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HOUSE BILL NO. 2576

Offered January 21, 2009

A BILL to amend and reenact §§ 56-575.1 and 56-594 of the Code of Virginia, relating to net metering and electricity generated from municipal solid waste.

Patrons—May, Albo, Iaquinto, Miller, J.H., Rust and Toscano

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:**1. That §§ 56-575.1 and 56-594 of the Code of Virginia are amended and reenacted as follows:****§ 56-575.1. Definitions.**

As used in this chapter, unless the context requires a different meaning:

"Affected jurisdiction" means any county, city or town in which all or a portion of a qualifying project is located.

"Appropriating body" means the body responsible for appropriating or authorizing funding to pay for a qualifying project.

"Commission" means the State Corporation Commission.

"Comprehensive agreement" means the comprehensive agreement between the private entity and the responsible public entity required by § 56-575.9.

"Develop" or "development" means to plan, design, develop, finance, lease, acquire, install, construct, or expand.

"Interim agreement" means an agreement between a private entity and a responsible public entity that provides for phasing of the development or operation, or both, of a qualifying project. Such phases may include, but are not limited to, design, planning, engineering, environmental analysis and mitigation, financial and revenue analysis, or any other phase of the project that constitutes activity on any part of the qualifying project.

"Lease payment" means any form of payment, including a land lease, by a public entity to the private entity for the use of a qualifying project.

"Material default" means any default by the private entity in the performance of its duties under subsection E of § 56-575.8 that jeopardizes adequate service to the public from a qualifying project.

"Operate" means to finance, maintain, improve, equip, modify, repair, or operate.

"Private entity" means any natural person, corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, non-profit entity, or other business entity.

"Public entity" means the Commonwealth and any agency or authority thereof, any county, city or town and any other political subdivision of the Commonwealth, any public body politic and corporate, or any regional entity that serves a public purpose.

"Qualifying project" means (i) any education facility, including, but not limited to a school building, any functionally related and subordinate facility and land to a school building (including any stadium or other facility primarily used for school events), and any depreciable property provided for use in a school facility that is operated as part of the public school system or as an institution of higher education; (ii) any building or facility that meets a public purpose and is developed or operated by or for any public entity; (iii) any improvements, together with equipment, necessary to enhance public safety and security of buildings to be principally used by a public entity; (iv) utility and telecommunications and other communications infrastructure; (v) a recreational facility; (vi) technology infrastructure, services, and applications, including, but not limited to, telecommunications, automated data processing, word processing and management information systems, and related information, equipment, goods and services; (vii) any services designed to increase productivity or efficiency through the direct or indirect use of technology, (viii) any technology, equipment, or infrastructure designed to deploy wireless broadband services to schools, businesses, or residential areas; ~~or~~ (ix) any improvements necessary or desirable to any unimproved locally- or state-owned real estate; *or (x) any facility that produces electric energy derived from municipal solid waste.*

"Responsible public entity" means a public entity that has the power to develop or operate the applicable qualifying project.

"Revenues" means all revenues, income, earnings, user fees, lease payments, or other service payments arising out of or in connection with supporting the development or operation of a qualifying project, including without limitation, money received as grants or otherwise from the United States of America, from any public entity, or from any agency or instrumentality of the foregoing in aid of such

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59 facility.

60 "Service contract" means a contract entered into between a public entity and the private entity
61 pursuant to § 56-575.5.

62 "Service payments" means payments to the private entity of a qualifying project pursuant to a service
63 contract.

64 "State" means the Commonwealth of Virginia.

65 "User fees" mean the rates, fees or other charges imposed by the private entity of a qualifying
66 project for use of all or a portion of such qualifying project pursuant to the comprehensive agreement
67 pursuant to § 56-575.9.

68 § 56-594. Net energy metering provisions.

69 A. The Commission shall establish by regulation a program, to begin no later than July 1, 2000,
70 which affords eligible customer-generators the opportunity to participate in net energy metering. The
71 regulations may include, but need not be limited to, requirements for (i) retail sellers; (ii) owners and/or
72 operators of distribution or transmission facilities; (iii) providers of default service; (iv) eligible
73 customer-generators; or (v) any combination of the foregoing, as the Commission determines will
74 facilitate the provision of net energy metering, provided that the Commission determines that such
75 requirements do not adversely affect the public interest.

76 B. For the purpose of this section:

77 "Eligible customer-generator" means a customer that owns and operates, or contracts with other
78 persons to own, operate, or both, an electrical generating facility that (i) has a capacity of not more than
79 10 kilowatts for residential customers and ~~500 kilowatts~~ *five megawatts* for nonresidential customers; (ii)
80 uses as its total source of fuel renewable energy, as defined in § 56-576; (iii) is located on the
81 customer's premises and is connected to the customer's wiring on the customer's side of its
82 interconnection with the distributor; (iv) is interconnected and operated in parallel with an electric
83 company's transmission and distribution facilities; and (v) is intended primarily to offset all or part of
84 the customer's own electricity requirements.

85 "Net energy metering" means measuring the difference, over the net metering period, between (i)
86 electricity supplied to an eligible customer-generator from the electric grid and (ii) the electricity
87 generated and fed back to the electric grid by the eligible customer-generator.

88 "Net metering period" means the 12-month period following the date of final interconnection of the
89 eligible customer-generator's system with an electric service provider, and each 12-month period
90 thereafter.

91 C. The Commission's regulations shall ensure that the metering equipment installed for net metering
92 shall be capable of measuring the flow of electricity in two directions, and shall allocate fairly the cost
93 of such equipment and any necessary interconnection. An eligible customer-generator's electrical
94 generating system shall meet all applicable safety and performance standards established by the National
95 Electrical Code, the Institute of Electrical and Electronics Engineers, and accredited testing laboratories
96 such as Underwriters Laboratories. Beyond the requirements set forth in this section, an eligible
97 customer-generator whose electrical generating system meets those standards and rules shall bear the
98 reasonable cost, if any, as determined by the Commission, to (i) install additional controls, (ii) perform
99 or pay for additional tests, or (iii) purchase additional liability insurance.

100 D. The Commission shall establish minimum requirements for contracts to be entered into by the
101 parties to net metering arrangements. Such requirements shall protect the customer-generator against
102 discrimination by virtue of its status as a customer-generator.

103 E. If electricity generated by an eligible customer-generator over the net metering period exceeds the
104 electricity consumed by the customer-generator, the customer-generator shall be compensated for the
105 excess electricity if the entity contracting to receive such electric energy and the customer-generator
106 enter into a power purchase agreement for such excess electricity. If the eligible customer-generator
107 receives generation service from a default service provider, the default service provider, upon the written
108 request of the customer-generator, shall enter into a power purchase agreement with the requesting
109 eligible customer-generator that is consistent with the minimum requirements for contracts established by
110 the Commission pursuant to subsection D. The power purchase agreement shall obligate the default
111 service provider to purchase such excess electricity at the rate that is provided for such purchases in a
112 net metering standard contract or tariff approved by the Commission, unless the parties agree to a higher
113 rate. The net metering standard contract or tariff shall be available to eligible customer-generators on a
114 first-come, first-served basis in each electric distribution company's Virginia service area until the rated
115 generating capacity owned and operated by eligible customer-generators in the state reaches one percent
116 of each electric distribution company's adjusted Virginia peak-load forecast for the previous year, and
117 shall require the default service provider to pay the eligible customer-generator for such excess
118 electricity in a timely manner at a rate to be established by the Commission.