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HOUSE BILL NO. 1636

Offered January 14, 2015

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A BILL to amend and reenact § 56-594 of the Code of Virginia, relating to electric utilities; net energy metering; community subscriber organizations.

Patrons—Minchew, Sullivan, Carr, Surovell, Villanueva, Watts, Wilt and Yost; Senators: Deeds, Edwards and Favola

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 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 Commission also shall establish by regulation a program that affords community subscribers and community subscriber organizations 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 or operators of distribution or transmission facilities; (iii) providers of default service; (iv) eligible customer-generators; (v) eligible agricultural customer-generators; (vi) *community subscriber organizations and community generation facilities*; or ~~(vi)~~ (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:

"Community generation facility" means an electrical generating facility that (i) uses as its total source of fuel renewable energy as defined in § 56-576; (ii) has a capacity of not more than two megawatts; (iii) is interconnected and operated in parallel with an electric company's transmission and distribution facilities; and (iv) credits the monetary value of electricity generated by the facility to the community subscribers of the facility. A community generation facility is not required to be located on an associated community subscriber's premises.

"Community subscriber" means a retail customer of an electric utility who owns a subscription in a community generation facility and receives on-bill credits for each kilowatt hour of energy produced by their portion of the community generation facility. The subscriber's premises shall be located in the service territory of the utility in which the community generation facility is located and in the county in which the community generation facility is located or a neighboring county. The subscriber may change the premises to which the on-bill credits from the community generation facility are credited if the new premises are also eligible.

"Community subscriber organization" means a legal entity that owns and operates a community generation facility with no fewer than five subscribers. A community subscriber organization shall (i) prove its compliance with tax laws, securities laws, and consumer protection matters; (ii) disclose all relevant information to community subscribers; and (iii) provide subscription allocation information to the utility. A community subscriber organization may receive payments for bill credit deductions designated solely for operations and maintenance of a community generation facility and payments for unsubscribed energy, at a rate determined by the Commission. The incumbent electric utility shall provide all participating customers who are community subscribers with an on-bill credit for every kilowatt hour of energy generated by their share of the community generation facility. Each billing month, the value of the on-bill credits allocated to each community subscriber shall be calculated using the quantity of kilowatt hours allocated to each community subscriber and the terms of the contracts between parties to net metering arrangements minus any subscriber-agreed deductions that shall be paid to the subscriber organization or the third-party owner for operations and maintenance purposes on behalf of the subscriber.

"Community subscription" means a proportional interest in a community generation facility providing the subscriber with on-bill credits from the energy generated by the facility. Each subscription shall be sized to represent at least 250 watts and to supply no more than 120 percent of the average annual consumption of electricity by each subscriber at the premises to which the subscription is attributed, with a deduction for the amount of any existing generating facilities at such premises. A subscription

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58 shall not be sized larger than one half of the capacity of the associated community generation facility,
59 and subscriptions sized larger than 30 kilowatts may not comprise more than 60 percent of the
60 community generation facility's capacity in aggregate. Subscriptions in a community generation facility
61 may be transferred or assigned to a community subscriber organization or to any entity who qualifies to
62 be a community subscriber under this section. This transfer or assignment process shall remain the
63 responsibility of the community subscriber organization. Prices paid for subscriptions and contractual
64 matters in a community renewable energy facility shall not be subject to the jurisdiction of the
65 Commission except as provided for in this section.

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

78 "Eligible customer-generator" means a customer that owns and operates, or contracts with other
79 persons to own, operate, or both, an electrical generating facility that (i) has a capacity of not more than
80 20 kilowatts for residential customers and 500 kilowatts two megawatts for nonresidential customers
81 unless a utility elects a higher capacity limit for such a facility; (ii) uses as its total source of fuel
82 renewable energy, as defined in § 56-576; (iii) is located on the customer's premises and is connected to
83 the customer's wiring on the customer's side of its interconnection with the distributor; (iv) is
84 interconnected and operated in parallel with an electric company's transmission and distribution facilities;
85 and (v) is intended primarily to offset all or part of the customer's own electricity requirements.

86 "Net energy metering" means measuring the difference, over the net metering period, between (i)
87 electricity supplied to an eligible customer-generator or, an eligible agricultural customer-generator, or a
88 community subscriber from the electric grid and (ii) the electricity generated and fed back to the electric
89 grid by the eligible customer-generator or, the eligible agricultural customer-generator, or the community
90 subscription of a community subscriber.

91 "Net metering period" means the 12-month period following the date of final interconnection of the
92 eligible customer-generator's or eligible agricultural customer-generator's system with an electric service
93 provider, or a community subscriber's initial date of subscription into a community subscriber
94 organization, and each 12-month period thereafter.

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

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

117 E. If electricity generated by an eligible customer-generator or, an eligible agricultural
118 customer-generator, or a community subscription over the net metering period exceeds the electricity
119 consumed by the eligible customer-generator or, eligible agricultural customer-generator, or community

subscriber, the customer-generator ~~or~~, eligible agricultural customer-generator, *or community subscriber* 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, *or community subscriber* enter into a power purchase agreement for such excess electricity. Upon the written request of the eligible customer-generator ~~or~~, eligible agricultural customer-generator, *or community subscriber*, the supplier that serves the eligible customer-generator ~~or~~, eligible agricultural customer-generator, *or community subscriber* shall enter into a power purchase agreement with the requesting eligible customer-generator ~~or~~, eligible agricultural customer-generator, *or community subscriber* 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, *or community subscriber* owns any renewable energy certificates associated with its electrical generating facility, *unless in the case of a community subscriber these certificates have been retained by the community subscriber organization for financing or operational purposes*; however, at the time that the eligible customer-generator ~~or~~, eligible agricultural customer-generator, *or community subscriber* enters into a power purchase agreement with its supplier, the eligible customer-generator ~~or~~, eligible agricultural customer-generator, *or community subscriber* 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, *or community subscriber* 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~~ *mutually agreed-upon* prices if the eligible customer-generator ~~or~~, eligible agricultural customer-generator, *or community subscriber* 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, *or community subscriber* 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, *or community subscribers* 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 means~~ the rates paid to the eligible customer-generator ~~or~~, eligible agricultural customer-generator, *or community subscriber* 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, *or community subscriber's* power purchase arrangements. The net metering standard contract or tariff shall be available to eligible customer-generators ~~or~~, eligible agricultural customer-generators, *or community subscriber organizations* 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, *or community subscriber organizations* in the ~~state~~ *Commonwealth* 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, *or community subscriber* 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, *or any community subscriber whose community subscription 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, *and community subscribers* 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, *or community subscribers*. Such an eligible customer-generator ~~or~~, eligible agricultural customer-generator, *or community subscriber* shall not be liable for a standby charge until the date specified in an order of the Commission approving its supplier's methodology.