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SB967

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SENATE BILL NO. 967

Offered January 19, 2018

A BILL to amend and reenact §§ 56-265.1, 56-466.2, 56-576, 56-585.1, and 56-585.1:1 of the Code of Virginia, relating to electric utility regulation; grid modernization; energy efficiency programs; schedule for rate review proceedings; Transitional Rate Period; energy storage facilities; electric distribution grid transformation projects, wind and solar generation facilities; coal combustion by-product management; pilot programs; undergrounding electrical transmission lines; fuel factor; bill credits; rate adjustment clauses for major unit conversions; rate reductions attributable to changes in federal tax law.

Patron—Saslaw

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That §§ 56-265.1, 56-466.2, 56-576, 56-585.1, and 56-585.1:1 of the Code of Virginia are amended and reenacted as follows:

§ 56-265.1. Definitions.

In this chapter the following terms shall have the following meanings:

(a) "Company" means a corporation, a limited liability company, an individual, a partnership, an association, a joint-stock company, a business trust, a cooperative, or an organized group of persons, whether incorporated or not; or any receiver, trustee or other liquidating agent of any of the foregoing in his capacity as such; but not a municipal corporation or a county, unless such municipal corporation or county has obtained a certificate pursuant to § 56-265.4:4.

(b) "Public utility" means any company which that owns or operates facilities within the Commonwealth of Virginia for the generation, transmission, storage or distribution of electric energy for sale, for the production, storage, transmission, or distribution, otherwise than in enclosed portable containers, of natural or manufactured gas or geothermal resources for sale for heat, light or power, or for the furnishing of telephone service, sewerage facilities or water; however, As used in this definition, a facility for the storage of electric energy for sale includes one or more pumped hydroelectricity generation and storage facilities located in the coalfield region of Virginia as described in § 15.2-6002. However, the term "public utility" shall does not include any of the following:

(1) Except as otherwise provided in § 56-265.3:1, any company furnishing sewerage facilities, geothermal resources or water to less than 50 customers. Any company furnishing water or sewer services to 10 or more customers and excluded by this subdivision from the definition of "public utility" for purposes of this chapter nevertheless shall not abandon the water or sewer services unless and until approval is granted by the Commission or all the customers receiving such services agree to accept ownership of the company.

(2) Any company generating and distributing electric energy exclusively for its own consumption.

(3) Any company (A) which furnishes electric service together with heating and cooling services, generated at a central plant installed on the premises to be served, to the tenants of a building or buildings located on a single tract of land undivided by any publicly maintained highway, street or road at the time of installation of the central plant, and (B) which does not charge separately or by meter for electric energy used by any tenant except as part of a rental charge. Any company excluded by this subdivision from the definition of "public utility" for the purposes of this chapter nevertheless shall, within 30 days following the issuance of a building permit, notify the State Corporation Commission in writing of the ownership, capacity and location of such central plant, and it shall be subject, with regard to the quality of electric service furnished, to the provisions of Chapters 10 (§ 56-232 et seq.) and 17 (§ 56-509 et seq.) of this title and regulations thereunder and be deemed a public utility for such purposes, if such company furnishes such service to 100 or more lessees.

(4) Any company, or affiliate thereof, making a first or direct sale, or ancillary transmission or delivery service, of natural or manufactured gas to fewer than 35 commercial or industrial customers, which are not themselves "public utilities" as defined in this chapter, or to certain public schools as indicated in this subdivision, for use solely by such purchasing customers at facilities which are not located in a territory for which a certificate to provide gas service has been issued by the Commission under this chapter and which, at the time of the Commission's receipt of the notice provided under § 56-265.4:5, are not located within any area, territory, or jurisdiction served by a municipal corporation that provided gas distribution service as of January 1, 1992, provided that such company shall comply with the provisions of § 56-265.4:5. Direct sales or ancillary transmission or delivery services of natural

59 gas to public schools in the following localities may be made without regard to the number of schools  
60 involved and shall not count against the "fewer than 35" requirement in this subdivision: the Counties of  
61 Dickenson, Wise, Russell, and Buchanan, and the City of Norton.

62 (5) Any company which is not a public service corporation and which provides compressed natural  
63 gas service at retail for the public.

64 (6) Any company selling landfill gas from a solid waste management facility permitted by the  
65 Department of Environmental Quality to a public utility certificated by the Commission to provide gas  
66 distribution service to the public in the area in which the solid waste management facility is located. If  
67 such company submits to the public utility a written offer for sale of such gas and the public utility  
68 does not agree within 60 days to purchase such gas on mutually satisfactory terms, then the company  
69 may sell such gas to (i) any facility owned and operated by the Commonwealth which is located within  
70 three miles of the solid waste management facility or (ii) any purchaser after such landfill gas has been  
71 liquefied. The provisions of this subdivision shall not apply to the City of Lynchburg or Fairfax County.

72 (7) Any authority created pursuant to the Virginia Water and Waste Authorities Act (§ 15.2-5100 et  
73 seq.) making a sale or ancillary transmission or delivery service of landfill gas to a commercial or  
74 industrial customer from a solid waste management facility permitted by the Department of  
75 Environmental Quality and operated by that same authority, if such an authority limits off-premises sale,  
76 transmission or delivery service of landfill gas to no more than one purchaser. The authority may  
77 contract with other persons for the construction and operation of facilities necessary or convenient to the  
78 sale, transmission or delivery of landfill gas, and no such person shall be deemed a public utility solely  
79 by reason of its construction or operation of such facilities. If the purchaser of the landfill gas is located  
80 within the certificated service territory of a natural gas public utility, the public utility may file for  
81 Commission approval a proposed tariff to reflect any anticipated or known changes in service to the  
82 purchaser as a result of the use of landfill gas. No such tariff shall impose on the purchaser of the  
83 landfill gas terms less favorable than similarly situated customers with alternative fuel capabilities;  
84 provided, however, that such tariff may impose such requirements as are reasonably calculated to  
85 recover the cost of such service and to protect and ensure the safety and integrity of the public utility's  
86 facilities.

87 (8) A company selling or delivering only landfill gas, electricity generated from only landfill gas, or  
88 both, that is derived from a solid waste management facility permitted by the Department of  
89 Environmental Quality and sold or delivered from any such facility to not more than three commercial  
90 or industrial purchasers or to a natural gas or electric public utility, municipal corporation or county as  
91 authorized by this section. If a purchaser of the landfill gas is located within the certificated service  
92 territory of a natural gas public utility or within an area in which a municipal corporation provides gas  
93 distribution service and the landfill gas is to be used in facilities constructed after January 1, 2000, such  
94 company shall submit to such public utility or municipal corporation a written offer for sale of that gas  
95 prior to offering the gas for sale or delivery to a commercial or industrial purchaser. If the public utility  
96 or municipal corporation does not agree within 60 days following the date of the offer to purchase such  
97 landfill gas on mutually satisfactory terms, then the company shall be authorized to sell such landfill  
98 gas, electricity, or both, to the commercial or industrial purchaser, utility, municipal corporation, or  
99 county. Such public utility may file for Commission approval a proposed tariff to reflect any anticipated  
100 or known changes in service to the purchaser as a result of the purchaser's use of the landfill gas. No  
101 such tariff shall impose on such purchaser of the landfill gas terms less favorable than those imposed on  
102 similarly situated customers with alternative fuel capabilities; provided, however, that such tariff may  
103 impose such requirements as are reasonably calculated to recover any cost of such service and to protect  
104 and ensure the safety and integrity of the public utility's facilities.

105 (9) A company that is not organized as a public service company pursuant to subsection D of  
106 § 13.1-620 and that sells and delivers propane air only to one or more public utilities. Any company  
107 excluded by this subdivision from the definition of "public utility" for the purposes of this chapter  
108 nevertheless shall be subject to the Commission's jurisdiction relating to gas pipeline safety and  
109 enforcement.

