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SENATE BILL NO. 575

Offered January 9, 2008

Prefiled January 9, 2008

A BILL to amend and reenact §§ 30-201, 30-205, 30-208, 30-209, 56-579, 56-592, 56-592.1, 56-596, and 67-202 of the Code of Virginia, relating to the Commission on Electric Utility Regulation.

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Referred to Committee on Rules

Be it enacted by the General Assembly of Virginia:

1. That §§ 30-201, 30-205, 30-208, 30-209, 56-579, 56-592, 56-592.1, 56-596, and 67-202 of the Code of Virginia are amended and reenacted as follows:

§ 30-201. Commission on Electric Utility Regulation; purpose.

The Commission on Electric Utility Restructuring Regulation (the Commission) is established in the legislative branch of state government. The purpose of the Commission is to work collaboratively with the State Corporation Commission in conjunction with the phase-in of retail competition within the Commonwealth implementation of Chapter 23 (§ 56-576 et seq.) of Title 56.

§ 30-205. Powers and duties of the Commission.

The Commission shall have the following powers and duties:

1. Monitor the work of the State Corporation Commission in implementing Chapter 23 (§ 56-576 et seq.) of Title 56, receiving such reports as the Commission may be required to make pursuant thereto, including reviews, analyses, and impact on consumers of electric utility restructuring programs regulation in other states;

2. Determine whether, and on what basis, incumbent electric utilities should be permitted to discount capped generation rates established pursuant to § 56-582;

3. Monitor, after the commencement of customer choice and with the assistance of the State Corporation Commission and the Office of Attorney General, the incumbent electric utilities, suppliers, and retail customers, whether the recovery of stranded costs, as provided in § 56-584, has resulted or is likely to result in the overrecovery or underrecovery of just and reasonable net stranded costs;

4. Examine (i) utility worker protection during the transition to retail competition, (ii) generation, transmission and distribution systems reliability concerns, and (iii) energy assistance programs for low-income households;

5. Evaluate and assess the implications of the scheduled expiration of the capped rates established pursuant to § 56-582;

6. Establish one or more subcommittees, composed of its membership, persons with expertise in the matters under consideration by the Commission, or both, to meet at the direction of the chairman of the Commission, for any purpose within the scope of the duties prescribed to the Commission by this section, provided that such persons who are not members of the Commission shall serve without compensation but shall be entitled to be reimbursed from funds appropriated or otherwise available to the Commission for reasonable and necessary expenses incurred in the performance of their duties; and

7. Report annually to the General Assembly and the Governor on the progress of each stage of the phase-in of retail competition and offer with such recommendations as may be appropriate for legislative and administrative consideration in order to maintain reliable and reasonably priced electric service in the Commonwealth's position as a low-cost electricity market and ensure that residential customers and small business customers benefit from competition Commonwealth.

§ 30-208. Consumer Advisory Board; purpose; membership; compensation and expenses; staffing.

A. There shall be established a Consumer Advisory Board to assist the Commission on Electric Utility Restructuring in its work as prescribed in § 30-205 and on other issues as may be directed by the Commission. The Board shall consist of eight members as follows: three nonlegislative citizen members appointed by the Senate Committee on Rules; four nonlegislative citizen members appointed by the Speaker of the House of Delegates and one member of the Commission designated by the chairman to serve as a nonvoting liaison member. Appointed members shall be from all classes of consumers and with geographical representation of the regions of the Commonwealth and shall be citizens of the Commonwealth. The chairman of the Commission shall select the chairman of the Board.

B. The Board shall be limited to meeting on the call of the chairman of the Commission.

C. The legislative member of the Board shall receive compensation as provided in § 30-19.12, and nonlegislative citizen members shall receive such compensation for the performance of their duties as provided in § 2.2-2813. All members shall be reimbursed for all reasonable and necessary expenses

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59 incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. However, all such  
60 compensation shall be paid from existing appropriations to the Commission or, if unfunded, shall be  
61 approved by the Joint Rules Committee. Unless otherwise approved in writing by the chairman of the  
62 Commission, nonlegislative citizen members shall only be reimbursed for travel originating and ending  
63 within the Commonwealth of Virginia for the purpose of attending meetings.

64 D. Administrative staff support shall be provided by the Office of the Clerk of the Senate or the  
65 Office of Clerk of the House of Delegates as may be appropriate for the house in which the chairman of  
66 the Commission serves. The Division of Legislative Services shall provide legal, research, policy  
67 analysis, and other services as requested by the Board. All agencies of the Commonwealth shall provide  
68 assistance to the Board, upon request.

69 § 30-209. Sunset.

70 This chapter shall expire on July 1, 2008 2010.

71 § 56-579. Regional transmission entities.

