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HOUSE BILL NO. 2155

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the House Committee on Commerce and Labor
on February 5, 2009)

(Patrons Prior to Substitute—Delegates Toscano and Poisson [HB 1705])

A *BILL to amend and reenact § 56-594 of the Code of Virginia, relating to electric utility service; net energy metering.*

Be it enacted by the General Assembly of Virginia:

1. That § 56-594 of the Code of Virginia is amended and reenacted as follows:

§ 56-594. Net energy metering provisions.

A. The Commission shall establish by regulation a program, to begin no later than July 1, 2000, ~~which~~ *that* 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, or contracts with other persons to own, operate, or both, an electrical generating facility that (i) has a capacity of not more than 10 kilowatts for residential customers and 500 kilowatts for nonresidential customers *unless a utility elects a higher capacity limit for such a facility*; (ii) uses as its total source of fuel renewable energy, as defined in § 56-576; (iii) is located on the customer's premises and is connected to the customer's wiring on the customer's side of its interconnection with the distributor; (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 12-month period following the date of final interconnection of the eligible customer-generator's system with an electric service provider, and each 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 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, an eligible customer-generator whose 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, *and permit customers that are served on time-of-use tariffs that have electricity supply demand charges contained within the electricity supply portion of the time-of-use tariffs to participate as an eligible customer-generator. Notwithstanding the cost allocation provisions of subsection C, eligible customer-generators served on demand charge-based time-of-use tariffs shall bear the incremental metering costs required to net meter such customers.*

E. If electricity generated by an eligible customer-generator over the net metering period exceeds the electricity consumed by the customer-generator, the customer-generator shall be compensated for the excess electricity if the entity contracting to receive such electric energy and the customer-generator enter into a power purchase agreement for such excess electricity. ~~If the eligible customer-generator receives generation service from a default service provider, the default service provider, upon~~ *Upon the written request of the customer-generator, the supplier that serves the eligible customer-generator shall enter into a power purchase agreement with the requesting eligible customer-generator that is consistent with the minimum requirements for contracts established by the Commission pursuant to subsection D. The power purchase agreement shall obligate the default service provider supplier to purchase such excess electricity at the rate that is provided for such purchases in a net metering standard contract or tariff approved by the Commission, unless the parties agree to a higher rate. The eligible*

60 customer-generator owns the renewable energy certificates associated with its electrical generating
61 facility, however, at the time that the eligible customer-generator enters into a power purchase
62 agreement with its supplier, the customer-generator shall have a one-time option to sell the renewable
63 energy certificates associated with such electrical generating facility to its supplier and be compensated
64 at an amount that is established by the Commission to reflect the value of such renewable energy
65 certificates. Nothing in this section shall prevent the eligible customer-generator and the supplier from
66 voluntarily entering into an agreement for the sale and purchase of excess electricity or renewable
67 energy certificates at mutually-agreed upon prices if the eligible customer-generator does not exercise
68 its option to sell its renewable energy certificates to its supplier at Commission-approved prices at the
69 time that the eligible customer-generator enters into a power purchase agreement with its supplier. All
70 costs incurred by the supplier to purchased excess electricity and renewable energy certificates from
71 eligible customer-generators shall be recoverable through its Renewable Energy Portfolio Standard
72 (RPS) rate adjustment clause, if the supplier has a Commission-approved RPS plan. If not, then all
73 costs shall be recoverable through the supplier's fuel adjustment clause. For purposes of this section,
74 "all costs" shall be defined as the rates paid to the eligible customer-generator for the purchase of
75 excess electricity and renewable energy certificates and any administrative costs incurred to manage the
76 eligible customer-generator's power purchase arrangements. The net metering standard contract or tariff
77 shall be available to eligible customer-generators on a first-come, first-served basis in each electric
78 distribution company's Virginia service area until the rated generating capacity owned and operated by
79 eligible customer-generators in the state reaches one percent of each electric distribution company's
80 adjusted Virginia peak-load forecast for the previous year, and shall require the ~~default service provider~~
81 supplier to pay the eligible customer-generator for such excess electricity in a timely manner at a rate to
82 be established by the Commission.