110 (10) A farm or aggregation of farms that owns and operates facilities within the Commonwealth for  
111 the generation of electric energy from waste-to-energy technology. As used in this subdivision, (i)  
112 "farm" means any person that obtains at least 51 percent of its annual gross income from agricultural  
113 operations and produces the agricultural waste used as feedstock for the waste-to-energy technology, (ii)  
114 "agricultural waste" means biomass waste materials capable of decomposition that are produced from the  
115 raising of plants and animals during agricultural operations, including animal manures, bedding, plant  
116 stalks, hulls, and vegetable matter, and (iii) "waste-to-energy technology" means any technology,  
117 including but not limited to a methane digester, that converts agricultural waste into gas, steam, or heat  
118 that is used to generate electricity on-site.

119 (11) A company, other than an entity organized as a public service company, that provides  
120 non-utility gas service as provided in § 56-265.4:6.

121 (12) A company, other than an entity organized as a public service company, that provides storage  
122 of electric energy that is not for sale to the public.

123 (c) "Commission" means the State Corporation Commission.

124 (d) "Geothermal resources" means those resources as defined in § 45.1-179.2.

125 **§ 56-466.2. Undergrounding existing overhead distribution lines; relocation of facilities of cable**  
126 **operator.**

127 When an investor-owned incumbent electric utility proposes to improve electric service reliability  
128 pursuant to clause (iv) of subdivision A 6 of § 56-585.1 by installing new underground facilities to  
129 replace the utility's existing overhead distribution tap lines, if the utility owns the poles from which the  
130 existing overhead distribution tap lines are to be relocated and any cable operator of a cable television  
131 system, as those terms are defined in § 15.2-2108.19, has also attached its facilities to such poles, the  
132 utility shall provide written notice to the cable operator of the utility's intention to relocate the overhead  
133 distribution tap lines and to ~~abandon or remove such poles~~ not less than 90 days prior to relocating the  
134 utility's overhead distribution lines. The cable operator shall notify the utility within 45 days of the  
135 notice of relocation whether the cable operator will relocate its facilities underground *or request to*  
136 *remain overhead in accordance with the provisions set forth herein.* If the cable operator elects to  
137 relocate its facilities underground, in such notice the cable operator may request that the utility use  
138 commercially reasonable efforts to negotiate a common shared underground easement for the facilities to  
139 be located underground of the utility and the cable operator. The cable operator shall be responsible to  
140 negotiate any additional easements that it may require. If the cable operator elects to relocate its  
141 facilities underground, the cable operator may participate with the utility in a joint relocation of the  
142 overhead lines to underground or may engage its own contractors to undertake its relocation work if it  
143 deems it appropriate to do so. ~~If the cable operator may legally retain the poles that the utility intends to~~  
144 ~~abandon and the cable operator wishes for its facilities to remain attached to the poles, the utility may~~  
145 ~~convey such poles "as-is" and "where-is" to the cable operator at its depreciated cost less the estimated~~  
146 ~~cost of removal, provided the cable operator assumes all liability for the pole and obtains an easement~~  
147 ~~from the property owner for the use thereof on or before the date the poles are conveyed to the cable~~  
148 ~~operator. In all cases, the cable operator shall be responsible for all costs related to the relocation of~~  
149 ~~cable facilities and, unless otherwise agreed between the utility and the cable operator, the cable operator~~  
150 ~~shall cease all use of such poles and shall relocate or remove its facilities from the poles on or before~~  
151 ~~90 days after the utility gives written notice to the cable operator that it has relocated its distribution tap~~  
152 ~~lines underground. The utility shall not abandon or remove the poles that the utility owns until the cable~~  
153 ~~operator completes the relocation or removal of its facilities or 90 days after the completion of the~~  
154 ~~relocation of the utility overhead distribution lines, whichever first occurs. If the cable operator does not~~  
155 ~~elect to relocate its facilities underground and requests to maintain its facilities overhead, the utility~~  
156 ~~may either (i) convey such poles "as-is" and "where-is" to the cable operator at its depreciated cost less~~  
157 ~~the estimated cost of removal, provided the cable operator may legally retain the poles that the utility~~  
158 ~~intends to abandon and assumes all liability for the poles conveyed or (ii) retain ownership of its poles~~  
159 ~~and allow the cable operator's existing overhead facilities to remain attached in which case the utility~~  
160 ~~shall maintain the pole in accordance with prudent utility standards provided that the cable operator~~  
161 ~~shall continue to pay its pole attachment fees and otherwise comply with its contractual obligations~~  
162 ~~pursuant to the applicable pole attachment agreement. In all cases, the cable operator shall be~~  
163 ~~responsible for all costs related to the relocation or maintenance of its facilities.~~

164 *In instances in which an investor-owned incumbent electric utility continues to own and maintain its*  
165 *utility poles after the overhead distribution lines of the utility formerly on such poles have been placed*  
166 *underground pursuant to the foregoing provisions, then for purposes of any agreement or ordinance*  
167 *with respect to a cable franchise under §§ 15.2-2108.20 or 15.2-2108.21, the utility shall not be deemed*  
168 *to have converted to underground.*

169 **§ 56-576. Definitions.**

170 As used in this chapter:

171 "Affiliate" means any person that controls, is controlled by, or is under common control with an  
172 electric utility.

173 "Aggregator" means a person that, as an agent or intermediary, (i) offers to purchase, or purchases,  
174 electric energy or (ii) offers to arrange for, or arranges for, the purchase of electric energy, for sale to,  
175 or on behalf of, two or more retail customers not controlled by or under common control with such  
176 person. The following activities shall not, in and of themselves, make a person an aggregator under this  
177 chapter: (i) furnishing legal services to two or more retail customers, suppliers or aggregators; (ii)  
178 furnishing educational, informational, or analytical services to two or more retail customers, unless direct  
179 or indirect compensation for such services is paid by an aggregator or supplier of electric energy; (iii)  
180 furnishing educational, informational, or analytical services to two or more suppliers or aggregators; (iv)  
181 providing default service under § 56-585; (v) engaging in activities of a retail electric energy supplier,

182 licensed pursuant to § 56- 587, which are authorized by such supplier's license; and (vi) engaging in  
183 actions of a retail customer, in common with one or more other such retail customers, to issue a request  
184 for proposal or to negotiate a purchase of electric energy for consumption by such retail customers.

185 "Combined heat and power" means a method of using waste heat from electrical generation to offset  
186 traditional processes, space heating, air conditioning, or refrigeration.

187 "Commission" means the State Corporation Commission.

188 "Cooperative" means a utility formed under or subject to Chapter 9.1 (§ 56-231.15 et seq.).

189 "Covered entity" means a provider in the Commonwealth of an electric service not subject to  
190 competition but shall not include default service providers.

191 "Covered transaction" means an acquisition, merger, or consolidation of, or other transaction  
192 involving stock, securities, voting interests or assets by which one or more persons obtains control of a  
193 covered entity.

194 "Curtailement" means inducing retail customers to reduce load during times of peak demand so as to  
195 ease the burden on the electrical grid.

196 "Customer choice" means the opportunity for a retail customer in the Commonwealth to purchase  
197 electric energy from any supplier licensed and seeking to sell electric energy to that customer.

198 "Demand response" means measures aimed at shifting time of use of electricity from peak-use  
199 periods to times of lower demand by inducing retail customers to curtail electricity usage during periods  
200 of congestion and higher prices in the electrical grid.

201 "Distribute," "distributing," or "distribution of" electric energy means the transfer of electric energy  
202 through a retail distribution system to a retail customer.

203 "Distributor" means a person owning, controlling, or operating a retail distribution system to provide  
204 electric energy directly to retail customers.

