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## HOUSE BILL NO. 2268

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

(Patron Prior to Substitute—Delegate Poindexter)

A BILL to amend and reenact § 56-576 of the Code of Virginia, relating to the definition of renewable energy.

**Be it enacted by the General Assembly of Virginia:**

**1. That § 56-576 of the Code of Virginia is amended and reenacted as follows:**

§ 56-576. Definitions.

As used in this chapter:

"Affiliate" means any person that controls, is controlled by, or is under common control with an electric utility.

"Aggregator" means a person that, as an agent or intermediary, (i) offers to purchase, or purchases, electric energy or (ii) offers to arrange for, or arranges for, the purchase of electric energy, for sale to, or on behalf of, two or more retail customers not controlled by or under common control with such person. The following activities shall not, in and of themselves, make a person an aggregator under this chapter: (i) furnishing legal services to two or more retail customers, suppliers or aggregators; (ii) furnishing educational, informational, or analytical services to two or more retail customers, unless direct or indirect compensation for such services is paid by an aggregator or supplier of electric energy; (iii) furnishing educational, informational, or analytical services to two or more suppliers or aggregators; (iv) providing default service under § 56-585; (v) engaging in activities of a retail electric energy supplier, licensed pursuant to § 56-587, which are authorized by such supplier's license; and (vi) engaging in actions of a retail customer, in common with one or more other such retail customers, to issue a request for proposal or to negotiate a purchase of electric energy for consumption by such retail customers.

"Commission" means the State Corporation Commission.

"Cooperative" means a utility formed under or subject to Chapter 9.1 (§ 56-231.15 et seq.) of this title.

"Covered entity" means a provider in the Commonwealth of an electric service not subject to competition but shall not include default service providers.

"Covered transaction" means an acquisition, merger, or consolidation of, or other transaction involving stock, securities, voting interests or assets by which one or more persons obtains control of a covered entity.

"Customer choice" means the opportunity for a retail customer in the Commonwealth to purchase electric energy from any supplier licensed and seeking to sell electric energy to that customer.

"Distribute," "distributing," or "distribution of" electric energy means the transfer of electric energy through a retail distribution system to a retail customer.

"Distributor" means a person owning, controlling, or operating a retail distribution system to provide electric energy directly to retail customers.

"Electric utility" means any person that generates, transmits, or distributes electric energy for use by retail customers in the Commonwealth, including any investor-owned electric utility, cooperative electric utility, or electric utility owned or operated by a municipality.

"Generate," "generating," or "generation of" electric energy means the production of electric energy.

"Generator" means a person owning, controlling, or operating a facility that produces electric energy for sale.

"Incumbent electric utility" means each electric utility in the Commonwealth that, prior to July 1, 1999, supplied electric energy to retail customers located in an exclusive service territory established by the Commission.

"Independent system operator" means a person that may receive or has received, by transfer pursuant to this chapter, any ownership or control of, or any responsibility to operate, all or part of the transmission systems in the Commonwealth.

"Municipality" means a city, county, town, authority, or other political subdivision of the Commonwealth.

"Person" means any individual, corporation, partnership, association, company, business, trust, joint venture, or other private legal entity, and the Commonwealth or any municipality.

"Renewable energy" means energy derived from sunlight, wind, falling water, sustainable biomass (the definition of which shall be liberally construed), energy from waste, municipal solid waste, wave motion, tides, and geothermal power, and does not include energy derived from coal, oil, natural gas or nuclear power. Renewable energy shall also include the proportion of the thermal or electric energy

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60 *from a facility that results from the co-firing of biomass.*

61 "Retail customer" means any person that purchases retail electric energy for its own consumption at  
62 one or more metering points or nonmetered points of delivery located in the Commonwealth.

63 "Retail electric energy" means electric energy sold for ultimate consumption to a retail customer.

64 "Supplier" means any generator, distributor, aggregator, broker, marketer, or other person who offers  
65 to sell or sells electric energy to retail customers and is licensed by the Commission to do so, but it  
66 does not mean a generator that produces electric energy exclusively for its own consumption or the  
67 consumption of an affiliate.

68 "Supply" or "supplying" electric energy means the sale of or the offer to sell electric energy to a  
69 retail customer.

70 "Transmission of," "transmit," or "transmitting" electric energy means the transfer of electric energy  
71 through the Commonwealth's interconnected transmission grid from a generator to either a distributor or  
72 a retail customer.

73 "Transmission system" means those facilities and equipment that are required to provide for the  
74 transmission of electric energy.