

14103378D

HOUSE BILL NO. 1061

Offered January 8, 2014

A *BILL to amend and reenact § 56-585.2 of the Code of Virginia, relating to electric utility regulation; renewable energy portfolio standard; distributed generation minimum; registration system for renewable energy certificates.*

Patron—Surovell

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:**1. That § 56-585.2 of the Code of Virginia is amended and reenacted as follows:****§ 56-585.2. Sale of electricity from renewable sources through a renewable energy portfolio standard program.**

A. As used in this section:

"Distributed generation minimum" means a minimum percentage of an RPS Goal in a reporting year that a Phase II utility shall meet by applying renewable energy certificates from any combination of (i) energy derived from renewable energy by a system capable of net energy metering as defined in § 56-594 located on the distribution grid serving the Commonwealth, (ii) renewable thermal energy from solar water heating systems located in the Commonwealth, or (iii) a financial contribution to the Voluntary Solar Resource Development Fund established pursuant to § 67-1302.

"Phase II utility" means an investor-owned incumbent electric utility that was, as of July 1, 1999, bound by a rate case settlement adopted by the Commission that extended in its application beyond January 1, 2002.

"Qualified investment" means an expense incurred in the Commonwealth by a participating utility in conducting, either by itself or in partnership with institutions of higher education in the Commonwealth or with industrial or commercial customers that have established renewable energy research and development programs in the Commonwealth, research and development activities related to renewable or alternative energy sources, which expense (i) is designed to enhance the participating utility's understanding of emerging energy technologies and their potential impact on and value to the utility's system and customers within the Commonwealth; (ii) promotes economic development within the Commonwealth; (iii) supplements customer-driven alternative energy or energy efficiency initiatives; (iv) supplements alternative energy and energy efficiency initiatives at state or local governmental facilities in the Commonwealth; or (v) is designed to mitigate the environmental impacts of renewable energy projects; or (vi) consists of a financial contribution to the Voluntary Solar Resource Development Fund established pursuant to § 67-1302.

"Renewable energy" shall have the same meaning ascribed to it in § 56-576, provided such renewable energy is (i) generated in the Commonwealth or in the interconnection region of the regional transmission entity of which the participating utility is a member, as it may change from time to time, and purchased by a participating utility under a power purchase agreement; provided, however, that if such agreement was executed on or after July 1, 2013, the agreement shall expressly transfer ownership of renewable attributes, in addition to ownership of the energy, to the participating utility; (ii) generated by a public utility providing electric service in the Commonwealth from a facility in which the public utility owns at least a 49 percent interest and that is located in the Commonwealth, in the interconnection region of the regional transmission entity of which the participating utility is a member, or in a control area adjacent to such interconnection region; or (iii) represented by renewable energy certificates. "Renewable energy" shall not include electricity generated from pumped storage, but shall include run-of-river generation from a combined pumped-storage and run-of-river facility.

"Renewable energy certificate" means either (i) a certificate issued by the Commission and tracked by an affiliate of the regional transmission entity of which the participating utility is a member, as it may change from time to time, or any successor to such affiliate, and held or acquired by such utility, that validates the generation of renewable energy by eligible sources in the interconnection region of the regional transmission entity or (ii) a certificate issued by the Commission pursuant to subsection J and held or acquired by a participating utility, that validates a qualified investment made by the participating utility.

"Reporting year" means a 12-month period that begins on the first day of June, ends on the last day of May, and is named according to the calendar year in which it ends.

"Total electric energy sold in the base year" means total electric energy sold to Virginia jurisdictional retail customers by a participating utility in calendar year 2007, excluding an amount equivalent to the

INTRODUCED

HB1061

59 average of the annual percentages of the electric energy that was supplied to such customers from
 60 nuclear generating plants for the calendar years 2004 through 2006.

