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HOUSE BILL NO. 2371

Offered January 14, 2009

Prefiled January 14, 2009

A *BILL to amend the Code of Virginia by adding a section numbered 56-235.1:1, relating to real-time electric rates.*

Patrons—Nutter, Athey, Poindexter and Rust

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 56-235.1:1 as follows:

§ 56-235.1:1. Electric utilities to offer real-time rates.

A. The Commission shall adopt regulations pursuant to its rules of practice and procedure that require each public utility providing electric service in the Commonwealth to offer electric service to non-residential customers that operate distributed generation facilities that produce electricity from renewable power, as defined in § 56-576, under a tariff that utilizes rates that vary in real time in accordance with changes in the utility's costs of providing electricity on an hourly basis. Such real-time variable rates shall be offered in a manner that permits customers taking service under such tariff to receive information signals that allow the customers to shift or curtail their usage in response to variations in rates that correspond to changes in the utility's cost of generating or purchasing electric power, including reliability pricing, congestion pricing, and hourly prices of services on the spot market operated by the utility's independent system operator.

B. The regulations adopted by the Commission pursuant to subsection A, and each tariff developed by a utility pursuant to subsection C, shall include provisions that require the utility to purchase from a customer eligible to receive service under a tariff that complies with subsection A, at a price that reflects the utility's avoided costs as they vary hourly, electricity generated at the customer's distributed generation facility, provided that the customer's facility (i) does not participate in the net energy metering program pursuant to § 56-594, (ii) generates electricity from renewable power, as defined in § 56-576, (iii) has a nameplate capacity not exceeding 200 megawatts, and (iv) has the capacity to receive information signals that allow the generator to respond to hourly changes in the utility's costs of generating or purchasing electric power. In measuring the amount of electricity generated at a distributed generation facility under this subsection, up to 50 percent of the amount of electricity for which the eligible customer is entitled to receive payment under such tariff may be in the form of reduced consumption through on-site efficiency measures. A price that reflects the utility's avoided costs shall reflect the costs of the utility's purchases of renewable power made pursuant to the utility's participation in a renewable portfolio standard program under § 56-585.2, locational marginal pricing, reliability pricing, congestion pricing, and hourly prices of services on the spot market operated by the utility's independent system operator.

C. Within 90 days following the effective date of the regulations adopted pursuant to subsections A and B, each public utility providing electric service in the Commonwealth shall submit a proposed tariff that complies with the regulations. The Commission shall, after notice and the opportunity for hearing, determine whether a utility's tariff complies with the regulations. In addition, the Commission shall ensure that any such rate or charge (i) is in the public interest, (ii) will not unreasonably prejudice or disadvantage any customer or class of customers, (iii) will not jeopardize the continuation of reliable electric service, and (iv) does not penalize customers taking service under such tariff for a permissible use of utility services. If the utility's tariff complies with the regulations, the utility shall offer electric service at such rates and upon such terms and conditions to eligible customers. Eligible customers shall have the option to purchase electric service under such tariff, but shall not be precluded from receiving electric service under any other approved rate, toll, charge, or schedule. Such tariff shall be in addition to any other tariff currently offered by the utility.

D. Notwithstanding any other requirements of this section:

1. A public utility providing electric service shall not be required to offer service under such tariff on or after July 1, 2012, provided that a customer receiving service under such tariff prior to such date may continue to do so after such date; and

2. Service under such tariff shall be available to eligible customers on a first-come, first-served basis in each utility's Virginia service area until the aggregate average monthly consumption of customers taking service under the tariff reaches one percent of the aggregate average monthly consumption of all of its customers.

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59 *E. By September 1 of each year, the Commission shall report to the Commission on Electric Utility*
60 *Regulation and the Governor on the status of the implementation of this section and the effectiveness of*
61 *such tariff in improving efficiency in the use of electricity and in encouraging the development of*
62 *renewable energy facilities in the Commonwealth.*