be compensated for the excess electricity unless the entity contracting to receive such electric energy and the customer-generator enter into a power purchase agreement for such excess electricity. The net metering standard contract or tariff shall be available to eligible customer-generators on a first-come, first-served basis in each electric distribution company's Virginia service area until the rated generating capacity owned and operated by eligible customer-generators in the state reaches 0.1 percent of each electric distribution company's adjusted Virginia peak-load forecast for the previous year.