61 B. Any investor-owned incumbent electric utility may apply to the Commission for approval to
 62 participate in a renewable energy portfolio standard program, as defined in this section. The Commission
 63 shall approve such application if the applicant demonstrates that it has a reasonable expectation of
 64 achieving 12 percent of its base year electric energy sales from renewable energy sources during
 65 ~~calendar reporting~~ year 2022, and 15 percent of its base year electric energy sales from renewable
 66 energy sources during ~~calendar reporting~~ year 2025, as provided in subsection D.

67 C. It is in the public interest for utilities that seek to have a renewable energy portfolio standard
 68 program to achieve the goals set forth in subsection D, such goals being referred to herein as "RPS
 69 Goals." ~~A utility shall receive double credit toward meeting the renewable energy portfolio standard for~~
 70 ~~energy derived from sunlight, from onshore wind, or from facilities in the Commonwealth fueled~~
 71 ~~primarily by animal waste, and triple credit toward meeting the renewable energy portfolio standard for~~
 72 ~~energy derived from offshore wind.~~

73 D. Regarding any renewable energy portfolio standard program, the total electric energy sold by a
 74 utility to meet the RPS Goals shall be composed of the following amounts of electric energy or
 75 renewable thermal energy equivalent from renewable energy sources, as adjusted for any sales volumes
 76 lost through operation of the customer choice provisions of subdivision A 3 or A 4 of § 56-577:

77 RPS Goal I: In ~~calendar reporting~~ year 2010, 4 percent of total electric energy sold in the base year.

78 RPS Goal II: For ~~calendar reporting~~ years 2011 through 2015, inclusive, an average of 4 percent of
 79 total electric energy sold in the base year, and in ~~calendar reporting~~ year 2016, 7 percent of total
 80 electric energy sold in the base year.

81 RPS Goal III: For ~~calendar reporting~~ years 2017 through 2021, inclusive, an average of 7 percent of
 82 total electric energy sold in the base year, and in ~~calendar reporting~~ year 2022, 12 percent of total
 83 electric energy sold in the base year.

84 RPS Goal IV: For ~~calendar reporting~~ years 2023 and 2024, inclusive, an average of 12 percent of
 85 total electric energy sold in the base year, and in ~~calendar reporting~~ year 2025, 15 percent of total
 86 electric energy sold in the base year.

87 A utility may not apply renewable energy certificates issued pursuant to subsection J to meet more
 88 than 20 percent of the sales requirement for the RPS Goal in any *reporting* year.

89 A utility may apply renewable energy sales achieved or renewable energy certificates acquired during
 90 the periods covered by any such RPS Goal that are in excess of the sales requirement for that RPS Goal
 91 to the sales requirements for ~~any future the RPS Goal Goals for any of the two reporting years~~
 92 ~~immediately following the reporting year in which the certificate was created.~~

93 *For reporting year 2015 and each reporting year thereafter, a Phase II utility shall meet a*
 94 *distributed generation minimum, according to the following schedule:*

95 <i>Reporting year</i>	<i>Distributed generation minimum</i>
96 2015	5 percent
97 2016	6 percent
98 2017	9.5 percent
99 2018	13.5 percent
100 2019	17.75 percent
101 2020	22 percent
102 2021	25.5 percent
103 2022	17.5 percent
104 2023	20.5 percent
105 2024	25 percent
106 2025 and each reporting year thereafter	25 percent

107 E. A utility participating in such program shall have the right to recover all incremental costs
 108 incurred for the purpose of such participation in such program, as accrued against income, through rate
 109 adjustment clauses as provided in subdivisions A 5 and A 6 of § 56-585.1, including, but not limited to,
 110 administrative costs, ancillary costs, capacity costs, costs of energy represented by certificates described
 111 in subsection A, and, in the case of construction of renewable energy generation facilities, allowance for
 112 funds used during construction until such time as an enhanced rate of return, as determined pursuant to
 113 subdivision A 6 of § 56-585.1, on construction work in progress is included in rates, projected
 114 construction work in progress, planning, development and construction costs, life-cycle costs, and costs
 115 of infrastructure associated therewith, plus an enhanced rate of return, as determined pursuant to
 116 subdivision A 6 of § 56-585.1. This subsection shall not apply to qualified investments as provided in
 117 subsection K. All incremental costs of the RPS program shall be allocated to and recovered from the
 118 utility's customer classes based on the demand created by the class and within the class based on energy
 119 used by the individual customer in the class, except that the incremental costs of the RPS program shall

