

VIRGINIA ACTS OF ASSEMBLY -- 2013 SESSION

CHAPTER 268

An Act to amend and reenact § 56-594 of the Code of Virginia, relating to renewable energy incentives through net metering programs.

[H 1695]

Approved March 13, 2013

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, 2014, for customers of investor-owned utilities and no later than July 1, 2015, for customers of electric cooperatives, to afford eligible agricultural 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~~ or operators of distribution or transmission facilities; (iii) providers of default service; (iv) eligible customer-generators; (v) *eligible agricultural customer-generators*; or ~~(v)~~ (vi) 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 agricultural customer-generator" means a customer that operates a renewable energy generating facility as part of an agricultural business, which generating facility (i) uses as its sole energy source solar power, wind power, or aerobic or anaerobic digester gas, (ii) does not have an aggregate generation capacity of more than 500 kilowatts, (iii) is located on land owned or controlled by the agricultural business, (iv) is connected to the customer's wiring on the customer's side of its interconnection with the distributor; (v) is interconnected and operated in parallel with an electric company's transmission and distribution facilities, and (vi) is used primarily to provide energy to metered accounts of the agricultural business. An eligible agricultural customer-generator may be served by multiple meters that are located at separate but contiguous sites, such that the eligible agricultural customer-generator may aggregate in a single account the electricity consumption and generation measured by the meters, provided that the same utility serves all such meters. The aggregated load shall be served under the appropriate tariff.

"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 *or eligible agricultural customer-generator* from the electric grid and (ii) the electricity generated and fed back to the electric grid by the eligible customer-generator *or eligible agricultural customer-generator*.*

*"Net metering period" means the 12-month period following the date of final interconnection of the eligible customer-generator's *or eligible agricultural 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~~. *Such regulations shall allocate fairly the cost of such equipment and any necessary interconnection. An eligible customer-generator's electrical generating system, and each electrical generating system of an eligible agricultural customer-generator, 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 *or eligible agricultural 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)~~ (a) install additional controls, ~~(ii)~~ (b) perform or pay for additional tests, ~~or (iii)~~ (c) 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 *eligible* customer-generator or *eligible agricultural customer-generator* against discrimination by virtue of its status as a *an eligible* customer-generator or *eligible agricultural 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 or *eligible agricultural customer-generator*. Notwithstanding the cost allocation provisions of subsection C, eligible customer-generators or *eligible agricultural 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 or *eligible agricultural customer-generator* over the net metering period exceeds the electricity consumed by the *eligible* customer-generator or *eligible agricultural customer-generator*, the customer-generator or *eligible agricultural customer-generator* shall be compensated for the excess electricity if the entity contracting to receive such electric energy and the *eligible* customer-generator or *eligible agricultural customer-generator* enter into a power purchase agreement for such excess electricity. Upon the written request of the *eligible* customer-generator or *eligible agricultural customer-generator*, the supplier that serves the eligible customer-generator or *eligible agricultural customer-generator* shall enter into a power purchase agreement with the requesting eligible customer-generator or *eligible agricultural 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 such purchases in a net metering standard contract or tariff approved by the Commission, unless the parties agree to a higher rate. The eligible customer-generator or *eligible agricultural customer-generator* owns ~~the~~ any renewable energy certificates associated with its electrical generating facility; however, at the time that the eligible customer-generator or *eligible agricultural customer-generator* enters into a power purchase agreement with its supplier, the *eligible* customer-generator or *eligible agricultural customer-generator* shall have a one-time option to sell the renewable energy certificates associated with such electrical generating facility to its supplier and be compensated at an amount that is established by the Commission to reflect the value of such renewable energy certificates. Nothing in this section shall prevent the eligible customer-generator or *eligible agricultural customer-generator* and the supplier from voluntarily entering into an agreement for the sale and purchase of excess electricity or renewable energy certificates at mutually-agreed upon prices if the eligible customer-generator or *eligible agricultural customer-generator* does not exercise its option to sell its renewable energy certificates to its supplier at Commission-approved prices at the time that the eligible customer-generator or *eligible agricultural customer-generator* enters into a power purchase agreement with its supplier. All costs incurred by the supplier to purchase excess electricity and renewable energy certificates from eligible customer-generators or *eligible agricultural customer-generators* shall be recoverable through its Renewable Energy Portfolio Standard (RPS) rate adjustment clause, if the supplier has a Commission-approved RPS plan. If not, then all costs shall be recoverable through the supplier's fuel adjustment clause. For purposes of this section, "all costs" shall be defined as the rates paid to the eligible customer-generator or *eligible agricultural customer-generator* for the purchase of excess electricity and renewable energy certificates and any administrative costs incurred to manage the eligible customer-generator's or *eligible agricultural customer-generator's* power purchase arrangements. The net metering standard contract or tariff shall be available to eligible customer-generators or *eligible agricultural customer-generators* on a first-come, first-served basis in each electric distribution company's Virginia service area until the rated generating capacity owned and operated by eligible customer-generators or *eligible agricultural customer-generators* in the state reaches one percent of each electric distribution company's adjusted Virginia peak-load forecast for the previous year, and shall require the supplier to pay the eligible customer-generator or *eligible agricultural customer-generator* for such excess electricity in a timely manner at a rate to be established by the Commission.

F. Any residential eligible customer-generator or *eligible agricultural customer-generator* who owns and operates, or contracts with other persons to own, operate, or both, an electrical generating facility with a capacity that exceeds 10 kilowatts shall pay to its supplier, in addition to any other charges authorized by law, a monthly standby charge. The amount of the standby charge and the terms and conditions under which it is assessed shall be in accordance with a methodology developed by the supplier and approved by the Commission. The Commission shall approve a supplier's proposed standby charge methodology if it finds that the standby charges collected from all such eligible customer-generators and *eligible agricultural customer-generators* allow the supplier to recover only the portion of the supplier's infrastructure costs that are properly associated with serving such eligible customer-generators or *eligible agricultural customer-generators*. Such an eligible customer-generator or *eligible agricultural customer-generator* shall not be liable for a standby charge until the date specified in an order of the Commission approving its supplier's methodology.