72 A. As set forth in § 56-577, each incumbent electric utility owning, operating, controlling, or having  
73 an entitlement to transmission capacity shall join or establish a regional transmission entity, which  
74 hereafter may be referred to as "RTE," to which such utility shall transfer the management and control  
75 of its transmission assets, subject to the following:

76 1. No such incumbent electric utility shall transfer to any person any ownership or control of, or any  
77 responsibility to operate, any portion of any transmission system located in the Commonwealth prior to  
78 July 1, 2004, and without obtaining, following notice and hearing, the prior approval of the  
79 Commission, as hereinafter provided. However, each incumbent electric utility shall file an application  
80 for approval pursuant to this section by July 1, 2003, and shall transfer management and control of its  
81 transmission assets to a regional transmission entity by January 1, 2005, subject to Commission approval  
82 as provided in this section.

83 2. The Commission shall develop rules and regulations under which any such incumbent electric  
84 utility owning, operating, controlling, or having an entitlement to transmission capacity within the  
85 Commonwealth, may transfer all or part of such control, ownership or responsibility to an RTE, upon  
86 such terms and conditions that the Commission determines will:

87 a. Promote:

88 (1) Practices for the reliable planning, operating, maintaining, and upgrading of the transmission  
89 systems and any necessary additions thereto; and

90 (2) Policies for the pricing and access for service over such systems that are safe, reliable, efficient,  
91 not unduly discriminatory and consistent with the orderly development of competition in the  
92 Commonwealth;

93 b. Be consistent with lawful requirements of the Federal Energy Regulatory Commission;

94 c. Be effectuated on terms that fairly compensate the transferor;

95 d. Generally promote the public interest, and are consistent with (i) ensuring that consumers' needs  
96 for economic and reliable transmission are met and (ii) meeting the transmission needs of electric  
97 generation suppliers both within and without this Commonwealth, including those that do not own,  
98 operate, control or have an entitlement to transmission capacity.

99 B. The Commission shall also adopt rules and regulations, with appropriate public input, establishing  
100 elements of regional transmission entity structures essential to the public interest, which elements shall  
101 be applied by the Commission in determining whether to authorize transfer of ownership or control from  
102 an incumbent electric utility to a regional transmission entity.

103 C. The Commission shall, to the fullest extent permitted under federal law, participate in any and all  
104 proceedings concerning regional transmission entities furnishing transmission services within the  
105 Commonwealth, before the Federal Energy Regulatory Commission. Such participation may include such  
106 intervention as is permitted state utility regulators under Federal Energy Regulatory Commission rules  
107 and procedures.

108 D. Nothing in this section shall be deemed to abrogate or modify:

109 1. The Commission's authority over transmission line or facility construction, enlargement or  
110 acquisition within this Commonwealth, as set forth in Chapter 10.1 (§ 56-265.1 et seq.) of this title;

111 2. The laws of this Commonwealth concerning the exercise of the right of eminent domain by a  
112 public service corporation pursuant to the provisions of Article 5 (§ 56-257 et seq.) of Chapter 10 of this  
113 title; or

114 3. The Commission's authority over retail electric energy sold to retail customers within the  
115 Commonwealth by licensed suppliers of electric service, including necessary reserve requirements, all as  
116 specified in § 56-587.

117 E. For purposes of this section, transmission capacity shall not include capacity that is primarily  
118 operated in a distribution function, as determined by the Commission, taking into consideration any  
119 binding federal precedents.

120 F. Any request to the Commission for approval of such transfer of ownership or control of or

121 responsibility for transmission facilities shall include a study of the comparative costs and benefits  
122 thereof, which study shall analyze the economic effects of the transfer on consumers, including the  
123 effects of transmission congestion costs. The Commission may approve such a transfer if it finds, after  
124 notice and hearing, that the transfer satisfies the conditions contained in this section.

125 G. The Commission shall report annually to the Commission on Electric Utility Restructuring  
126 Regulation its assessment of the success in the practices and policies of the RTE facilitating the orderly  
127 development of competition in the Commonwealth. Such report shall set forth actions taken by the  
128 Commission regarding requests for the approval of any transfer of ownership or control of transmission  
129 facilities to an RTE, including a description of the economic effects of such proposed transfers on  
130 consumers.

131 § 56-592. Consumer education and protection; Commission report to Commission on Electric Utility  
132 Regulation.

133 A. The Commission shall develop a consumer education program designed to provide the following  
134 information to retail customers during the period of transition to retail competition and thereafter:

135 1. Opportunities and options in choosing (i) suppliers and aggregators of electric energy and (ii) any  
136 other service made competitive pursuant to this chapter;

137 2. Marketing and billing information suppliers and aggregators of electric energy will be required to  
138 furnish retail customers;

139 3. Retail customers' rights and obligations concerning the purchase of electric energy and related  
140 services; and

141 4. Such other information as the Commission may deem necessary and appropriate in the public  
142 interest.

143 B. The Commission shall complete the development of the consumer education program described in  
144 subsection A, and report its findings and recommendations to the Commission on Electric Utility  
145 Restructuring Regulation on or before December 1, 1999, and as frequently thereafter as may be  
146 required by such Commission concerning:

147 1. The scope of such recommended program consistent with the requirements of subsection A;

148 2. Materials and media required to effectuate any such program;

149 3. State agency and nongovernmental entity participation;

150 4. Program duration;

151 5. Funding requirements and mechanisms for any such program; and

152 6. Such other findings and recommendations the Commission deems appropriate in the public  
153 interest.