not be allocated to or recovered from customers that are served within the large industrial rate classes of the participating utilities and that are served at primary or transmission voltage.

F. A utility participating in such program shall apply towards meeting its RPS Goals any renewable energy from existing renewable energy sources owned by the participating utility or purchased as allowed by contract at no additional cost to customers to the extent feasible. A utility participating in such program shall not apply towards meeting its RPS Goals renewable energy certificates attributable to any renewable energy generated at a renewable energy generation source in operation as of July 1, 2007, that is operated by a person that is served within a utility's large industrial rate class and that is served at primary or transmission voltage, except for those persons providing renewable thermal energy equivalents to the utility. A participating utility shall be required to fulfill any remaining deficit needed to fulfill its RPS Goals from new renewable energy supplies at reasonable cost and in a prudent manner to be determined by the Commission at the time of approval of any application made pursuant to subsection B. A participating utility may sell renewable energy certificates produced at its own generation facilities located in the Commonwealth or, if located outside the Commonwealth, owned by such utility and in operation as of January 1, 2010, or renewable energy certificates acquired as part of a purchase power agreement, to another entity and purchase lower cost renewable energy certificates and the net difference in price between the renewable energy certificates shall be credited to customers. Utilities participating in such program shall collectively, either through the installation of new generating facilities, through retrofit of existing facilities or through purchases of electricity from new facilities located in Virginia, use or cause to be used no more than a total of 1.5 million tons per year of green wood chips, bark, sawdust, a tree or any portion of a tree which is used or can be used for lumber and pulp manufacturing by facilities located in Virginia, towards meeting RPS goals, excluding such fuel used at electric generating facilities using wood as fuel prior to January 1, 2007. A utility with an approved application shall be allocated a portion of the 1.5 million tons per year in proportion to its share of the total electric energy sold in the base year, as defined in subsection A, for all utilities participating in the RPS program. A utility may use in meeting RPS goals, without limitation, the following sustainable biomass and biomass based waste to energy resources: mill residue, except wood chips, sawdust and bark; pre-commercial soft wood thinning; slash; logging and construction debris; brush; yard waste; shipping crates; dunnage; non-merchantable waste paper; landscape or right-of-way tree trimmings; agricultural and vineyard materials; grain; legumes; sugar; and gas produced from the anaerobic decomposition of animal waste.

G. The Commission shall promulgate such rules and regulations as may be necessary to implement the provisions of this section including a requirement that participants verify whether the RPS goals are met in accordance with this section.

H. Each investor-owned incumbent electric utility shall report to the Commission annually by November 1 identifying:

1. The utility's efforts, if any, to meet the RPS Goals, specifically identifying:
 - a. A list of all states where the purchased or owned renewable energy was generated, specifying the number of megawatt hours or renewable energy certificates originating from each state;
 - b. A list of the decades in which the purchased or owned renewable energy generating units were placed in service, specifying the number of megawatt hours or renewable energy certificates originating from those units; and
 - c. A list of fuel types used to generate the purchased or owned renewable energy, specifying the number of megawatt hours or renewable energy certificates originating from each fuel type;
2. The utility's overall generation of renewable energy; and
3. Advances in renewable generation technology that affect activities described in subdivisions 1 and 2.

I. The Commission shall post on its website the reports submitted by each investor-owned incumbent electric utility pursuant to subsection H.

