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**HOUSE BILL NO. 879**

Offered January 8, 2014

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A *BILL to amend and reenact §§ 56-589 and 56-594 of the Code of Virginia, relating to electric utility regulation; renewable energy incentives through net energy metering programs; multifamily net metering and municipal net metering.*

Patrons—Yost, Simon and Torian

Referred to Committee on Commerce and Labor

**Be it enacted by the General Assembly of Virginia:****1. That §§ 56-589 and 56-594 of the Code of Virginia are amended and reenacted as follows:****§ 56-589. Municipal and state aggregation.**

A. Subject to the provisions of subdivision A 3 of § 56-577, counties, cities, and towns (hereafter municipalities) and other political subdivisions of the Commonwealth may, at their election and upon authorization by majority votes of their governing bodies, aggregate electrical energy and demand requirements for the purpose of negotiating the purchase of electrical energy requirements from any licensed supplier within this Commonwealth, as follows:

1. Any municipality or other political subdivision of the Commonwealth may aggregate the electric energy load of residential, commercial, and industrial retail customers within its boundaries on an opt-in or opt-out basis.

2. Any municipality or other political subdivision of the Commonwealth may aggregate the electric energy load of its governmental buildings, facilities, and any other governmental operations requiring the consumption of electric energy. Aggregation pursuant to this subdivision shall not require licensure pursuant to § 56-588.

3. Two or more municipalities or other political subdivisions within the Commonwealth may aggregate the electric energy load of their governmental buildings, facilities, and any other governmental operations requiring the consumption of electric energy. Aggregation pursuant to this subdivision shall not require licensure pursuant to § 56-588 when such municipalities or other political subdivisions are acting jointly to negotiate or arrange for themselves agreements for their energy needs directly with licensed suppliers or aggregators.

Nothing in this subsection shall prohibit the Commission's development and implementation of pilot programs for opt-in, opt-out, or any other type of municipal aggregation, as provided in § 56-577.

B. The Commonwealth, at its election, may aggregate the electric energy load of its governmental buildings, facilities, and any other government operations requiring the consumption of electric energy for the purpose of negotiating the purchase of electricity from any licensed supplier within the Commonwealth. Aggregation pursuant to this subsection shall not require licensure pursuant to § 56-588.

C. Nothing in this section shall preclude municipalities from aggregating the electric energy load of their governmental buildings, facilities, and any other governmental operations requiring the consumption of electric energy for the purpose of negotiating rates and terms, and conditions of service from the electric utility certificated by the Commission to serve the territory in which such buildings, facilities, and operations are located, provided, however, that no such electric energy load shall be aggregated for this purpose unless all such buildings, facilities, and operations to be aggregated are served by the same electric utility.

D. *Nothing in this section shall preclude municipalities from aggregating the electric energy load of their governmental buildings, facilities, and any other governmental operations requiring the consumption of electric energy for the purpose of net energy metering from a renewable energy generating facility that (i) uses as its sole energy source solar power, wind power, or aerobic or anaerobic digester gas and landfill gas; (ii) does not have an aggregate generation capacity of more than five megawatts unless a utility elects a higher capacity limit for such a facility; (iii) is located on land owned or controlled by the municipality; (iv) is interconnected and operated in parallel with an electric utility's transmission and distribution facilities; and (v) is used primarily to provide energy to metered accounts of the municipality. The aggregated municipal net metered accounts may be served by multiple meters that are located at separate contiguous or non-contiguous sites, such that the eligible municipality may aggregate in a single account the electricity consumption and generation measured by the meters, provided that the same electric utility serves all such meters. The electricity generated by the eligible municipal customer-generator's renewable electrical generation facility shall be allocated to each of the municipal net-metered accounts in proportion to the electrical load served by those meters*

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59 *and credited to kilowatt hours purchased. The aggregated load shall be served under the appropriate*  
60 *rate schedules. The terms of municipal net metering service shall be included in rates, terms, and*  
61 *conditions of service as provided in subsection C.*

62 **§ 56-594. Net energy metering provisions.**

63 A. The Commission shall establish by regulation a program that affords eligible customer-generators  
64 the opportunity to participate in net energy metering, ~~and~~ a program, to begin no later than July 1, 2014,  
65 for customers of investor-owned utilities and no later than July 1, 2015, for customers of electric  
66 cooperatives, to afford eligible agricultural customer-generators the opportunity to participate in net  
67 energy metering, *and a program, to begin no later than July 1, 2015, to afford eligible multifamily net*  
68 *metering customer-generators the opportunity to participate in net energy metering.* The regulations may  
69 include, but need not be limited to, requirements for (i) retail sellers; (ii) owners or operators of  
70 distribution or transmission facilities; (iii) providers of default service; (iv) eligible  
71 customer-generators; (v) eligible agricultural customer-generators; ~~or~~, (vi) *eligible multifamily net*  
72 *metering customer-generators, or (vii) any combination of the foregoing, as the Commission determines*  
73 *will facilitate the provision of net energy metering, provided that the Commission determines that such*  
74 *requirements do not adversely affect the public interest.*