205 *"Electric distribution grid transformation project" means a project associated with electric*  
206 *distribution infrastructure, including related data analytics equipment, that is designed to accommodate*  
207 *or facilitate the integration of utility-owned or customer-owned renewable electric generation resources*  
208 *with the utility's electric distribution grid or to otherwise enhance electric distribution grid reliability,*  
209 *electric distribution grid security, customer service or energy efficiency and conservation, including*  
210 *advanced metering infrastructure, intelligent grid devices for real time system and asset information,*  
211 *automated control systems for electric distribution circuits and substations, communications networks for*  
212 *service meters, intelligent grid devices and other distribution equipment, distribution system hardening*  
213 *projects for circuits and substations designed to reduce service outages or service restoration times,*  
214 *physical security measures at key distribution substations, cyber security measures, energy storage*  
215 *systems and microgrids that support circuit-level grid stability, power quality, reliability or resiliency or*  
216 *provide temporary backup energy supply, electrical facilities and infrastructure necessary to support*  
217 *electric vehicle charging systems, LED street light conversions, and new customer information platforms*  
218 *designed to provide improved customer access, greater service options and expanded access to energy*  
219 *usage information.*

220 "Electric utility" means any person that generates, transmits, or distributes electric energy for use by  
221 retail customers in the Commonwealth, including any investor-owned electric utility, cooperative electric  
222 utility, or electric utility owned or operated by a municipality.

223 "Energy efficiency program" means a program that reduces the total amount of electricity that is  
224 required for the same process or activity implemented after the expiration of capped rates.

225 Energy efficiency programs include equipment, physical, or program change designed to produce  
226 measured and verified reductions in the amount of electricity required to perform the same function and  
227 produce the same or a similar outcome. Energy efficiency programs may include, but are not limited to,  
228 (i) programs that result in improvements in lighting design, heating, ventilation, and air conditioning  
229 systems, appliances, building envelopes, and industrial and commercial processes; (ii) measures, such as  
230 but not limited to the installation of advanced meters, implemented or installed by utilities, that reduce  
231 fuel use or losses of electricity and otherwise improve internal operating efficiency in generation,  
232 transmission, and distribution systems; and (iii) customer engagement programs that result in measurable  
233 and verifiable energy savings that lead to efficient use patterns and practices. Energy efficiency  
234 programs include demand response, combined heat and power and waste heat recovery, curtailment, or  
235 other programs that are designed to reduce electricity consumption so long as they reduce the total  
236 amount of electricity that is required for the same process or activity. Utilities shall be authorized to  
237 install and operate such advanced metering technology and equipment on a customer's premises;  
238 however, nothing in this chapter establishes a requirement that an energy efficiency program be  
239 implemented on a customer's premises and be connected to a customer's wiring on the customer's side of  
240 the inter-connection without the customer's expressed consent.

241 "Generate," "generating," or "generation of" electric energy means the production of electric energy.

242 "Generator" means a person owning, controlling, or operating a facility that produces electric energy  
243 for sale.

244 "Incumbent electric utility" means each electric utility in the Commonwealth that, prior to July 1,  
 245 1999, supplied electric energy to retail customers located in an exclusive service territory established by  
 246 the Commission.

247 "Independent system operator" means a person that may receive or has received, by transfer pursuant  
 248 to this chapter, any ownership or control of, or any responsibility to operate, all or part of the  
 249 transmission systems in the Commonwealth.

250 "In the public interest," for purposes of assessing energy efficiency programs, describes an energy  
 251 efficiency program if, ~~among other factors,~~ the net present value of the benefits exceeds the net present  
 252 value of the costs as determined by ~~not less than any three the Commission upon consideration~~ of the  
 253 following four *benefit cost* tests: (i) the Total Resource Cost Test; (ii) the Utility Cost Test (also referred  
 254 to as the Program Administrator Test); (iii) the Participant Test; and (iv) the Ratepayer Impact Measure  
 255 Test. ~~Such determination shall include an analysis of all four tests, and a program or portfolio of~~  
 256 ~~programs shall not be rejected based solely on the results of a single test.~~ In addition, an energy  
 257 efficiency program may be deemed to be "in the public interest" if the program provides measurable and  
 258 verifiable energy savings to low-income customers or elderly customers.

259 "Measured and verified" means a process determined pursuant to methods accepted for use by  
 260 utilities and industries to measure, verify, and validate energy savings and peak demand savings. This  
 261 may include the protocol established by the United States Department of Energy, Office of Federal  
 262 Energy Management Programs, Measurement and Verification Guidance for Federal Energy Projects,  
 263 measurement and verification standards developed by the American Society of Heating, Refrigeration  
 264 and Air Conditioning Engineers (ASHRAE), or engineering-based estimates of energy and demand  
 265 savings associated with specific energy efficiency measures, as determined by the Commission.

266 "Municipality" means a city, county, town, authority, or other political subdivision of the  
 267 Commonwealth.

268 "New underground facilities" means facilities to provide underground distribution service. "New  
 269 underground facilities" includes underground cables with voltages of 69 kilovolts or less, pad-mounted  
 270 devices, connections at customer meters, and transition terminations from existing overhead distribution  
 271 sources.

272 "Peak-shaving" means measures aimed solely at shifting time of use of electricity from peak-use  
 273 periods to times of lower demand by inducing retail customers to curtail electricity usage during periods  
 274 of congestion and higher prices in the electrical grid.

275 "Person" means any individual, corporation, partnership, association, company, business, trust, joint  
 276 venture, or other private legal entity, and the Commonwealth or any municipality.

277 "Renewable energy" means energy derived from sunlight, wind, falling water, biomass, sustainable or  
 278 otherwise, (the definitions of which shall be liberally construed), energy from waste, landfill gas,  
 279 municipal solid waste, wave motion, tides, and geothermal power, and does not include energy derived  
 280 from coal, oil, natural gas, or nuclear power. Renewable energy shall also include the proportion of the  
 281 thermal or electric energy from a facility that results from the co-firing of biomass.

282 "Renewable thermal energy" means the thermal energy output from (i) a renewable-fueled combined  
 283 heat and power generation facility that is (a) constructed, or renovated and improved, after January 1,  
 284 2012, (b) located in the Commonwealth, and (c) utilized in industrial processes other than the combined  
 285 heat and power generation facility or (ii) a solar energy system, certified to the OG-100 standard of the  
 286 Solar Ratings and Certification Corporation or an equivalent certification body, that (a) is constructed, or  
 287 renovated and improved, after January 1, 2013, (b) is located in the Commonwealth, and (c) heats water  
 288 or air for residential, commercial, institutional, or industrial purposes.

289 "Renewable thermal energy equivalent" means the electrical equivalent in megawatt hours of  
 290 renewable thermal energy calculated by dividing (i) the heat content, measured in British thermal units  
 291 (BTUs), of the renewable thermal energy at the point of transfer to a residential, commercial,  
 292 institutional, or industrial process by (ii) the standard conversion factor of 3.413 million BTUs per  
 293 megawatt hour.

294 "Renovated and improved facility" means a facility the components of which have been upgraded to  
 295 enhance its operating efficiency.

296 "Retail customer" means any person that purchases retail electric energy for its own consumption at  
 297 one or more metering points or nonmetered points of delivery located in the Commonwealth.

298 "Retail electric energy" means electric energy sold for ultimate consumption to a retail customer.

299 "Revenue reductions related to energy efficiency programs" means reductions in the collection of  
 300 total non-fuel revenues, previously authorized by the Commission to be recovered from customers by a  
 301 utility, that occur due to measured and verified decreased consumption of electricity caused by energy  
 302 efficiency programs approved by the Commission and implemented by the utility, less the amount by  
 303 which such non-fuel reductions in total revenues have been mitigated through other program-related  
 304 factors, including reductions in variable operating expenses.