J. The Commission shall issue to a participating utility a number of renewable energy certificates for qualified investments, upon request by a participating utility, if it finds that an expense satisfies the conditions set forth in this section for a qualified investment, as follows:

1. By March 31 of each year, the participating utility shall provide an analysis, as reasonably determined by a qualified independent broker, of the average for the preceding *reporting* year of the publicly available prices for Tier 1 renewable energy certificates ~~and~~, Tier 2 renewable energy certificates, *and solar renewable energy certificates*, validating the generation of renewable energy by eligible sources, that were issued in the interconnection region of the regional transmission entity of which the participating utility is a member;

2. In the same annual analysis provided to the Commission, the participating utility shall (i) divide the amount of the participating utility's qualified investments in *the Voluntary Solar Resource Development Fund during the applicable period by the lesser of the average price for solar renewable*

181 *energy certificates determined pursuant to subdivision 1 or \$250 and (ii) divide the amount of all other*
182 *qualified investments by the participating utility during the applicable period by the average price for*
183 *Tier 1 renewable energy certificates and for Tier 2 renewable energy certificates determined pursuant to*
184 *subdivision 1;*

185 3. The number of renewable energy certificates to be issued to the participating utility shall equal the
186 ~~product~~ *sum of the quotients* obtained pursuant to *clauses (i) and (ii) of subdivision 2; and*

187 4. The Commission shall review and validate the analysis provided by the participating utility within
188 90 days of submittal of its analysis to the Commission. If no corrections are made by the Commission,
189 then the analysis shall be deemed correct and the renewable energy certificates shall be deemed issued
190 to the participating utility.

191 Each renewable energy certificate issued to a participating utility pursuant to this subsection shall
192 represent the equivalent of one megawatt hour of renewable energy sales achieved when applied to an
193 RPS Goal.

194 K. Qualified investments shall constitute reasonable and prudent operating expenses of a participating
195 utility. Notwithstanding subsection E, a participating utility shall not be authorized to recover the costs
196 associated with qualified investments through rate adjustment clauses as provided in subdivisions A 5
197 and A 6 of § 56-585.1. In any proceeding conducted pursuant to § 56-585.1 or other provision of this
198 title in which a participating utility seeks recovery of its qualified investments as an operating expense,
199 the participating utility shall not be authorized to earn a return on its qualified investments.

200 L. A participating utility shall not be eligible for a research and development tax credit pursuant to
201 § 58.1-439.12:08 with regard to any expense incurred or investment made by the participating utility that
202 constitutes a qualified investment pursuant to this section.

203 M. *The Commission shall establish and maintain a market-based renewable energy trading system to*
204 *facilitate the creation and transfer of renewable energy certificates. To the extent practicable, the*
205 *trading system shall be consistent with and operate in conjunction with the trading system developed by*
206 *PJM Interconnection LLC. The Commission may contract with a for-profit or a nonprofit entity to assist*
207 *in the administration of the renewable energy trading system. The market-based renewable energy*
208 *trading system shall include a registry of information necessary to determine:*

209 1. *The number of renewable energy certificates expected to be available to participating electric*
210 *suppliers in each reporting year of the RPS;*

211 2. *The expected market value of such certificates;*

212 3. *The number of renewable energy certificates produced in each reporting year of the RPS; and*

213 4. *The market value of such certificates.*

214 N. *The market-based renewable energy trading system registry shall make such information available*
215 *to electric suppliers and the public by computer access through the Internet.*

216 O. *A renewable energy certificate shall exist for two years after the reporting year in which it was*
217 *created unless retired sooner by:*

218 1. *An entity that owns the certificate; or*

219 2. *Use of the certificate by a participating electric supplier to demonstrate compliance with the RPS*
220 *Goals.*

221 P. *The Commission by regulation shall establish requirements for documentation and verification of*
222 *renewable energy certificates used by participating electric suppliers to demonstrate compliance with the*
223 *RPS Goals.*