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HOUSE BILL NO. 2267

Offered January 14, 2009

Prefiled January 14, 2009

A BILL to amend and reenact § 56-1 of the Code of Virginia, relating to the definitions of renewable energy facility and renewable energy resource.

Patrons—Poindexter, Athey, Miller, J.H. and Rust

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:**1. That § 56-1 of the Code of Virginia is amended and reenacted as follows:**

§ 56-1. Definitions.

Whenever used in this title, unless the context requires a different meaning:

"Biomass" means organic material, including:

1. Forest-related materials, including mill residues, logging residues, forest thinnings, slash, brush, low-commercial value materials or undesirable species, and woody material harvested for the purpose of forest fire fuel reduction or forest health and watershed improvement;

2. Agricultural-related materials, including orchard trees, vineyard, grain or crop residues, including straws, aquatic plants and agricultural processed co-products and waste products, including fats, oils, greases, whey, and lactose;

3. Animal waste, including manure and slaughterhouse and other processing waste;

4. Solid woody waste materials, including landscape trimmings, waste pallets, crates and manufacturing, construction, and demolition wood wastes, excluding pressure-treated, chemically treated or painted wood wastes and wood contaminated with plastic;

5. Crops and trees planted for the purpose of being used to produce energy;

6. Landfill gas, wastewater treatment gas, and biosolids, including organic waste byproducts generated during the wastewater treatment process;

7. Organic refuse-derived fuel;

8. Other industrial solid waste of an organic, non-hazardous nature; and

9. Unusable reject materials from recycling operations that are primarily of a cellulosic or lignin nature.

"Broadband connection," for purposes of this section, means a connection where transmission speeds exceed 200 kilobits per second in at least one direction.

"Commission" means the State Corporation Commission.

"Corporation" or "company" includes all corporations created by acts of the General Assembly of Virginia, or under the general incorporation laws of this Commonwealth, or doing business therein, and shall exclude all municipal corporations, other political subdivisions, and public institutions owned or controlled by the Commonwealth.

"Interexchange telephone service" means telephone service between points in two or more exchanges that is not classified as local exchange telephone service. "Interexchange telephone service" shall not include Voice-over-Internet protocol service for purposes of regulation by the Commission, including the imposition of certification processing fees and other administrative requirements, and the filing or approval of tariffs. Nothing herein shall be construed to either mandate or prohibit the payment of switched network access rates or other intercarrier compensation, if any, related to Voice-over-Internet protocol service.

"Local exchange telephone service" means telephone service provided in a geographical area established for the administration of communication services and consists of one or more central offices together with associated facilities which are used in providing local exchange service. Local exchange service, as opposed to interexchange service, consists of telecommunications between points within an exchange or between exchanges which are within an area where customers may call at rates and charges specified in local exchange tariffs filed with the Commission. "Local exchange telephone service" shall not include Voice-over-Internet protocol service for purposes of regulation by the Commission, including the imposition of certification processing fees and other administrative requirements, and the filing or approval of tariffs. Nothing herein shall be construed to either mandate or prohibit the payment of switched network access rates or other intercarrier compensation, if any, related to Voice-over-Internet protocol service.

"Municipality" or "municipal corporation" shall include an authority created by a governmental unit exempt from the referendum requirement of § 15.2-5403.

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59 "Person" includes individuals, partnerships, limited liability companies, and corporations.

60 "Public service corporation" or "public service company" includes gas, pipeline, electric light, heat,
61 power and water supply companies, sewer companies, telephone companies, telegraph companies, and all
62 persons authorized to transport passengers or property as a common carrier. "Public service corporation"
63 or "public service company" shall not include a municipal corporation, other political subdivision or
64 public institution owned or controlled by the Commonwealth; however, if such an entity has obtained a
65 certificate to provide services pursuant to § 56-265.4:4, then such entity shall be deemed to be a public
66 service corporation or public service company and subject to the authority of the Commission with
67 respect only to its provision of the services it is authorized to provide pursuant to such certificate.

68 "Railroad" includes all railroad or railway lines, whether operated by steam, electricity, or other
69 motive power, except when otherwise specifically designated.

70 "Railroad company" includes any company, trustee or other person owning, leasing or operating a
71 railroad.

72 "Rate" means rate charged for any service rendered or to be rendered.

73 "Rate," "charge" and "regulation" include joint rates, joint charges and joint regulations, respectively.

74 "Renewable energy facility" means a facility, other than a hydroelectric power facility, that either: (i)
75 generates thermal or electric power primarily by the use of a renewable energy resource; (ii) uses heat
76 derived primarily from a renewable energy resource to produce electricity or useful, measurable thermal
77 or mechanical energy at a facility of an electric utility's retail customer; (iii) is a solar thermal energy
78 facility; or (iv) specifically allows for co-firing with non-renewable energy resources as long as
79 non-renewable energy resources are not the primary energy source.

80 "Renewable energy resource" means a solar electric, solar thermal, wind, hydropower, geothermal,
81 or ocean current or wave energy resource; biomass; heat derived from a renewable energy resource
82 and used to produce electricity or useful, measurable thermal energy; or hydrogen derived from a
83 renewable energy resource. "Renewable energy resource" does not include a fossil fuel or nuclear
84 energy.

85 "Transportation company" includes any railroad company, any company transporting express by
86 railroad, and any ship or boat company.

87 "Virginia limited liability company" means (i) any limited liability company organized under Chapter
88 12 (§ 13.1-1000 et seq.) of Title 13.1, (ii) any entity that has become a limited liability company
89 pursuant to Article 12.2 (§ 13.1-722.8 et seq.) of Chapter 9 of Title 13.1 or pursuant to conversion or
90 domestication under Chapter 12 (§ 13.1-1000 et seq.) of Title 13.1, or (iii) any foreign limited liability
91 company that is organized or is domesticated by filing articles of organization that meet the
92 requirements of §§ 13.1-1003 and 13.1-1011 and include (a) the name of the foreign limited liability
93 company immediately prior to the filing of the articles of organization; (b) the date on which and the
94 jurisdiction in which the foreign limited liability company was first formed, organized, created or
95 otherwise came into being; and (c) the jurisdiction that constituted the seat, siege social, or principal
96 place of business or central administration of the foreign limited liability company, or any equivalent
97 thereto under applicable law, immediately prior to the filing of the articles of organization. With respect
98 to an organization or domestication pursuant to clause (iii), the terms and conditions of a domestication
99 shall be approved in the manner provided for by the document, instrument, agreement or other writing,
100 as the case may be, governing the internal affairs of the foreign limited liability company in the conduct
101 of its business or by applicable law other than the law of the Commonwealth, as appropriate, and the
102 provisions governing the status, powers, obligations, and choice of law applicable under § 13.1-1010.3
103 shall apply to any limited liability company so domesticated or organized.

104 "Voice-over-Internet protocol service" or "VoIP service" means any service that: (i) enables real-time,
105 two-way voice communications that originate or terminate from the user's location using Internet
106 protocol or any successor protocol and (ii) uses a broadband connection from the user's location. This
107 definition includes any such service that permits users generally to receive calls that originate on the
108 public switched telephone network and to terminate calls to the public switched telephone network.