305 "Rooftop solar installation" means a distributed electric generation facility, storage facility, or  
306 generation and storage facility utilizing energy derived from sunlight, with a rated capacity of not less  
307 than 50 kilowatts, that is installed on the roof structure of an incumbent electric utility's commercial or  
308 industrial class customer, including host sites on commercial buildings, multi-family residential  
309 buildings, school or university buildings, and buildings of a church or religious body.

310 "Solar energy system" means a system of components that produces heat or electricity, or both, from  
311 sunlight.

312 "Supplier" means any generator, distributor, aggregator, broker, marketer, or other person who offers  
313 to sell or sells electric energy to retail customers and is licensed by the Commission to do so, but it  
314 does not mean a generator that produces electric energy exclusively for its own consumption or the  
315 consumption of an affiliate.

316 "Supply" or "supplying" electric energy means the sale of or the offer to sell electric energy to a  
317 retail customer.

318 "Transmission of," "transmit," or "transmitting" electric energy means the transfer of electric energy  
319 through the Commonwealth's interconnected transmission grid from a generator to either a distributor or  
320 a retail customer.

321 "Transmission system" means those facilities and equipment that are required to provide for the  
322 transmission of electric energy.

323 **§ 56-585.1. Generation, distribution, and transmission rates after capped rates terminate or**  
324 **expire.**

325 A. During the first six months of 2009, the Commission shall, after notice and opportunity for  
326 hearing, initiate proceedings to review the rates, terms and conditions for the provision of generation,  
327 distribution and transmission services of each investor-owned incumbent electric utility. Such  
328 proceedings shall be governed by the provisions of Chapter 10 (§ 56-232 et seq.), except as modified  
329 herein. In such proceedings the Commission shall determine fair rates of return on common equity  
330 applicable to the generation and distribution services of the utility. In so doing, the Commission may use  
331 any methodology to determine such return it finds consistent with the public interest, but such return  
332 shall not be set lower than the average of the returns on common equity reported to the Securities and  
333 Exchange Commission for the three most recent annual periods for which such data are available by not  
334 less than a majority, selected by the Commission as specified in subdivision 2 b, of other  
335 investor-owned electric utilities in the peer group of the utility, nor shall the Commission set such return  
336 more than 300 basis points higher than such average. The peer group of the utility shall be determined  
337 in the manner prescribed in subdivision 2 b. The Commission may increase or decrease such combined  
338 rate of return by up to 100 basis points based on the generating plant performance, customer service,  
339 and operating efficiency of a utility, as compared to nationally recognized standards determined by the  
340 Commission to be appropriate for such purposes. In such a proceeding, the Commission shall determine  
341 the rates that the utility may charge until such rates are adjusted. If the Commission finds that the  
342 utility's combined rate of return on common equity is more than 50 basis points below the combined  
343 rate of return as so determined, it shall be authorized to order increases to the utility's rates necessary to  
344 provide the opportunity to fully recover the costs of providing the utility's services and to earn not less  
345 than such combined rate of return. If the Commission finds that the utility's combined rate of return on  
346 common equity is more than 50 basis points above the combined rate of return as so determined, it shall  
347 be authorized either (i) to order reductions to the utility's rates it finds appropriate, provided that the  
348 Commission may not order such rate reduction unless it finds that the resulting rates will provide the  
349 utility with the opportunity to fully recover its costs of providing its services and to earn not less than  
350 the fair rates of return on common equity applicable to the generation and distribution services; or (ii) to  
351 direct that 60 percent of the amount of the utility's earnings that were more than 50 basis points above  
352 the fair combined rate of return for calendar year 2008 be credited to customers' bills, in which event  
353 such credits shall be amortized over a period of six to 12 months, as determined at the discretion of the  
354 Commission, following the effective date of the Commission's order and be allocated among customer  
355 classes such that the relationship between the specific customer class rates of return to the overall target  
356 rate of return will have the same relationship as the last approved allocation of revenues used to design  
357 base rates. Commencing in 2011, the Commission, after notice and opportunity for hearing, shall  
358 conduct ~~biennial~~ reviews of the rates, terms and conditions for the provision of generation, distribution  
359 and transmission services by each investor-owned incumbent electric utility, subject to the following  
360 provisions:

361 1. Rates, terms and conditions for each service shall be reviewed separately on an unbundled basis,  
362 and such reviews shall be conducted in a single, combined proceeding. ~~The first such review shall~~  
363 ~~utilize Pursuant to subdivision A of § 56-585.1:1, the Commission shall conduct a review for a Phase I~~  
364 ~~Utility in 2020, utilizing the two successive 12-month test periods beginning January 1, 2018, and~~  
365 ~~ending December 31, 2010 2019. However, the Commission may, in its discretion, elect to stagger its~~  
366 ~~biennial reviews of utilities by utilizing the two successive 12-month test periods ending December 31,~~

367 2010, for a Phase I Utility, and utilizing the two successive 12-month test periods ending December 31,  
 368 2011, Thereafter, reviews for a Phase II Utility, will be on a triennial basis with subsequent  
 369 proceedings utilizing the two three successive 12-month test periods ending December 31 immediately  
 370 preceding the year in which such review proceeding is conducted. Pursuant to Subdivision A of  
 371 § 56-585.1:1, the Commission shall conduct a review for a Phase II Utility in 2021, utilizing the three  
 372 successive 12-month test periods beginning January 1, 2018, and ending December 31, 2020, with  
 373 subsequent reviews on a triennial basis utilizing the three successive 12-month test periods ending  
 374 December 31 immediately preceding the year in which such review proceeding is conducted. All such  
 375 reviews occurring after December 31, 2017, shall be referred to as triennial reviews. For purposes of  
 376 this section, a Phase I Utility is an investor-owned incumbent electric utility that was, as of July 1,  
 377 1999, not bound by a rate case settlement adopted by the Commission that extended in its application  
 378 beyond January 1, 2002, and a Phase II Utility is an investor-owned incumbent electric utility that was  
 379 bound by such a settlement.

380 2. Subject to the provisions of subdivision 6, the fair rates rate of return on common equity  
 381 applicable separately to the generation and distribution services of such utility, and for the two such  
 382 services combined, and for any rate adjustment clauses approved under subdivision 5 or 6, shall be  
 383 determined by the Commission during each such ~~biennial~~ triennial review, as follows:

384 a. The Commission may use any methodology to determine such return it finds consistent with the  
 385 public interest, but such return shall not be set lower than the average of the returns on common equity  
 386 reported to the Securities and Exchange Commission for the three most recent annual periods for which  
 387 such data are available by not less than a majority, selected by the Commission as specified in  
 388 subdivision 2 b, of other investor-owned electric utilities in the peer group of the utility subject to such  
 389 ~~biennial~~ triennial review, nor shall the Commission set such return more than 300 basis points higher  
 390 than such average.

391 b. In selecting such majority of peer group investor-owned electric utilities, the Commission shall  
 392 first remove from such group the two utilities within such group that have the lowest reported returns of  
 393 the group, as well as the two utilities within such group that have the highest reported returns of the  
 394 group, and the Commission shall then select a majority of the utilities remaining in such peer group. In  
 395 its final order regarding such ~~biennial~~ triennial review, the Commission shall identify the utilities in  
 396 such peer group it selected for the calculation of such limitation. For purposes of this subdivision, an  
 397 investor-owned electric utility shall be deemed part of such peer group if (i) its principal operations are  
 398 conducted in the southeastern United States east of the Mississippi River in either the states of West  
 399 Virginia or Kentucky or in those states south of Virginia, excluding the state of Tennessee, (ii) it is a  
 400 vertically-integrated electric utility providing generation, transmission and distribution services whose  
 401 facilities and operations are subject to state public utility regulation in the state where its principal  
 402 operations are conducted, (iii) it had a long-term bond rating assigned by Moody's Investors Service of  
 403 at least Baa at the end of the most recent test period subject to such ~~biennial~~ triennial review, and (iv) it  
 404 is not an affiliate of the utility subject to such ~~biennial~~ triennial review.

