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HOUSE BILL NO. 448

Offered January 11, 2012

Prefiled January 10, 2012

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

Patron—Toscano

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. 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; or (v) 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:

"Eligible customer-generator" means a 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 20 kilowatts for residential customers and 500 kilowatts for nonresidential customers 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) electricity supplied to an eligible customer-generator from the electric grid and (ii) the electricity generated and fed back to the electric grid by the eligible customer-generator.

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

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

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

E. If electricity generated by an eligible customer-generator over the net metering period exceeds the electricity consumed by the customer-generator, the customer-generator shall be compensated for the excess electricity if the entity contracting to receive such electric energy and the customer-generator enter into a power purchase agreement for such excess electricity. Upon the written request of the customer-generator, the supplier that serves the eligible customer-generator shall enter into a power purchase agreement with the requesting eligible customer-generator that is consistent with the minimum requirements for contracts established by the Commission pursuant to subsection D. The power purchase agreement shall obligate the supplier to purchase such excess electricity at the rate that is provided for

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59 such purchases in a net metering standard contract or tariff approved by the Commission, unless the  
60 parties agree to a higher rate. The eligible customer-generator owns the renewable energy certificates  
61 associated with its electrical generating facility, however, at the time that the eligible customer-generator  
62 enters into a power purchase agreement with its supplier, the customer-generator shall have a one-time  
63 option to sell the renewable energy certificates associated with such electrical generating facility to its  
64 supplier and be compensated at an amount that is established by the Commission to reflect the value of  
65 such renewable energy certificates. Nothing in this section shall prevent the eligible customer-generator  
66 and the supplier from voluntarily entering into an agreement for the sale and purchase of excess  
67 electricity or renewable energy certificates at mutually-agreed upon prices if the eligible  
68 customer-generator does not exercise its option to sell its renewable energy certificates to its supplier at  
69 Commission-approved prices at the time that the eligible customer-generator enters into a power  
70 purchase agreement with its supplier. All costs incurred by the supplier to purchase excess electricity  
71 and renewable energy certificates from eligible customer-generators shall be recoverable through its  
72 Renewable Energy Portfolio Standard (RPS) rate adjustment clause, if the supplier has a  
73 Commission-approved RPS plan. If not, then all costs shall be recoverable through the supplier's fuel  
74 adjustment clause. For purposes of this section, "all costs" shall be defined as the rates paid to the  
75 eligible customer-generator for the purchase of excess electricity and renewable energy certificates and  
76 any administrative costs incurred to manage the eligible customer-generator's power purchase  
77 arrangements. The net metering standard contract or tariff shall be available to eligible  
78 customer-generators on a first-come, first-served basis in each electric distribution company's Virginia  
79 service area until the rated generating capacity owned and operated by eligible customer-generators in  
80 the state reaches one percent of each electric distribution company's adjusted Virginia peak-load forecast  
81 for the previous year, and shall require the supplier to pay the eligible customer-generator for such  
82 excess electricity in a timely manner at a rate to be established by the Commission.

83 F. Any residential eligible customer-generator who owns and operates, or contracts with other  
84 persons to own, operate, or both, an electrical generating facility with a capacity that exceeds 10  
85 kilowatts shall pay to its supplier, in addition to any other charges authorized by law, a monthly standby  
86 charge; *however, a supplier, in its sole discretion, may waive such charge against all such residential*  
87 *eligible customer-generators.* The amount of the standby charge and the terms and conditions under  
88 which it is assessed shall be in accordance with a methodology developed by the supplier and approved  
89 by the Commission. The Commission shall approve a supplier's proposed standby charge methodology if  
90 it finds that the standby charges collected from all such eligible customer-generators allow the supplier  
91 to recover only the portion of the supplier's infrastructure costs that are properly associated with serving  
92 such eligible customer-generators. Such an eligible customer-generator shall not be liable for a standby  
93 charge until *the later of the date (i) specified in an order of the Commission approving its supplier's*  
94 *methodology or (ii) upon which the number of its supplier's eligible customer-generators equals or*  
95 *exceeds 1,000.*