75 B. For the purpose of this section:

76 "Eligible agricultural customer-generator" means a customer that operates a renewable energy  
77 generating facility as part of an agricultural business, which generating facility (i) uses as its sole energy  
78 source solar power, wind power, or aerobic or anaerobic digester gas; (ii) does not have an aggregate  
79 generation capacity of more than 500 kilowatts; (iii) is located on land owned or controlled by the  
80 agricultural business; (iv) is connected to the customer's wiring on the customer's side of its  
81 interconnection with the distributor; (v) is interconnected and operated in parallel with an electric  
82 ~~company's utility's~~ transmission and distribution facilities; and (vi) is used primarily to provide energy  
83 to metered accounts of the agricultural business. An eligible agricultural customer-generator may be  
84 served by multiple meters that are located at separate but contiguous sites, such that the eligible  
85 agricultural customer-generator may aggregate in a single account the electricity consumption and  
86 generation measured by the meters, provided that the same *electric* utility serves all such meters. The  
87 aggregated load shall be served under the appropriate tariff.

88 "*Eligible multifamily net metering customer-generator*" means a customer or customers that operate  
89 a renewable energy generating facility in a condominium, apartment complex, neighborhood, or  
90 homeowners association served by a common distribution circuit, which generating facility (i) uses as its  
91 total source of fuel renewable energy; (ii) does not have an aggregate generation capacity of more than  
92 500 kilowatts; (iii) is located on land owned or controlled by the eligible condominium, apartment  
93 complex, neighborhood, or homeowners association or on customers' property within the condominium,  
94 apartment complex, neighborhood, or homeowners association; (iv) is interconnected and operated in  
95 parallel with an electric utility's transmission and distribution facilities; and (v) is used primarily to  
96 provide energy to metered accounts of the eligible multifamily net metering customer-generator. An  
97 eligible multifamily net metering customer-generator may be served by multiple meters that are located  
98 at separate sites within the site of the condominium, apartment complex, neighborhood, or homeowners  
99 association, such that the eligible multifamily net metering customer-generator may aggregate the  
100 electricity consumption and generation measured by the meters, provided that the same electric utility  
101 serves all such meters. The aggregated load shall be served under the appropriate tariff.

102 "Eligible customer-generator" means a customer that owns and operates, or contracts with other  
103 persons to own, operate, or both, an electrical generating facility that (i) has a capacity of not more than  
104 20 kilowatts for residential customers and 500 kilowatts for nonresidential customers unless a utility  
105 elects a higher capacity limit for such a facility; (ii) uses as its total source of fuel renewable energy, as  
106 defined in § 56-576; (iii) is located on the customer's premises and is connected to the customer's wiring  
107 on the customer's side of its interconnection with the distributor; (iv) is interconnected and operated in  
108 parallel with an electric ~~company's utility's~~ transmission and distribution facilities; and (v) is intended  
109 primarily to offset all or part of the customer's own electricity requirements.

110 "Net energy metering" means measuring the difference, over the net metering period, between (i)  
111 electricity supplied to an eligible customer-generator, *eligible multifamily net metering*  
112 *customer-generator*, or eligible agricultural customer-generator from the electric grid and (ii) the  
113 electricity generated and fed back to the electric grid by the eligible customer-generator, *eligible*  
114 *multifamily net metering customer-generator*, or eligible agricultural customer-generator.

115 "Net metering period" means the 12-month period following the date of final interconnection of the  
116 eligible customer-generator's, *eligible multifamily net metering customer-generator's*, or eligible  
117 agricultural customer-generator's system with an electric service provider, and each 12-month period  
118 thereafter.

119 C. The Commission's regulations shall ensure that the metering equipment installed for net metering  
120 shall be capable of measuring the flow of electricity in two directions. Such regulations shall allocate

121 fairly the cost of such equipment and any necessary interconnection. An eligible customer-generator's  
 122 electrical generating system, and each electrical generating system of an *eligible multifamily net metering*  
 123 *customer-generator* or eligible agricultural customer-generator, shall meet all applicable safety and  
 124 performance standards established by the National Electrical Code, the Institute of Electrical and  
 125 Electronics Engineers, and accredited testing laboratories such as Underwriters Laboratories. Beyond the  
 126 requirements set forth in this section, an eligible customer-generator, *eligible multifamily net metering*  
 127 *customer-generator*, or eligible agricultural customer-generator whose electrical generating system meets  
 128 those standards and rules shall bear the reasonable cost, if any, as determined by the Commission, to ~~(a)~~  
 129 ~~(i)~~ install additional controls, ~~(b)~~ ~~(ii)~~ perform or pay for additional tests, ~~(c)~~ ~~and~~ ~~(iii)~~ purchase additional  
 130 liability insurance.