405 c. The Commission may, consistent with its precedent for incumbent electric utilities prior to the  
 406 enactment of Chapters 888 and 933 of the Acts of Assembly of 2007, increase or decrease the utility's  
 407 combined rate of return based on the Commission's consideration of the utility's performance.

408 d. In any Current Proceeding, the Commission shall determine whether the Current Return has  
 409 increased, on a percentage basis, above the Initial Return by more than the increase, expressed as a  
 410 percentage, in the United States Average Consumer Price Index for all items, all urban consumers  
 411 (CPI-U), as published by the Bureau of Labor Statistics of the United States Department of Labor, since  
 412 the date on which the Commission determined the Initial Return. If so, the Commission may conduct an  
 413 additional analysis of whether it is in the public interest to utilize such Current Return for the Current  
 414 Proceeding then pending. A finding of whether the Current Return justifies such additional analysis shall  
 415 be made without regard to any enhanced rate of return on common equity awarded pursuant to the  
 416 provisions of subdivision 6. Such additional analysis shall include, but not be limited to, a consideration  
 417 of overall economic conditions, the level of interest rates and cost of capital with respect to business and  
 418 industry, in general, as well as electric utilities, the current level of inflation and the utility's cost of  
 419 goods and services, the effect on the utility's ability to provide adequate service and to attract capital if  
 420 less than the Current Return were utilized for the Current Proceeding then pending, and such other  
 421 factors as the Commission may deem relevant. If, as a result of such analysis, the Commission finds that  
 422 use of the Current Return for the Current Proceeding then pending would not be in the public interest,  
 423 then the lower limit imposed by subdivision 2 a on the return to be determined by the Commission for  
 424 such utility shall be calculated, for that Current Proceeding only, by increasing the Initial Return by a  
 425 percentage at least equal to the increase, expressed as a percentage, in the United States Average  
 426 Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor  
 427 Statistics of the United States Department of Labor, since the date on which the Commission determined

428 the Initial Return. For purposes of this subdivision:

429 "Current Proceeding" means any proceeding conducted under any provisions of this subsection that  
 430 require or authorize the Commission to determine a fair combined rate of return on common equity for  
 431 a utility and that will be concluded after the date on which the Commission determined the Initial  
 432 Return for such utility.

433 "Current Return" means the minimum fair combined rate of return on common equity required for  
 434 any Current Proceeding by the limitation regarding a utility's peer group specified in subdivision 2 a.

435 "Initial Return" means the fair combined rate of return on common equity determined for such utility  
 436 by the Commission on the first occasion after July 1, 2009, under any provision of this subsection  
 437 pursuant to the provisions of subdivision 2 a.

438 e. In addition to other considerations, in setting the return on equity within the range allowed by this  
 439 section, the Commission shall strive to maintain costs of retail electric energy that are cost competitive  
 440 with costs of retail electric energy provided by the other peer group investor-owned electric utilities.

441 f. The determination of such returns shall be made by the Commission on a stand-alone basis, and  
 442 specifically without regard to any return on common equity or other matters determined with regard to  
 443 facilities described in subdivision 6.

444 g. If the combined rate of return on common equity earned by the generation and distribution  
 445 services is no more than 50 basis points above or below the return as so determined or, for any test  
 446 period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a  
 447 Phase I Utility, such return is no more than 70 basis points above or below the return as so determined,  
 448 such combined return shall not be considered either excessive or insufficient, respectively. However, for  
 449 any test period commencing after December 31, 2012, for a Phase II Utility, and after December 31,  
 450 2013, for a Phase I Utility, if the utility has, during the test period or periods under review, earned  
 451 below the return as so determined, whether or not such combined return is within 70 basis points of the  
 452 return as so determined, the utility may petition the Commission for approval of an increase in rates in  
 453 accordance with the provisions of subdivision 8 a as if it had earned more than 70 basis points below a  
 454 fair combined rate of return, and such proceeding shall otherwise be conducted in accordance with the  
 455 provisions of this section.

456 h. Any amount of a utility's earnings directed by the Commission to be credited to customers' bills  
 457 pursuant to this section shall not be considered for the purpose of determining the utility's earnings in  
 458 any subsequent ~~biennial~~ *triennial* review.

459 3. Each such utility shall make a ~~biennial~~ *triennial* filing by March 31 of every ~~other~~ *third* year,  
 460 ~~beginning in 2011, with such filings commencing for a Phase I Utility in 2020, and such filings~~  
 461 ~~commencing for a Phase II Utility in 2021,~~ consisting of the schedules contained in the Commission's  
 462 rules governing utility rate increase applications; ~~however, if the Commission elects to stagger the dates~~  
 463 ~~of the biennial reviews of utilities as provided in subdivision 1, then each Phase I Utility shall~~  
 464 ~~commence biennial filings in 2011 and each Phase II Utility shall commence biennial filings in 2012.~~  
 465 Such filing shall encompass the ~~two~~ *three* successive 12-month test periods ending December 31  
 466 immediately preceding the year in which such proceeding is conducted, *except that the filing for a*  
 467 *Phase I Utility in 2020 shall encompass the two successive 12-month test periods ending December 31,*  
 468 *2019, and in every such case the filing for each year shall be identified separately and shall be*  
 469 *segregated from any other year encompassed by the filing. If the Commission determines that rates*  
 470 *should be revised or credits be applied to customers' bills pursuant to subdivision 8 or 9, any rate*  
 471 *adjustment clauses previously implemented pursuant to subdivision 5, or those related to facilities*  
 472 *utilizing simple-cycle combustion turbines described in subdivision 6, shall be combined with the*  
 473 *utility's costs, revenues and investments until the amounts that are the subject of such rate adjustment*  
 474 *clauses are fully recovered. The Commission shall combine such clauses with the utility's costs, revenues*  
 475 *and investments only after it makes its initial determination with regard to necessary rate revisions or*  
 476 *credits to customers' bills, and the amounts thereof, but after such clauses are combined as herein*  
 477 *specified, they shall thereafter be considered part of the utility's costs, revenues, and investments for the*  
 478 *purposes of future ~~biennial~~ *triennial* review proceedings. A Phase I Utility shall ~~delay for one year the~~*  
 479 *filing of its ~~biennial~~ *triennial* review from March 31, 2013, to March 31, 2014, and shall not defer on its books*  
 480 *for future recovery any costs incurred during calendar year 2011, other than as provided in subdivision 7*  
 481 *or § 56-249.6, and its subsequent ~~biennial~~ *triennial* filing shall be made by March 31, 2016, and every two years*  
 482 *thereafter.*

483 4. The following costs incurred by the utility shall be deemed reasonable and prudent: (i) costs for  
 484 transmission services provided to the utility by the regional transmission entity of which the utility is a  
 485 member, as determined under applicable rates, terms and conditions approved by the Federal Energy  
 486 Regulatory Commission, and (ii) costs charged to the utility that are associated with demand response  
 487 programs approved by the Federal Energy Regulatory Commission and administered by the regional  
 488 transmission entity of which the utility is a member. Upon petition of a utility at any time after the  
 489 expiration or termination of capped rates, but not more than once in any 12-month period, the



490 Commission shall approve a rate adjustment clause under which such costs, including, without  
 491 limitation, costs for transmission service, charges for new and existing transmission facilities,  
 492 administrative charges, and ancillary service charges designed to recover transmission costs, shall be  
 493 recovered on a timely and current basis from customers. Retail rates to recover these costs shall be  
 494 designed using the appropriate billing determinants in the retail rate schedules.

