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HOUSE BILL NO. 441

Offered January 13, 2010

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A BILL to amend and reenact § 56-594 of the Code of Virginia, relating to community and agricultural net energy metering.

Patrons—Toscano and Landes

Referred to Committee on Commerce and Labor

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

§ 56-594. Net energy metering provisions.

A. The Commission shall establish by regulation a program, ~~to begin no later than July 1, 2000, that affords eligible customer-generators the opportunity to participate in net energy metering, and a program, to begin no later than July 1, 2011, that affords eligible community customers the opportunity to participate in net energy metering.~~ The regulations may include, but need not be limited to, requirements for (i) retail sellers; (ii) owners and/or operators of distribution or transmission facilities; (iii) providers of default service; (iv) eligible customer-generators; (v) *eligible community customers*; (vi) *operators of agricultural net metering facilities*; or (vii) any combination of the foregoing, as the Commission determines will facilitate the provision of net energy metering, provided that the Commission determines that such requirements do not adversely affect the public interest.

B. For the purpose of this section:

"Agricultural net metering facility" means a renewable energy generating facility operated as part of an agricultural business or businesses that generates electricity that does not have an aggregate generation capacity of more than two megawatts and is located on land owned or controlled by the agricultural business and is used to provide energy to metered accounts of the business or businesses. An agricultural net metering facility may involve and be served by multiple meters that are located at separate sites, such that the agricultural net metering facility may aggregate the electricity consumption and generation measured by the meters, provided that all such meters are served by the same utility.

"Eligible community customer" means a legal entity that represents a group of customers acting collectively in the production of renewable energy for their own use. An eligible community customer may include multiple residential, small commercial, agricultural, and other customers, each with one or more separate utility meters, who are at separate physical sites and may be on separate tariffs, but who function together as a single aggregated entity in their development of a net metered system that provides that excess electricity generated by some members of the group is used to offset consumption by other members within the same group, provided the eligible community customer owns and operates, or contracts with other persons to own, operate, or both, an electrical generating facility that (i) uses as its total source of fuel renewable energy, as defined in § 56-576; (ii) is located on the customer's premises and is connected to the customer's wiring on the customer's side of its interconnection with the distributor; and (iii) is interconnected and operated in parallel with an electric company's transmission and distribution facilities. The generating capacity of an eligible community customer's facility shall not exceed two megawatts at a single site, but may exceed the amount of electricity provided by the incumbent electric utility over a net metering period at the site that hosts the generation facility. Any number of customers may join to become a member of an eligible community customer, provided all the members are within the service territory of the incumbent electric utility. The incumbent electric utility shall treat an eligible community customer as the customer for purposes of billing and the application of all net metering provisions of this section.

"Eligible customer-generator" means a customer or eligible community customer that owns and operates, or contracts with other persons to own, operate, or both, an electrical generating facility that (i) has a capacity of not more than 10 kilowatts for each residential customer and meter serving such customer, 500 kilowatts for nonresidential customers, or two megawatts for operators of agricultural net metering facilities, unless a utility elects a higher capacity limit for such a facility; (ii) uses as its total source of fuel renewable energy, as defined in § 56-576; (iii) is located on the customer's premises and is connected to the customer's wiring on the customer's side of its interconnection with the distributor; (iv) is interconnected and operated in parallel with an electric company's transmission and distribution facilities; and (v) is intended primarily to offset all or part of the customer's own electricity requirements.

"Net energy metering" means measuring the difference, over the net metering period, between (i)

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59 electricity supplied to an eligible customer-generator, *or eligible community customer*, from the electric
60 grid and (ii) the electricity generated and fed back to the electric grid by the eligible customer-generator
61 *or eligible community customer, as appropriate.*

62 "Net metering period" means the 12-month period following the date of final interconnection of the
63 eligible customer-generator's system *or eligible community customer system, as appropriate*, with an
64 electric service provider, and each 12-month period thereafter.

65 C. The Commission's regulations shall ensure that the metering equipment installed for net metering
66 shall be capable of measuring the flow of electricity in two directions, and shall allocate fairly the cost
67 of such equipment and any necessary interconnection. An eligible customer-generator's electrical
68 generating system, *and each electrical generating system of the members of an eligible community*
69 *customer*, shall meet all applicable safety and performance standards established by the National
70 Electrical Code, the Institute of Electrical and Electronics Engineers, and accredited testing laboratories
71 such as Underwriters Laboratories. Beyond the requirements set forth in this section, an eligible
72 customer-generator *or eligible community customer, as appropriate*, whose electrical generating system
73 meets those standards and rules shall bear the reasonable cost, if any, as determined by the Commission,
74 to (i) install additional controls, (ii) perform or pay for additional tests, or (iii) purchase additional
75 liability insurance.