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

142 E. If electricity generated by an eligible customer-generator, *eligible multifamily net metering*  
 143 *customer-generator*, or eligible agricultural customer-generator over the net metering period exceeds the  
 144 electricity consumed by the eligible customer-generator, *eligible multifamily net metering*  
 145 *customer-generator*, or eligible agricultural customer-generator, the *eligible customer-generator, eligible*  
 146 *multifamily net metering customer-generator*, or eligible agricultural customer-generator shall be  
 147 compensated for the excess electricity if the entity contracting to receive such electric energy and the  
 148 eligible customer-generator, *eligible multifamily net metering customer-generator*, or eligible agricultural  
 149 customer-generator enter into a power purchase agreement for such excess electricity. Upon the written  
 150 request of the eligible customer-generator, *eligible multifamily net metering customer-generator*, or  
 151 eligible agricultural customer-generator, the supplier that serves the eligible customer-generator, *eligible*  
 152 *multifamily net metering customer-generator*, or eligible agricultural customer-generator shall enter into a  
 153 power purchase agreement with the requesting eligible customer-generator, *eligible multifamily net*  
 154 *metering customer-generator*, or eligible agricultural customer-generator that is consistent with the  
 155 minimum requirements for contracts established by the Commission pursuant to subsection D. The  
 156 power purchase agreement shall obligate the supplier to purchase such excess electricity at the rate that  
 157 is provided for such purchases in a net metering standard contract or tariff approved by the Commission,  
 158 unless the parties agree to a higher rate. The eligible customer-generator, *eligible multifamily net*  
 159 *metering customer-generator*, or eligible agricultural customer-generator owns any renewable energy  
 160 certificates associated with its electrical generating facility; however, at the time that the eligible  
 161 customer-generator, *eligible multifamily net metering customer-generator*, or eligible agricultural  
 162 customer-generator enters into a power purchase agreement with its supplier, the eligible  
 163 customer-generator, *eligible multifamily net metering customer-generator*, or eligible agricultural  
 164 customer-generator shall have a one-time option to sell the renewable energy certificates associated with  
 165 such electrical generating facility to its supplier and be compensated at an amount that is established by  
 166 the Commission to reflect the value of such renewable energy certificates. Nothing in this section shall  
 167 prevent the eligible customer-generator, *eligible multifamily net metering customer-generator*, or eligible  
 168 agricultural customer-generator and the supplier from voluntarily entering into an agreement for the sale  
 169 and purchase of excess electricity or renewable energy certificates at mutually-agreed upon prices if the  
 170 eligible customer-generator, *eligible multifamily net metering customer-generator*, or eligible agricultural  
 171 customer-generator does not exercise its option to sell its renewable energy certificates to its supplier at  
 172 Commission-approved prices at the time that the eligible customer-generator, *eligible multifamily net*  
 173 *metering customer-generator*, or eligible agricultural customer-generator enters into a power purchase  
 174 agreement with its supplier. All costs incurred by the supplier to purchase excess electricity and  
 175 renewable energy certificates from eligible customer-generators, *eligible multifamily net metering*  
 176 *customer-generators*, or eligible agricultural customer-generators shall be recoverable through its  
 177 Renewable Energy Portfolio Standard (RPS) rate adjustment clause, if the supplier has a  
 178 Commission-approved RPS plan. If not, then all costs shall be recoverable through the supplier's fuel  
 179 adjustment clause. For purposes of this section, "all costs" shall be defined as the rates paid to the  
 180 eligible customer-generator, *eligible multifamily net metering customer-generator*, or eligible agricultural  
 181 customer-generator for the purchase of excess electricity and renewable energy certificates and any

182 administrative costs incurred to manage the eligible customer-generator's, *eligible multifamily net*  
183 *metering customer-generator's*, or eligible agricultural customer-generator's power purchase  
184 arrangements. The net metering standard contract or tariff shall be available to eligible  
185 customer-generators, *eligible multifamily net metering customer-generators*, or eligible agricultural  
186 customer-generators on a first-come, first-served basis in each electric distribution company's Virginia  
187 service area until the rated generating capacity owned and operated by eligible customer-generators,  
188 *eligible multifamily net metering customer-generators*, or eligible agricultural customer-generators in the  
189 ~~state~~ *Commonwealth* reaches one percent of each electric distribution company's adjusted Virginia  
190 peak-load forecast for the previous year, and shall require the supplier to pay the eligible  
191 customer-generator, *eligible multifamily net metering customer-generator*, or eligible agricultural  
192 customer-generator for such excess electricity in a timely manner at a rate to be established by the  
193 Commission.

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