495 5. A utility may at any time, after the expiration or termination of capped rates, but not more than  
 496 once in any 12-month period, petition the Commission for approval of one or more rate adjustment  
 497 clauses for the timely and current recovery from customers of the following costs:

498 a. Incremental costs described in clause (vi) of subsection B of § 56-582 incurred between July 1,  
 499 2004, and the expiration or termination of capped rates, if such utility is, as of July 1, 2007, deferring  
 500 such costs consistent with an order of the Commission entered under clause (vi) of subsection B of  
 501 § 56-582. The Commission shall approve such a petition allowing the recovery of such costs that  
 502 comply with the requirements of clause (vi) of subsection B of § 56-582;

503 b. Projected and actual costs for the utility to design and operate fair and effective peak-shaving  
 504 programs. The Commission shall approve such a petition if it finds that the program is in the public  
 505 interest; provided that the Commission shall allow the recovery of such costs as it finds are reasonable;

506 c. Projected and actual costs for the utility to design, implement, and operate energy efficiency  
 507 programs, including a margin to be recovered on operating expenses, which margin for the purposes of  
 508 this section shall be equal to the general rate of return on common equity determined as described in  
 509 subdivision 2. The Commission shall only approve such a petition if it finds that the program is in the  
 510 public interest. As part of such cost recovery, the Commission, if requested by the utility, shall allow for  
 511 the recovery of revenue reductions related to energy efficiency programs. The Commission shall only  
 512 allow such recovery to the extent that the Commission determines such revenue has not been recovered  
 513 through margins from incremental off-system sales as defined in § 56-249.6 that are directly attributable  
 514 to energy efficiency programs.

515 None of the costs of new energy efficiency programs of an electric utility, including recovery of  
 516 revenue reductions, shall be assigned to any customer that has a verifiable history of having used more  
 517 than 10 megawatts of demand from a single meter of delivery. Nor shall any of the costs of new energy  
 518 efficiency programs of an electric utility, including recovery of revenue reductions, be incurred by any  
 519 large general service customer as defined herein that has notified the utility of non-participation in such  
 520 energy efficiency program or programs. A large general service customer is a customer that has a  
 521 verifiable history of having used more than 500 kilowatts of demand from a single meter of delivery.  
 522 Non-participation in energy efficiency programs shall be allowed by the Commission if the large general  
 523 service customer has, at the customer's own expense, implemented energy efficiency programs that have  
 524 produced or will produce measured and verified results consistent with industry standards and other  
 525 regulatory criteria stated in this section. The Commission shall, no later than November 15, 2009,  
 526 promulgate rules and regulations to accommodate the process under which such large general service  
 527 customers shall file notice for such an exemption and (i) establish the administrative procedures by  
 528 which eligible customers will notify the utility and (ii) define the standard criteria that must be satisfied  
 529 by an applicant in order to notify the utility. In promulgating such rules and regulations, the  
 530 Commission may also specify the timing as to when a utility shall accept and act on such notice, taking  
 531 into consideration the utility's integrated resource planning process as well as its administration of  
 532 energy efficiency programs that are approved for cost recovery by the Commission. The notice of  
 533 non-participation by a large general service customer, to be given by March 1 of a given year, shall be  
 534 for the duration of the service life of the customer's energy efficiency program. The Commission on its  
 535 own motion may initiate steps necessary to verify such non-participants' achievement of energy  
 536 efficiency if the Commission has a body of evidence that the non-participant has knowingly  
 537 misrepresented its energy efficiency achievement. A utility shall not charge such large general service  
 538 customer, as defined by the Commission, for the costs of installing energy efficiency equipment beyond  
 539 what is required to provide electric service and meter such service on the customer's premises if the  
 540 customer provides, at the customer's expense, equivalent energy efficiency equipment. In all relevant  
 541 proceedings pursuant to this section, the Commission shall take into consideration the goals of economic  
 542 development, energy efficiency and environmental protection in the Commonwealth;

543 d. Projected and actual costs of participation in a renewable energy portfolio standard program  
 544 pursuant to § 56-585.2 that are not recoverable under subdivision 6. The Commission shall approve such  
 545 a petition allowing the recovery of such costs as are provided for in a program approved pursuant to  
 546 § 56-585.2;

547 e. Projected and actual costs of projects that the Commission finds to be necessary to comply with  
 548 state or federal environmental laws or regulations applicable to generation facilities used to serve the  
 549 utility's native load obligations. The Commission shall approve such a petition if it finds that such costs  
 550 are necessary to comply with such environmental laws or regulations; and

551 f. Projected and actual costs, not currently in rates, for the utility to design, implement, and operate  
552 programs approved by the Commission that accelerate the vegetation management of distribution  
553 rights-of-way. No costs shall be allocated to or recovered from customers that are served within the  
554 large general service rate classes for a Phase II Utility or that are served at subtransmission or  
555 transmission voltage, or take delivery at a substation served from subtransmission or transmission  
556 voltage, for a Phase I Utility.

557 The Commission shall have the authority to determine the duration or amortization period for any  
558 adjustment clause approved under this subdivision.

559 6. To ensure the generation and delivery of a reliable and adequate supply of electricity, to meet the  
560 utility's projected native load obligations and to promote economic development, a utility may at any  
561 time, after the expiration or termination of capped rates, petition the Commission for approval of a rate  
562 adjustment clause for recovery on a timely and current basis from customers of the costs of (i) a  
563 coal-fueled generation facility that utilizes Virginia coal and is located in the coalfield region of the  
564 Commonwealth as described in § 15.2-6002, regardless of whether such facility is located within or  
565 without the utility's service territory, (ii) one or more other generation facilities, (iii) one or more major  
566 unit modifications of generation facilities, including the costs of any system or equipment upgrade,  
567 system or equipment replacement, or other cost reasonably appropriate to extend the combined operating  
568 license for or the operating life of one or more generation facilities utilizing nuclear power, (iv) one or  
569 more new underground facilities to replace one or more existing overhead distribution facilities of 69  
570 kilovolts or less located within the Commonwealth, ~~or~~ (v) one or more pumped hydroelectricity  
571 generation and storage facilities that utilize on-site or off-site renewable energy resources as all or a  
572 portion of their power source and such facilities and associated resources are located in the coalfield  
573 region of the Commonwealth as described in § 15.2-6002, regardless of whether such facility is located  
574 within or without the utility's service territory, *or (vi) one or more electric distribution grid*  
575 *transformation projects*; however, subject to the provisions of the following sentence, the utility shall not  
576 file a petition under clause (iv) more often than annually and, in such petition, shall not seek any annual  
577 incremental increase in the level of investments associated with such a petition that exceeds five percent  
578 of such utility's distribution rate base, as such rate base was determined for the most recently ended  
579 12-month test period in the utility's latest ~~biennial~~ review proceeding conducted pursuant to subdivision  
580 3 and concluded by final order of the Commission prior to the date of filing of such petition under  
581 clause (iv). In all proceedings regarding petitions filed under clause (iv) *or (vi)*, the level of investments  
582 approved for recovery in such proceedings shall be in addition to, and not in lieu of, levels of  
583 investments previously approved for recovery in prior proceedings under clause (iv)- *or (vi)*, *as*  
584 *applicable*. Such a petition concerning facilities described in clause (ii) that utilize nuclear power,  
585 facilities described in clause (ii) that are coal-fueled and will be built by a Phase I Utility, or facilities  
586 described in clause (i) may also be filed before the expiration or termination of capped rates. A utility  
587 that constructs or makes modifications to any such facility, or purchases any facility consisting of at  
588 least one megawatt of generating capacity using energy derived from sunlight and located in the  
589 Commonwealth and that utilizes goods or services sourced, in whole or in part, from one or more  
590 Virginia businesses, shall have the right to recover the costs of the facility, as accrued against income,  
591 through its rates, including projected construction work in progress, and any associated allowance for  
592 funds used during construction, planning, development and construction or acquisition costs, life-cycle  
593 costs, costs related to assessing the feasibility of potential sites for new underground facilities, and costs  
594 of infrastructure associated therewith, plus, as an incentive to undertake such projects, an enhanced rate  
595 of return on common equity calculated as specified below; however, in determining the amounts  
596 recoverable under a rate adjustment clause for new underground facilities, the Commission shall not  
597 consider, or increase or reduce such amounts recoverable because of (a) the operation and maintenance  
598 costs attributable to either the overhead distribution facilities being replaced or the new underground  
599 facilities or (b) any other costs attributable to the overhead distribution facilities being replaced.  
600 Notwithstanding the preceding sentence, the costs described in clauses (a) and (b) thereof shall remain  
601 eligible for recovery from customers through the utility's base rates for distribution service. A utility  
602 filing a petition for approval to construct or purchase a facility consisting of at least one megawatt of  
603 generating capacity using energy derived from sunlight and located in the Commonwealth and that  
604 utilizes goods or services sourced, in whole or in part, from one or more Virginia businesses may  
605 propose a rate adjustment clause based on a market index in lieu of a cost of service model for such  
606 facility. A utility seeking approval to construct or purchase a generating facility described in clause (i)  
607 or (ii) shall demonstrate that it has considered and weighed alternative options, including third-party  
608 market alternatives, in its selection process. The costs of the facility, other than return on projected  
609 construction work in progress and allowance for funds used during construction, shall not be recovered  
610 prior to the date a facility constructed by the utility and described in clause (i), (ii), ~~or~~ (iii) *or (v)* begins  
611 commercial operation, the date the utility becomes the owner of a purchased generation facility  
612 consisting of at least one megawatt of generating capacity using energy derived from sunlight and

