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SENATE BILL NO. 1248

Offered January 14, 2009

Prefiled January 14, 2009

A BILL to amend and reenact § 56-598 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 23 of Title 56 a section numbered 56-596.1, relating to the establishment of an electric energy efficiency standard; alternative compliance payments; Virginia Energy Efficiency and Conservation Fund.

Patron—Northam

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That § 56-598 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Chapter 23 of Title 56 a section numbered 56-596.1 as follows:

§ 56-596.1. Energy efficiency standard; alternative compliance payments; Virginia Energy Efficiency and Conservation Fund established.

A. As used in this section, unless the context requires otherwise:

"Combined heat and power system" means a system that uses waste heat to produce electricity or useful, measurable thermal or mechanical energy at a retail customer's facility.

"Energy conservation and efficiency program" means an equipment, physical, or program change implemented after July 1, 2009, that reduces the amount of electricity required to perform the same function and produce the same or a similar outcome. "Energy efficiency program" includes (i) combined heat and power systems; (ii) programs that result in improvements in lighting design; heating, ventilation, and air conditioning systems; appliances; building envelopes; and manufacturing processes that permanently reduce the amount of electricity that the electric utility is required to provide; and (iii) measures implemented by utilities that reduce losses of electricity and otherwise improve internal operating efficiency in generation, transmission, and distribution systems. "Energy conservation and efficiency program" shall not include demand response programs, peak load shaving programs, or other programs that are designed to reduce electricity consumption at certain times but which programs do not necessarily reduce the total amount of electricity consumed.

"Utility" means an investor-owned electric utility.

B. The Commission shall establish for each utility by September 1, 2009:

1. A projection of the quantity of electricity that will be consumed by the electric utility's retail customers in the Commonwealth in the aggregate in calendar year 2025, which projection shall be based on actual consumption by such customers in 2008 as increased based on a projected average annual growth rate between 2008 and 2025 that the Commission finds appropriate for the utility based on existing usage patterns and trends;

2. A reduced consumption goal for 2025, which goal shall be established by reducing the projection of consumption in 2025, established pursuant to subdivision 1, by 19 percent; and

3. A revised average annual growth rate that, over the period 2010 through 2025, when applied to the actual level of consumption would result in the utility meeting the reduced consumption goal for 2025 established pursuant to subdivision 2.

C. By calendar year 2025, each utility shall reduce the consumption of electric energy by its retail customers in the Commonwealth, through its implementation of energy conservation and efficiency programs, to the amount of its reduced consumption goal for 2025. During the period 2010 through 2025, each utility shall reduce the consumption of electric energy by its retail customers in the Commonwealth through its implementation of energy conservation and efficiency programs, in order to comply with the benchmark amounts as provided in subsection E.

D. The Commission shall establish an annual baseline for each utility for 2010 and each year thereafter through 2025. The Commission shall establish the annual baseline for each utility for a year by September 1 of the preceding year. The Commission shall set the annual baseline for each utility for a year at a level, expressed in kilowatt hours, based on the average of the quantity of electricity that was consumed by the electric utility's retail customers in the Commonwealth in the aggregate in the three calendar years preceding the establishment of the annual baseline. However, the Commission may adjust the baseline for any year if it finds such an adjustment warranted by new economic growth in the utility's service territory or by the addition of load to serve plug-in electric vehicles.

E. Contemporaneously with the establishment of a utility's baseline for a year, the Commission shall establish a benchmark amount of electricity to be consumed by the electric utility's retail customers in

the aggregate in the baseline year. The benchmark amount shall be established at a level equal to the year's baseline amount as increased at the revised average annual growth rate determined as provided in subdivision B 3. The Commission may adjust the benchmark amount for any year if, upon application by a utility, the Commission finds that an adjustment is warranted because the utility cannot reasonably be expected to keep consumption below the benchmark amount as the result of regulatory, economic, or technological reasons beyond the reasonable control of the utility.

F. Compliance with benchmark amounts may be demonstrated through consumption reductions resulting from implementation of energy conservation and efficiency programs or through independent activities of public or private customers as shown through records of the customers' electricity consumption. Large general service customers who demonstrate that they have reduced their consumption of electricity by an amount at least equal to that required under this section shall receive a credit from their utility against their electricity charges for any portion of an increase in base rates attributable to the utility's recovery of costs associated with energy conservation and efficiency programs that the utility is permitted to recover pursuant to subdivision A 5 or A 6 of § 56-585.1.

G. If, after notice and hearing, the Commission determines that a utility did not keep the consumption of electric energy by its retail customers below the benchmark amount for a year as established pursuant to subsection E, the Commission shall order the utility to make an alternative compliance payment. Alternative compliance payments shall be assessed at a rate of $0.03 for every kilowatt hour by which consumption of electric energy by its retail customers in such year exceeds the benchmark amount for the year, unless the Commission finds that the facts and circumstances relating to the utility's inability to keep such consumption below the benchmark amount justifies assessing the alternative compliance payment at a lower rate. Alternative compliance payments collected pursuant to this section shall be paid into the Virginia Energy Efficiency and Conservation Fund created pursuant to subsection H.

H. There is hereby established a special fund in the state treasury to be known as the Virginia Energy Efficiency and Conservation Fund (the Fund), which shall be administered by the Department of Mines, Minerals and Energy. The Fund shall include all alternative compliance payments collected by the Commission pursuant to subsection G and such moneys as may be appropriated by the General Assembly or contributed from any other source from time to time and designated for the Fund. The Fund shall be used solely for the payment of financial incentives, including grants and low-interest loans, to persons other than utilities for the implementation of energy efficiency and conservation programs. Unallocated moneys in the Fund in any year shall remain in the Fund and be available for allocation for grants under this section in ensuing fiscal years.

I. The Commission shall adopt such regulations as may be necessary to implement the provisions of this section.

§ 56-598. Contents of integrated resource plans.

A. An IRP should:

1. Integrate, over the planning period, the electric utility's forecast of demand for electric generation supply with recommended plans to meet that forecasted demand and assure adequate and sufficient reliability of service, including, but not limited to:

a. Generating electricity from generation facilities that it currently operates or intends to construct or purchase;

b. Purchasing electricity from affiliates and third parties; and

c. Reducing load growth and peak demand growth through cost-effective demand reduction programs;

2. Identify a portfolio of electric generation supply resources, including purchased and self-generated electric power, that:

a. Consistent with § 56-585.1, is most likely to provide the electric generation supply needed to meet the forecasted demand, net of any reductions from demand side programs, so that the utility will continue to provide reliable service at reasonable prices over the long term; and

b. Will consider low cost energy/capacity available from short-term or spot market transactions, consistent with a reasonable assessment of risk with respect to both price and generation supply availability over the term of the plan;

3. Reflect a diversity of electric generation supply and cost-effective demand reduction contracts and services so as to reduce the risks associated with an over-reliance on any particular fuel or type of generation demand and supply resources and be consistent with the Commonwealth's energy policies as set forth in § 67-102; and

4. Include such additional information as the Commission requests pertaining to how the electric utility intends to meets its obligation to provide electric generation service for use by its retail customers over the planning period.

B. An IRP, including any update thereto, shall include a description of the electric utility's energy conservation and efficiency programs implemented pursuant to § 56-596.1, including (i) the results of any programs that have been implemented and (ii) an analysis of the effectiveness of such programs in

the utility's achievement of its benchmark amounts.