76 D. The Commission shall establish minimum requirements for contracts to be entered into by the
77 parties to net metering arrangements. Such requirements shall protect the customer-generator *and the*
78 *eligible community customer and each of its members, as appropriate*, against discrimination by virtue
79 of its status as a customer-generator *or eligible community customer*, and permit customers that are
80 served on time-of-use tariffs that have electricity supply demand charges contained within the electricity
81 supply portion of the time-of-use tariffs to participate as an eligible customer-generator. Notwithstanding
82 the cost allocation provisions of subsection C, eligible customer-generators served on demand
83 charge-based time-of-use tariffs shall bear the incremental metering costs required to net meter such
84 customers.

85 E. If electricity generated by an eligible customer-generator over the net metering period exceeds the
86 electricity consumed by the customer-generator, the customer-generator shall be compensated for the
87 excess electricity if the entity contracting to receive such electric energy and the customer-generator
88 enter into a power purchase agreement for such excess electricity. Upon the written request of the
89 customer-generator, the supplier that serves the eligible customer-generator shall enter into a power
90 purchase agreement with the requesting eligible customer-generator that is consistent with the minimum
91 requirements for contracts established by the Commission pursuant to subsection D. The power purchase
92 agreement shall obligate the supplier to purchase such excess electricity at the rate that is provided for
93 such purchases in a net metering standard contract or tariff approved by the Commission, unless the
94 parties agree to a higher rate. The eligible customer-generator owns the renewable energy certificates
95 associated with its electrical generating facility, however, at the time that the eligible customer-generator
96 enters into a power purchase agreement with its supplier, the customer-generator shall have a one-time
97 option to sell the renewable energy certificates associated with such electrical generating facility to its
98 supplier and be compensated at an amount that is established by the Commission to reflect the value of
99 such renewable energy certificates. Nothing in this section shall prevent the eligible customer-generator
100 and the supplier from voluntarily entering into an agreement for the sale and purchase of excess
101 electricity or renewable energy certificates at mutually-agreed upon prices if the eligible
102 customer-generator does not exercise its option to sell its renewable energy certificates to its supplier at
103 Commission-approved prices at the time that the eligible customer-generator enters into a power
104 purchase agreement with its supplier. All costs incurred by the supplier to purchase excess electricity
105 and renewable energy certificates from eligible customer-generators shall be recoverable through its
106 Renewable Energy Portfolio Standard (RPS) rate adjustment clause, if the supplier has a
107 Commission-approved RPS plan. If not, then all costs shall be recoverable through the supplier's fuel
108 adjustment clause. For purposes of this section, "all costs" shall be defined as the rates paid to the
109 eligible customer-generator for the purchase of excess electricity and renewable energy certificates and
110 any administrative costs incurred to manage the eligible customer-generator's power purchase
111 arrangements. The net metering standard contract or tariff shall be available to eligible
112 customer-generators on a first-come, first-served basis in each electric distribution company's Virginia
113 service area until the rated generating capacity owned and operated by eligible customer-generators in
114 the state reaches one percent of each electric distribution company's adjusted Virginia peak-load forecast
115 for the previous year, and shall require the supplier to pay the eligible customer-generator for such
116 excess electricity in a timely manner at a rate to be established by the Commission.

117 F. If electricity generated by the generation facility or facilities within the eligible community
118 customer group over the net metering period exceeds the sum of the net electricity consumption by the
119 members of the eligible community customer group, the incumbent electric utility shall reduce the
120 eligible community customer's bill for the next monthly billing period by the dollar amount value

121 *assessed to the excess electricity at the full residential retail rate from the eligible community customer*
122 *in the previous billing period, as applied to the bill rendered to the eligible community customer and*
123 *not to its individual members.*

124 *G. An incumbent electric utility shall assess charges to an eligible community customer, reflecting*
125 *the net difference in dollars between all consuming members of the eligible community customer, at*
126 *their usual tariff rate, with identical rate structure, retail rate components, and any monthly charges,*
127 *and net energy producers within the group at the standard residential tariff rate with identical rate*
128 *structure, retail rate component, and any monthly charges. Individual members of the eligible community*
129 *customer shall receive a notice of charges monthly from the incumbent electric utility, which notice shall*
130 *not require payment directly from members, and the eligible community customer shall receive an*
131 *aggregated bill showing charges assessed to its members and the net balance due, or credit, from the*
132 *eligible community customer acting on behalf of its members.*