613 located in the Commonwealth and that utilizes goods or services sourced, in whole or in part, from one  
 614 or more Virginia businesses, or the date new underground facilities are classified by the utility as plant  
 615 in service. Such enhanced rate of return on common equity shall be applied to allowance for funds used  
 616 during construction and to construction work in progress during the construction phase of the facility  
 617 and shall thereafter be applied to the entire facility during the first portion of the service life of the  
 618 facility. The first portion of the service life shall be as specified in the table below; however, the  
 619 Commission shall determine the duration of the first portion of the service life of any facility, within the  
 620 range specified in the table below, which determination shall be consistent with the public interest and  
 621 shall reflect the Commission's determinations regarding how critical the facility may be in meeting the  
 622 energy needs of the citizens of the Commonwealth and the risks involved in the development of the  
 623 facility. After the first portion of the service life of the facility is concluded, the utility's general rate of  
 624 return shall be applied to such facility for the remainder of its service life. As used herein, the service  
 625 life of the facility shall be deemed to begin on the date a facility constructed by the utility and described  
 626 in clause (i), (ii), ~~(iii)~~ or (v) begins commercial operation, the date the utility becomes the owner of a  
 627 purchased generation facility consisting of at least one megawatt of generating capacity using energy  
 628 derived from sunlight and located in the Commonwealth and that utilizes goods or services sourced, in  
 629 whole or in part, from one or more Virginia businesses, or the date new underground facilities *or new*  
 630 *electric distribution grid transformation projects* are classified by the utility as plant in service, and such  
 631 service life shall be deemed equal in years to the life of that facility as used to calculate the utility's  
 632 depreciation expense. Such enhanced rate of return on common equity shall be calculated by adding the  
 633 basis points specified in the table below to the utility's general rate of return, and such enhanced rate of  
 634 return shall apply only to the facility that is the subject of such rate adjustment clause. Allowance for  
 635 funds used during construction shall be calculated for any such facility utilizing the utility's actual  
 636 capital structure and overall cost of capital, including an enhanced rate of return on common equity as  
 637 determined pursuant to this subdivision, until such construction work in progress is included in rates.  
 638 The construction of any facility described in clause (i) or (v) is in the public interest, and in determining  
 639 whether to approve such facility, the Commission shall liberally construe the provisions of this title. The  
 640 construction or purchase by a utility of one or more generation facilities with at least one megawatt of  
 641 generating capacity, and with an aggregate rated capacity that does not exceed ~~500~~ 4,000 megawatts,  
 642 *including rooftop solar installations with a capacity of not less than 50 kilowatts, and with an aggregate*  
 643 *capacity of 50 megawatts*, that use energy derived from sunlight and are located in the Commonwealth,  
 644 regardless of whether any of such facilities are located within or without the utility's service territory, is  
 645 in the public interest, and in determining whether to approve such facility, the Commission shall  
 646 liberally construe the provisions of this title. A utility may enter into short-term or long-term power  
 647 purchase contracts for the power derived from sunlight generated by such generation facility prior to  
 648 purchasing the generation facility. The replacement of any subset of a utility's existing overhead  
 649 distribution tap lines that have, in the aggregate, an average of nine or more total unplanned outage  
 650 events-per-mile over a preceding 10-year period with new underground facilities in order to improve  
 651 electric service reliability is in the public interest. In determining whether to approve petitions for rate  
 652 adjustment clauses for such new underground facilities that meet this criteria, and in determining the  
 653 level of costs to be recovered thereunder, the Commission shall liberally construe the provisions of this  
 654 title. ~~There shall be a rebuttable presumption that the~~ *The conversion of any such facilities will on or*  
 655 *after September 1, 2016, is deemed to provide local and system-wide benefits; that such new*  
 656 ~~underground facilities are and to be cost beneficial, and that the costs associated with such new~~  
 657 ~~underground facilities are deemed to be reasonably and prudently incurred and shall be approved for~~  
 658 ~~recovery by the Commission pursuant to this subdivision provided that the total costs associated with~~  
 659 ~~the replacement of any subset of existing overhead distribution tap lines proposed by the utility with new~~  
 660 ~~underground facilities, exclusive of financing costs, shall not exceed an average cost per customer of~~  
 661 ~~\$20,000, with such customers including those served directly by or downline of the tap lines proposed~~  
 662 ~~for conversion and, further, such total costs shall not exceed an average cost per mile of tap lines~~  
 663 ~~converted, exclusive of financing costs, of \$750,000. A utility may, without regard for whether it has~~  
 664 ~~petitioned for any rate adjustment clause pursuant to clause (vi), petition the Commission, not more~~  
 665 ~~than once annually, for approval of a plan for electric distribution grid transformation projects. In~~  
 666 ~~ruling upon such a petition, the Commission shall consider whether the utility's plan for such projects,~~  
 667 ~~and the projected costs associated therewith, are reasonable and prudent. Such petition shall be~~  
 668 ~~considered on a stand-alone basis without regard to the other costs, revenues, investments or earnings~~  
 669 ~~of the utility, without regard to whether the costs associated with such projects will be recovered~~  
 670 ~~through a rate adjustment clause under this subdivision or through the utility's rates for generation and~~  
 671 ~~distribution services, and without regard to whether such costs will be the subject of a customer credit~~  
 672 ~~offset, as applicable, pursuant to subdivision 8 d. The Commission's final order regarding any such~~  
 673 ~~petition for approval of an electric distribution grid transformation plan shall be entered by the~~

674 *Commission not more than six months after the date of filing such petition. The Commission shall*  
 675 *likewise enter its final order with respect to any petition by a utility for a certificate to construct and*  
 676 *operate a generating facility or facilities utilizing energy derived from sunlight, pursuant to § 56-580.D*  
 677 *of this chapter, within six months after the date of filing such petition. The basis points to be added to*  
 678 *the utility's general rate of return to calculate the enhanced rate of return on common equity, and the*  
 679 *first portion of that facility's service life to which such enhanced rate of return shall be applied, shall*  
 680 *vary by type of facility, as specified in the following table:*

