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SENATE BILL NO. 779

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Senate Committee on Commerce and Labor
on February 15, 2016)

(Patrons Prior to Substitute—Senators Stuart and Edwards [SB 148])

A *BILL to amend and reenact § 56-594 of the Code of Virginia, relating to electric utility regulation; net energy metering.*

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 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; or (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 ~~two megawatts~~, (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 on one parcel or on multiple adjacent parcels~~, 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 50 kilowatts for residential customers and not more than ~~one megawatt~~ two megawatts for nonresidential customers on an electrical generating facility placed in service after July 1, 2015; (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. ~~In addition to the electrical generating facility size limitations in clause (i), the capacity of any generating facility installed under this section after July 1, 2015, shall not exceed the expected annual energy consumption based on the previous 12 months of billing history or an annualized calculation of billing history if 12 months of billing history is not available.~~

"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 (i) the metering equipment installed for net metering shall be capable of measuring the flow of electricity in two directions and (ii) any eligible customer-generator seeking to participate in net energy metering shall notify its supplier and receive approval to interconnect prior to installation of an electrical generating facility. The electric distribution company shall have 30 days from the date of notification for residential facilities, and 60 days from the date of notification for nonresidential facilities, to determine whether the interconnection requirements have been met. Such regulations shall allocate fairly the cost of such equipment and any necessary

60 interconnection. An eligible customer-generator's electrical generating system, and each electrical
61 generating system of an eligible agricultural customer-generator, shall meet all applicable safety and
62 performance standards established by the National Electrical Code, the Institute of Electrical and
63 Electronics Engineers, and accredited testing laboratories such as Underwriters Laboratories. Beyond the
64 requirements set forth in this section and to ensure public safety, power quality, and reliability of the
65 supplier's electric distribution system, an eligible customer-generator or eligible agricultural
66 customer-generator whose electrical generating system meets those standards and rules shall bear all
67 reasonable costs of equipment required for the interconnection to the supplier's electric distribution
68 system, including costs, if any, to (a) install additional controls, (b) perform or pay for additional tests,
69 and (c) purchase additional liability insurance.

70 D. The Commission shall establish minimum requirements for contracts to be entered into by the
71 parties to net metering arrangements. Such requirements shall protect the eligible customer-generator or
72 eligible agricultural customer-generator against discrimination by virtue of its status as an eligible
73 customer-generator or eligible agricultural customer-generator, and permit customers that are served on
74 time-of-use tariffs that have electricity supply demand charges contained within the electricity supply
75 portion of the time-of-use tariffs to participate as an eligible customer-generator or eligible agricultural
76 customer-generator. *The Commission shall also establish such rules and regulations as it finds necessary*
77 *and reasonable to allow any eligible customer-generator or eligible agricultural customer-generator to*
78 *enter into a contract to sell any net-metering eligible energy that exceeds the eligible*
79 *customer-generator's or eligible agricultural customer-generator's own energy demand for any monthly*
80 *period to any other retail customer within the same service territory of the incumbent utility.*
81 Notwithstanding the cost allocation provisions of subsection C, eligible customer-generators or eligible
82 agricultural customer-generators served on demand charge-based time-of-use tariffs shall bear the
83 incremental metering costs required to net meter such customers.

84 E. If electricity generated by an eligible customer-generator or eligible agricultural customer-generator
85 over the net metering period exceeds the electricity consumed by the eligible customer-generator or
86 eligible agricultural customer-generator *and is not sold to another customer under subsection D*, the
87 customer-generator or eligible agricultural customer-generator shall be compensated for the excess
88 electricity if the entity contracting to receive such electric energy and the eligible customer-generator or
89 eligible agricultural customer-generator enter into a power purchase agreement for such excess
90 electricity. Upon the written request of the eligible customer-generator or eligible agricultural
91 customer-generator, the supplier that serves the eligible customer-generator or eligible agricultural
92 customer-generator shall enter into a power purchase agreement with the requesting eligible
93 customer-generator or eligible agricultural customer-generator that is consistent with the minimum
94 requirements for contracts established by the Commission pursuant to subsection D. The power purchase
95 agreement shall obligate the supplier to purchase such excess electricity at ~~the a rate that is provided for~~
96 ~~such purchases in a net metering standard contract or tariff approved by the Commission equal to the~~
97 *supplier's approved customer rate schedule applicable to the eligible customer-generator's or eligible*
98 *agricultural customer-generator's particular customer class, plus all riders applicable under the eligible*
99 *customer-generator's or eligible agricultural customer-generator's rate schedule*, unless the parties agree
100 to a higher rate. *The power purchase agreement shall not release the eligible customer-generator or*
101 *eligible agricultural customer-generator from any standby charge imposed under subsection F unless the*
102 *standby charge is specifically contemplated within the power purchase agreement.* The eligible
103 customer-generator or eligible agricultural customer-generator owns any renewable energy certificates
104 associated with its electrical generating facility; however, at the time that the eligible customer-generator
105 or eligible agricultural customer-generator enters into a power purchase agreement with its supplier, the
106 eligible customer-generator or eligible agricultural customer-generator shall have a one-time option to
107 sell the renewable energy certificates associated with such electrical generating facility to its supplier and
108 be compensated at an amount that is established by the Commission to reflect the value of such
109 renewable energy certificates. Nothing in this section shall prevent the eligible customer-generator or
110 eligible agricultural customer-generator and the supplier from voluntarily entering into an agreement for
111 the sale and purchase of ~~excess electricity or~~ renewable energy certificates at mutually-agreed upon
112 prices if the eligible customer-generator or eligible agricultural customer-generator does not exercise its
113 option to sell its renewable energy certificates to its supplier at Commission-approved prices at the time
114 that the eligible customer-generator or eligible agricultural customer-generator enters into a power
115 purchase agreement with its supplier. All costs incurred by the supplier to purchase excess electricity
116 and renewable energy certificates from eligible customer-generators or eligible agricultural
117 customer-generators shall be recoverable through its Renewable Energy Portfolio Standard (RPS) rate
118 adjustment clause, if the supplier has a Commission-approved RPS plan. If not, then all costs shall be
119 recoverable through the supplier's fuel adjustment clause. For purposes of this section, "all costs" shall
120 be defined as the rates paid to the eligible customer-generator or eligible agricultural customer-generator
121 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.