

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 An Act to amend the Code of Virginia by adding a section numbered 10.1-1307.02 and to direct the
3 State Corporation Commission to conduct a proceeding to determine appropriate energy conservation
4 and demand response targets that can realistically be accomplished through demand-side
5 management portfolios and other energy conservation, energy efficiency, and demand-side
6 management programs to be administered by generating electric utilities, and directing the Air
7 Pollution Control Board to adopt regulations providing exemptions to certain air quality
8 requirements.

9 [S 1348]

10 Approved

11 Be it enacted by the General Assembly of Virginia:

12 1. That the Code of Virginia is amended by adding a section numbered 10.1-1307.02 as follows:

13 § 10.1-1307.02. Permit for generation of electricity during ISO-declared emergency.

14 A. As used in this section:

15 "Emergency generation source" means a stationary internal combustion engine that operates
16 according to the procedures in the ISO's emergency operations manual during an ISO-declared
17 emergency.18 "ISO-declared emergency" means a condition that exists when the independent system operator, as
19 defined in § 56-576, notifies electric utilities that an emergency exists or may occur and that complies
20 with the definition of "emergency" adopted by the Board pursuant to subsection B.

21 "Retail customer" has the same meaning ascribed thereto in § 56-576.

22 B. The Board shall adopt a general permit or permits for the use of back-up generation to authorize
23 the construction, installation, reconstruction, modification, and operation of emergency generation
24 sources during ISO-declared emergencies. Such general permit or permits shall include a definition of
25 "emergency" that is compatible with the ISO's emergency operations manual. After adoption of such
26 general permit or permits, any amendments to the Board's regulations necessary to carry out the
27 provisions of this section shall be exempt from Article 2 (§ 2.2-4006 et seq.) of the Administrative
28 Process Act.29 2. § 1. That the State Corporation Commission shall conduct a formal public proceeding that will
30 include an evidentiary hearing for the purpose of determining achievable, cost-effective energy
31 conservation and demand response targets that can realistically be accomplished in the Commonwealth
32 through demand-side management portfolios administered by each generating electric utility in the
33 Commonwealth. As used in this act, "generating electric utility" means a public service corporation that
34 serves electric load at retail, has rates regulated by the State Corporation Commission, and that, as of
35 January 1, 2009, directly owns and operates electric generation facilities in excess of six megawatts,
36 other than diesel generators used for voltage control. The determination of what consumption and peak
37 load reductions can be achieved cost-effectively shall consider standard industry-recognized tests. The
38 Commission shall determine which test should be given greatest weight when preparing a cost-benefit
39 analysis of a demand-side management program, taking into consideration the public interest and the
40 potential impact on economic development in the Commonwealth.41 § 2. That the State Corporation Commission shall report its findings to the Governor and the
42 General Assembly on or before November 15, 2009. Such report shall (i) indicate the range of
43 consumption and peak load reductions that are potentially achievable by each generating electric utility,
44 the range of costs that consumers would pay to achieve those reductions, and the range of financial
45 benefits or savings that could be realized if the targets were met over a 15-year period; and (ii)
46 determine a just and reasonable ratemaking methodology to be employed to quantify the cost
47 responsibility of each customer class to pay for generating electric utility-administered demand-side
48 management programs. This evaluation shall include an examination of the class cost responsibility
49 methods used in other jurisdictions, including, but not limited to, the allocation of costs based on
50 projected class benefits and the allocation of costs based on program participation. The analysis shall
51 also examine other jurisdictions that permit certain nonresidential customers or classes of customers to
52 either be exempt from paying for the utility demand-side management programs or to opt out of
53 participating in or paying for the utility demand-side management programs, and determine if it would
54 be in the public interest for the Commonwealth to have a similar policy.55 § 3. That the State Corporation Commission, for the service area of a generating electric utility that
56 has elected to meet its capacity obligations of a regional transmission entity through a fixed capacity

57 resource requirement as an alternative to other capacity mechanisms, shall approve any demand-side
58 management program proposed to be offered to retail customers by the generating electric utility or any
59 other qualified nonutility provider if, following notice and the opportunity for a hearing, the State
60 Corporation Commission finds (i) any nonutility provider to be qualified, (ii) the program to be
61 effective, reliable, and verifiable as a capacity resource, and (iii) such program to be in the public
62 interest. A State Corporation Commission order issued pursuant to this section shall not affect any
63 contract between a retail customer and a demand-side management program provider executed prior to
64 July 1, 2009.

65 § 4. That the State Air Pollution Control Board, in consultation with the State Corporation
66 Commission and the Department of Mines, Minerals and Energy, shall adopt an air general permit or
67 permits for the construction, installation, and operation of distillate oil, natural gas, liquid propane gas,
68 and bio-diesel fired electric generating facilities that participate in a voluntary demand response
69 program (i.e. load curtailment, demand response, peak shaving or like program) and that qualify as non
70 major facilities under the Clean Air Act Amendments of 1990. Participation in PJM Interconnection
71 LLC's Emergency Load Response Program, as defined in PJM Interconnection LLC's Manual 13
72 Emergency Operations, shall not be considered as participating in a voluntary load reduction program.
73 The air general permit shall have requirements ensuring air quality is protected, including appropriate
74 control technologies.