154 C. The Commission shall develop regulations governing marketing practices by public service  
155 companies, licensed suppliers, aggregators or any other providers of services made competitive by this  
156 chapter, including regulations to prevent unauthorized switching of suppliers, unauthorized charges, and  
157 improper solicitation activities. The Commission shall also establish standards for marketing information  
158 to be furnished by licensed suppliers, aggregators or any other providers of services made competitive  
159 by this chapter during the period of transition to retail competition, and thereafter, which information  
160 shall include standards concerning:

161 1. Pricing and other key contract terms and conditions;

162 2. To the extent feasible, fuel mix and emissions data on at least an annualized basis;

163 3. Customer's rights of cancellation following execution of any contract;

164 4. Toll-free telephone number for customer assistance; and

165 5. Such other and further marketing information as the Commission may deem necessary and  
166 appropriate in the public interest.

167 D. The Commission shall also establish standards for billing information to be furnished by public  
168 service companies, suppliers, aggregators or any other providers of services made competitive by this  
169 chapter during the period of transition to retail competition, and thereafter. Such billing information  
170 standards shall require that billing formation:

171 1. Distinguishes between charges for regulated services and unregulated services;

172 2. Itemizes any and all nonbypassable wires charges;

173 3. Is presented in a format that complies with standards to be established by the Commission;

174 4. Discloses, to the extent feasible, fuel mix and emissions data on at least an annualized basis; and

175 5. Includes such other billing information as the Commission deems necessary and appropriate in the  
176 public interest.

177 E. The Commission shall establish or maintain a complaint bureau for the purpose of receiving,  
178 reviewing and investigating complaints by retail customers against public service companies, licensed  
179 suppliers, aggregators and other providers of any services made competitive under this chapter. Upon the  
180 request of any interested person or the Attorney General, or upon its own motion, the Commission shall  
181 be authorized to inquire into possible violations of this chapter and to enjoin or punish any violations

182 thereof pursuant to its authority under this chapter, this title, and under Title 12.1. The Attorney General  
183 shall have a right to participate in such proceedings consistent with the Commission's Rules of Practice  
184 and Procedure.

185 F. The Commission shall establish reasonable limits on customer security deposits required by public  
186 service companies, suppliers, aggregators or any other persons providing competitive services pursuant to  
187 this chapter.

188 § 56-592.1. Consumer education program; scope and funding.

189 A. The Commission shall establish and implement a consumer education program in conjunction with  
190 the implementation of this chapter. In establishing such a program, the Commission shall take into  
191 account findings and recommendations in the Commission's December 1, 1999, report to the Legislative  
192 Transition Task Force, ~~the~~ a predecessor of the Commission on Electric Utility ~~Restructuring~~ *Restructuring Regulation*.

193 B. The program shall be designed to (i) enable consumers to make rational and informed choices  
194 about energy providers in a competitive retail market, (ii) help consumers reduce transaction costs in  
195 selecting energy suppliers, and (iii) foster compliance with the consumer protection provisions of this  
196 chapter, and those contained in other laws of this Commonwealth, by all participants in a competitive  
197 retail market.

198 C. The Commission shall regularly consult with representatives of consumer organizations,  
199 community-based groups, state agencies, incumbent utilities, competitive suppliers and other interested  
200 parties throughout the program's implementation and operation.

201 D. Pursuant to the provisions of § 30-205, the Commission shall provide periodic updates to the  
202 Commission on Electric Utility ~~Restructuring~~ *Restructuring Regulation* concerning the program's implementation and  
203 operation.

204 E. The Commission shall fund the establishment and operation of such consumer education program  
205 through the special regulatory revenue tax currently authorized by § 58.1-2660 and the special regulatory  
206 tax authorized by Chapter 29 (§ 58.1-2900 et seq.) of Title 58.1.

207 § 56-596. Advancing competition.

208 A. In all relevant proceedings pursuant to this Act, the Commission shall take into consideration,  
209 among other things, the goals of advancement of competition and economic development in the  
210 Commonwealth.

211 B. By September 1 of each year, the Commission shall report to the Commission on Electric Utility  
212 ~~Restructuring~~ *Restructuring Regulation* and the Governor information on the status of competition in the  
213 Commonwealth, the status of the development of regional competitive markets, and its recommendations  
214 to facilitate effective competition in the Commonwealth as soon as practical. This report shall include  
215 any recommendations of actions to be taken by the General Assembly, the Commission, electric utilities,  
216 suppliers, generators, distributors and regional transmission entities it considers to be in the public  
217 interest. Such recommendations shall include actions regarding the supply and demand balance for  
218 generation services, new and existing generation capacity, transmission constraints, market power,  
219 suppliers licensed and operating in the Commonwealth, and the shared or joint use of generation sites.

220 § 67-202. Schedule.

221 A. The Division shall complete the Plan by July 1, 2007.

222 B. Prior to completion of the Plan, the Division shall present drafts to, and consult with, the Coal  
223 and Energy Commission and the Commission on Electric Utility ~~Restructuring~~ *Restructuring Regulation*.

224 C. The Plan shall be updated by the Division no less frequently than every five years.