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HOUSE BILL NO. 1695

Offered January 9, 2013

Prefiled January 7, 2013

A *BILL to amend and reenact § 56-594 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 56-594.2, relating to renewable energy incentives through net metering programs and certification of renewable energy certificates.*

Patrons—Minchew, Kilgore, Surovell, Toscano, Brink, Bulova, Fariss, Hope, Hugo, Keam, Knight, Kory, Krupicka, Landes, Lopez, Merricks, Plum, Ramadan, Scott, E.T., Scott, J.M., Watts and Yancey

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 and that the Code of Virginia is amended by adding a section numbered 56-594.2 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, that affords eligible community customers and eligible agricultural 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~~ or operators of distribution or transmission facilities; (iii) providers of default service; (iv) eligible customer-generators; (v) *eligible community customers*; (vi) *eligible agricultural customers*; or ~~(v)~~ (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:

"Eligible agricultural customer" means a customer that operates a renewable energy generating facility as part of an agricultural business, which generating facility does not have an aggregate generation capacity of more than one megawatt and is located on land owned or controlled by the agricultural business and is used to provide energy to metered accounts of the agricultural business. An eligible agricultural customer may be served by multiple meters that are located at separate but contiguous sites, such that the eligible agricultural customer 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, which owns and operates, or contracts with other persons to own, operate, or both, an electrical generating facility that has a capacity of not more than one megawatt at a single site, which facility (i) uses as its total source of fuel renewable energy, as defined in § 56-576; (ii) is located on the premises owned by one or more members of the legal entity and is connected to the member customers' wiring on the member customers' sides of their interconnection with the distributor; and (iii) is interconnected and operated in parallel with an electric company's transmission and distribution facilities. An eligible community customer may include multiple residential, commercial, industrial, 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. 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 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)

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57 electricity supplied to an eligible customer-generator, *eligible agricultural customer, or eligible*
58 *community customer* from the electric grid and (ii) the electricity generated and fed back to the electric
59 grid by the eligible customer-generator, *eligible agricultural customer, or eligible community customer*.

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

63 C. The Commission's regulations shall ensure that the metering equipment installed for net metering
64 shall be capable of measuring the flow of electricity in two directions, ~~and provided that such two-way~~
65 ~~metering equipment shall not be required of an eligible community or eligible agricultural customer if~~
66 ~~(i) the electrical generating system from which the eligible community or eligible agricultural customer~~
67 ~~obtains electricity is not physically attached to or an integral part of the building or structure where the~~
68 ~~eligible community or eligible agricultural customer consumes electricity and (ii) metering equipment~~
69 ~~measuring the flow of excess electricity to the electrical grid from the generation facility or facilities to~~
70 ~~which the eligible community or eligible agricultural customer is connected is installed at the site of~~
71 ~~each such generation facility. Such regulations shall allocate fairly the cost of such equipment and any~~
72 ~~necessary interconnection. An eligible customer-generator's electrical generating system, and each~~
73 ~~electrical generating system of an eligible agricultural customer or the members of an eligible~~
74 ~~community customer, shall meet all applicable safety and performance standards established by the~~
75 ~~National Electrical Code, the Institute of Electrical and Electronics Engineers, and accredited testing~~
76 ~~laboratories such as Underwriters Laboratories. Beyond the requirements set forth in this section, an~~
77 ~~eligible customer-generator or eligible community or eligible agricultural customer whose electrical~~
78 ~~generating system meets those standards and rules shall bear the reasonable cost, if any, as determined~~
79 ~~by the Commission, to (i) (a) install additional controls, (ii) (b) perform or pay for additional tests, or~~
80 ~~(iii) (c) purchase additional liability insurance, or (d) reimburse the supplier that serves the eligible~~
81 ~~customer-generator or eligible community or eligible agricultural customer for the customers' pro rata~~
82 ~~share of the reasonable capital or operational costs associated with the additional current being placed~~
83 ~~into the supplier's grid network by the eligible customer-generator or eligible community or eligible~~
84 ~~agricultural customer, as such share of such costs is determined by the Commission.~~

