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SENATE BILL NO. 1452

Offered January 20, 2009

A BILL to amend the Code of Virginia by adding in Title 56 a chapter numbered 26, consisting of sections numbered 56-603 through 56-610, relating to system-wide energy efficiency programs.

Patron—Petersen

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 in Title 56 a chapter numbered 26, consisting of sections numbered 56-603 through 56-610, as follows:

CHAPTER 26.

ENERGY EFFICIENCY PROGRAMS.

§ 56-603. Definitions.

As used in this chapter, unless the context requires otherwise:

"Energy efficiency charge" means the element of a utility's rates for the provision of electrical distribution service that is assessed upon its customers pursuant to this chapter.

"Energy efficiency programs" means electric energy efficiency and conservation programs and measures, including but not limited to the provision of consumer education initiatives, technical assistance, and financial incentives to utility customers in the Commonwealth, to assist them in conserving, and in making more efficient use of, electricity.

"Fund" means the Energy Efficiency Fund established by § 56-605.

"Program administrator" means the person selected by the Commission pursuant to § 56-606 to administer the Fund and perform the duties imposed thereon pursuant to this chapter.

"Utility" means an investor-owned incumbent electric utility or a distribution electric cooperative subject to Article 1 (§ 56-231.15 et seq.) of Chapter 9.1.

§ 56-604. Energy efficiency charge.

A. Any rate established or approved by the Commission on or after January 1, 2010, for the provision of retail electric service by a utility shall include, as an element of the rate for distribution service, a nonbypassable energy efficiency charge in the amount of one dollar per monthly billing cycle. The energy efficiency charge shall be payable by each utility customer in every customer class whose billing address is within the Commonwealth to the same extent as other portions of the utility's approved rates for service.

B. The energy efficiency charge shall be shown as a separate item on each customer's bill. The bill shall also include, in a manner directed by the Commission, notice as to how to obtain information about energy efficiency programs.

C. If a customer fails to pay in full a utility bill that includes an energy efficiency charge, the utility shall prorate each partial payment among the energy efficiency charge and other charges included on the bill. All energy efficiency charges collected by a utility shall be remitted within 30 days of receipt to the program administrator for deposit in the Fund.

§ 56-605. Energy Efficiency Fund.

The Commission shall require the program administrator to establish and maintain a fund to be known as the Energy Efficiency Fund. The Fund shall consist of energy efficiency charges remitted by utilities. The Fund shall be administered by the program administrator and shall be subject to audit and oversight by the Commission. The Commission shall establish such procedures and requirements as are reasonably required to ensure that moneys in the Fund are used by the program administrator solely to support activities that are authorized pursuant to this chapter. Balances in the Fund shall be ratepayer funds, and shall be carried forward and remain in the Fund at the end of each fiscal year. Moneys in the Fund and interest earned thereon shall not constitute public funds.

§ 56-606. Selection or establishment of program administrator; bond required; duties.

A. The Commission, subject to approval by the Governor, shall contract with a person to serve as program administrator. The provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.) shall not apply to the Commission's contracting with the program administrator. The program administrator shall administer the Fund and perform the duties imposed by this chapter.

B. The Commission shall require the program administrator to file a bond with the Commission with corporate surety in such sum as the Commission may reasonably require, the form of which shall be approved by the Commission. Such bond shall be continuously maintained thereafter in full force. Such bond shall be conditioned upon the program administrator's administering the Fund and performing the

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59 duties in conformity with this chapter and applicable law. Any person who may be damaged by
60 noncompliance of the program administrator with any condition of the bond may proceed against the
61 principal or surety thereon, or both, to recover damages. The aggregate liability under the bond shall
62 not exceed the penal sum of the bond.

63 C. The program administrator shall:

64 1. Administer, invest, and account for the energy efficiency charges collected pursuant to § 56-604;

65 2. Develop and update annually proposals for an energy efficiency plan;

66 3. Analyze and make recommendations to the Commission regarding proposals for energy efficiency
67 programs to be included in an energy efficiency plan; and

68 4. Implement an energy efficiency plan that has been approved by the Commission by executing
69 energy efficiency programs in a manner that is consistent with the requirements of this chapter,
70 regulations adopted by the Commission, and other terms of any Commission order approving the
71 applicable energy efficiency plan.

72 § 56-607. Energy efficiency programs.

73 A. The program administrator, utilities, and the Commission upon its own motion may propose
74 energy efficiency programs for inclusion in the energy efficiency plan. Such programs shall not be
75 implemented unless approved by the Commission as elements of an energy efficiency plan.

76 B. The Commission, after notice and opportunity for hearing, may require utilities, the program
77 administrator, or third parties to develop energy efficiency programs for inclusion in an energy
78 efficiency plan.

79 § 56-608. Approval of energy efficiency plan.

80 The Commission shall review proposed energy efficiency plans developed by the program
81 administrator. The Commission shall approve an energy efficiency plan for a calendar year only if it
82 finds that the plan:

83 1. Is consistent with the energy objectives set out in § 67-101 of the Virginia Energy Plan;

84 2. Provides in the aggregate for the implementation of cost-effective energy efficiency programs that
85 will provide retail customers of utilities in the Commonwealth with reasonable opportunities to
86 participate in energy efficiency programs;

87 3. Targets energy efficiency and conservation efforts at locations, markets, or customers where they
88 may provide the greatest value;

89 4. Provides for delivery of energy efficiency programs through cost-effective delivery mechanisms;

90 5. Requires that the program administrator deliver approved programs in an effective, efficient,
91 timely, and competent manner;

92 6. Requires verification, on or before January 1, 2012, and every two years thereafter, by an
93 independent auditor of the reported energy and capacity savings and cost effectiveness of programs
94 delivered by the program administrator;

95 7. Considers the impact on retail electric rates of energy efficiency programs delivered under this
96 chapter; and

97 8. Is in the public interest.

98 § 56-609. Regulations.

99 The Commission shall adopt such regulations as it deems appropriate to effect the purposes of this
100 chapter. Before adopting any such regulations, the Commission shall give reasonable notice of its
101 content and shall afford interested parties an opportunity to be heard in accordance with the Rules of
102 Practice and Procedure of the Commission.

103 § 56-610. Taxation of energy efficiency charges.

104 The portion of a utility's gross receipts collected from energy efficiency charges shall not be subject
105 to any tax assessed pursuant to Chapter 26 (§ 58.1-2600 et seq.), 29 (§ 58.1-2900 et seq.), or 29.1
106 (§ 58.1-2904 et seq.) of Title 58.1.

107 2. That the provisions of this act that add Chapter 26 (§ 56-603 et seq.) of Title 56 of the Code of
108 Virginia shall become effective on January 1, 2010.