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

95 E. ~~Except as may be provided to the contrary in subsection H with respect to eligible community~~
96 ~~or eligible agricultural customers, if electricity generated by an eligible customer-generator or eligible~~
97 ~~community or eligible agricultural customer over the net metering period exceeds the electricity~~
98 ~~consumed by the eligible customer-generator or eligible community or eligible agricultural customer, the~~
99 ~~customer-generator or eligible community or eligible agricultural customer shall be compensated for the~~
100 ~~excess electricity if the entity contracting to receive such electric energy and the eligible~~
101 ~~customer-generator or eligible community or eligible agricultural customer enter into a power purchase~~
102 ~~agreement for such excess electricity. Upon the written request of the eligible customer-generator or~~
103 ~~eligible community or eligible agricultural customer, the supplier that serves the eligible~~
104 ~~customer-generator or eligible community or eligible agricultural customer shall enter into a power~~
105 ~~purchase agreement with the requesting eligible customer-generator or eligible community or eligible~~
106 ~~agricultural customer that is consistent with the minimum requirements for contracts established by the~~
107 ~~Commission pursuant to subsection D. The power purchase agreement shall obligate the supplier to~~
108 ~~purchase such excess electricity at the rate that is provided for such purchases in a net metering standard~~
109 ~~contract or tariff approved by the Commission, unless the parties agree to a higher rate. The eligible~~
110 ~~customer-generator or eligible community or eligible agricultural customer owns the any renewable~~
111 ~~energy certificates certified pursuant to § 56-594.2 that are associated with its electrical generating~~
112 ~~facility; however, at the time that the eligible customer-generator or eligible community or eligible~~
113 ~~agricultural customer enters into a power purchase agreement with its supplier, the eligible~~
114 ~~customer-generator or eligible community or eligible agricultural customer shall have a one-time option~~
115 ~~to sell the renewable energy certificates associated with such electrical generating facility to its supplier~~
116 ~~and be compensated at an amount that is established by the Commission to reflect the value of such~~
117 ~~renewable energy certificates. Nothing in this section shall prevent the eligible customer-generator or~~
118 ~~eligible community or eligible agricultural customer 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 community or eligible agricultural customer* 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 community or eligible agricultural customer* 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 community or eligible agricultural customers* 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 community or eligible agricultural customer* for the purchase of excess electricity and renewable energy certificates and any administrative costs incurred to manage the eligible customer-generator's or *eligible community or eligible agricultural customer's* power purchase arrangements. The net metering standard contract or tariff shall be available to eligible customer-generators or *eligible community or eligible agricultural customers* 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 community or eligible agricultural customers* 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 community or eligible agricultural customer* for such excess electricity in a timely manner at a rate to be established by the Commission.

F. Any residential eligible customer-generator, *eligible agricultural customer, or eligible community customer* 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 community or eligible agricultural customers* 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 community or eligible agricultural customers*. Such an eligible customer-generator or *eligible community or eligible agricultural customer* shall not be liable for a standby charge until the date specified in an order of the Commission approving its supplier's methodology.

G. If electricity generated by the generation facility or facilities owned or operated by the *eligible community or eligible agricultural customer*, over the net metering period, exceeds the sum of the net electricity consumption by the members of the *eligible community customer or the eligible agricultural customer*, the incumbent electric utility shall reduce the bill of the *eligible community or eligible agricultural customer* bill for the next monthly billing period by the dollar amount value assessed to the excess electricity at the full residential retail rate from the *eligible community or eligible agricultural customer* in the previous billing period, as applied to the bill rendered to the *eligible community or eligible agricultural customer*. This subsection shall not require the supplier to reduce bills of individual members of an *eligible community customer*.

H. An incumbent electric utility shall assess charges to an *eligible community or eligible agricultural customer*, reflecting the net difference in dollars between all consuming members of the *eligible community customer, or eligible agricultural customer*, at their usual tariff rate, with identical rate structure, retail rate components, and all monthly charges, and net energy producers within the group at the standard residential tariff rate with identical rate structure, retail rate component, and all monthly charges, excluding the pro rata share of costs determined by the Commission as set forth in clause (d) of subsection C. *Eligible agricultural customers and individual members of the eligible community customer* shall receive a notice of charges monthly from the incumbent electric utility, which notice shall not require payment directly from members, and the *eligible community or eligible agricultural customer* shall receive an aggregated bill showing charges assessed to its members and the net balance due, or credits, from the *eligible community or eligible agricultural customer* acting on behalf of its members.

§ 56-594.2. Renewable energy credit certification program.

A. The Commission shall establish a process for issuance or recognition of a renewable energy certificate. The process shall provide for the issuance, monitoring, transfer, and use of a renewable energy certificate, including in electronic form.

B. The Commission may consult with another state or a federal agency and any regional system or trading program to fulfill subsection A and allow use of a renewable energy certificate that is issued, monitored, accounted for, or transferred by or through a regional system or trading program to meet

180 *the requirements of this section.*

181 *C. The person requesting a renewable energy certificate shall affirm that the renewable energy*
182 *attributes of the electricity have not been traded, sold, transferred, or otherwise used to satisfy another*
183 *state's renewable energy requirements.*

184 *D. A renewable energy certificate issued under this section does not expire and may be banked.*

185 *E. The Commission may recognize a renewable energy certificate that is issued, monitored,*
186 *accounted for, or transferred by or through another state or a regional system or trading program if the*
187 *renewable energy certificate is for renewable electricity.*

188 *F. A renewable energy certificate (i) may be used only once to satisfy the RPS Goals set forth in §*
189 *56-585.2, (ii) may be used for the purposes of § 56-594, and (iii) may not be used if it has been used to*
190 *satisfy any other state's renewable energy requirement.*