681	Type of Generation Facility	Basis Points	First Portion of Service Life
682	Nuclear-powered	200	Between 12 and 25 years
683	Carbon capture compatible, clean-coal powered	200	Between 10 and 20 years
684	Renewable powered, other than landfill gas powered	200	Between 5 and 15 years
685	Coalbed methane gas powered	150	Between 5 and 15 years
686	Landfill gas powered	200	Between 5 and 15 years
687	Conventional coal or combined-cycle combustion turbine	100	Between 10 and 20 years

688 For generating facilities other than those utilizing nuclear power constructed pursuant to clause (ii) or  
 689 those utilizing energy derived from offshore wind, as of July 1, 2013, only those facilities as to which a  
 690 rate adjustment clause under this subdivision has been previously approved by the Commission, or as to  
 691 which a petition for approval of such rate adjustment clause was filed with the Commission, on or  
 692 before January 1, 2013, shall be entitled to the enhanced rate of return on common equity as specified  
 693 in the above table during the construction phase of the facility and the approved first portion of its  
 694 service life.

695 For generating facilities within the Commonwealth utilizing nuclear power or those utilizing energy  
 696 derived from offshore wind projects located in waters off the Commonwealth's Atlantic shoreline, such  
 697 facilities shall continue to be eligible for an enhanced rate of return on common equity during the  
 698 construction phase of the facility and the approved first portion of its service life of between 12 and 25  
 699 years in the case of a facility utilizing nuclear power and for a service life of between 5 and 15 years in  
 700 the case of a facility utilizing energy derived from offshore wind, provided, however, that, as of July 1,  
 701 2013, the enhanced return for such facilities constructed pursuant to clause (ii) shall be 100 basis points,  
 702 which shall be added to the utility's general rate of return as determined under subdivision 2. Thirty  
 703 percent of all costs of such a facility utilizing nuclear power that the utility incurred between July 1,  
 704 2007, and December 31, 2013, and all of such costs incurred after December 31, 2013, may be deferred  
 705 by the utility and recovered through a rate adjustment clause under this subdivision at such time as the  
 706 Commission provides in an order approving such a rate adjustment clause. The remaining 70 percent of  
 707 all costs of such a facility that the utility incurred between July 1, 2007, and December 31, 2013, shall  
 708 not be deferred for recovery through a rate adjustment clause under this subdivision; however, such  
 709 remaining 70 percent of all costs shall be recovered ratably through existing base rates as determined by  
 710 the Commission in the test periods under review in the utility's next ~~biennial~~ review filed after July 1,  
 711 2014. Thirty percent of all costs of such a facility utilizing energy derived from offshore wind that the  
 712 utility incurred between July 1, 2007, and December 31, 2013, and all of such costs incurred after  
 713 December 31, 2013, may be deferred by the utility and recovered through a rate adjustment clause under  
 714 this subdivision at such time as the Commission provides in an order approving such a rate adjustment  
 715 clause. The remaining 70 percent of all costs of such a facility that the utility incurred between July 1,  
 716 2007, and December 31, 2013, shall not be deferred for recovery through a rate adjustment clause under  
 717 this subdivision; however, such remaining 70 percent of all costs shall be recovered ratably through  
 718 existing base rates as determined by the Commission in the test periods under review in the utility's next  
 719 ~~biennial~~ review filed after July 1, 2014.

720 In connection with planning to meet forecasted demand for electric generation supply and assure the  
 721 adequate and sufficient reliability of service, consistent with § 56-598, planning and development  
 722 activities for a new nuclear generation facility or facilities are in the public interest.

723 In connection with planning to meet forecasted demand for electric generation supply and assure the  
 724 adequate and sufficient reliability of service, consistent with § 56-598, planning and development  
 725 activities for a new utility-owned and utility-operated generating facility or facilities utilizing energy  
 726 derived from sunlight with an aggregate capacity of 500 megawatts, or from onshore or offshore wind,  
 727 are in the public interest.

728 *Construction, purchasing, or leasing activities for a new utility-owned and utility-operated generating*  
 729 *facility or facilities utilizing energy derived from sunlight with an aggregate capacity of 4,000*  
 730 *megawatts, including rooftop solar installations with a capacity of not less than 50 kilowatts, and with*  
 731 *an aggregate capacity of 50 megawatts, or from onshore wind, or from offshore wind with an aggregate*  
 732 *capacity of not more than 16 megawatts, are in the public interest. To the extent a utility elects to*  
 733 *recover the costs of any such new generation facility or facilities through its rates for generation and*  
 734 *distribution services and does not petition and receive approval from the Commission for recovery of*  
 735 *such costs through a rate adjustment clause described in clause (ii), the Commission shall provide for a*

736 *customer credit reinvestment offset, as applicable, pursuant to subdivision 8 d.*

737 *Electric distribution grid transformation projects are in the public interest. To the extent a utility*  
 738 *elects to recover the costs of such electric distribution grid transformation projects through its rates for*  
 739 *generation and distribution services, and does not petition and receive approval from the Commission*  
 740 *for recovery of such costs through a rate adjustment clause described in clause (vi), the Commission*  
 741 *shall provide for a customer credit reinvestment offset, as applicable, pursuant to subdivision 8 d.*

742 *Neither generation facilities described in clause (ii) that utilize simple-cycle combustion turbines nor*  
 743 *new underground facilities shall receive an enhanced rate of return on common equity as described*  
 744 *herein, but instead shall receive the utility's general rate of return during the construction phase of the*  
 745 *facility and, thereafter, for the entire service life of the facility. No rate adjustment clause for new*  
 746 *underground facilities shall allocate costs to, or provide for the recovery of costs from, customers that*  
 747 *are served within the large power service rate class for a Phase I Utility and the large general service*  
 748 *rate classes for a Phase II Utility. New underground facilities are hereby declared to be ordinary*  
 749 *extensions or improvements in the usual course of business under the provisions of § 56-265.2.*

750 *As used in this subdivision, a generation facility is (1) "coalbed methane gas powered" if the facility*  
 751 *is fired at least 50 percent by coalbed methane gas, as such term is defined in § 45.1-361.1, produced*  
 752 *from wells located in the Commonwealth, and (2) "landfill gas powered" if the facility is fired by*  
 753 *methane or other combustible gas produced by the anaerobic digestion or decomposition of*  
 754 *biodegradable materials in a solid waste management facility licensed by the Waste Management Board.*  
 755 *A landfill gas powered facility includes, in addition to the generation facility itself, the equipment used*  
 756 *in collecting, drying, treating, and compressing the landfill gas and in transmitting the landfill gas from*  
 757 *the solid waste management facility where it is collected to the generation facility where it is*  
 758 *combusted.*

759 *For purposes of this subdivision, "general rate of return" means the fair combined rate of return on*  
 760 *common equity as it is determined by the Commission from time to time for such utility pursuant to*  
 761 *subdivision 2. In any proceeding under this subdivision conducted prior to the conclusion of the first*  
 762 *biennial review for such utility, the Commission shall determine a general rate of return for such utility*  
 763 *in the same manner as it would in a biennial review proceeding.*

764 *Notwithstanding any other provision of this subdivision, if the Commission finds during the biennial*  
 765 *triennial review conducted for a Phase II Utility in 2018 2021 that such utility has not filed applications*  
 766 *for all necessary federal and state regulatory approvals to construct one or more nuclear-powered or*  
 767 *coal-fueled generation facilities that would add a total capacity of at least 1500 megawatts to the amount*  
 768 *of the utility's generating resources as such resources existed on July 1, 2007, or that, if all such*  
 769 *approvals have been received, that the utility has not made reasonable and good faith efforts to construct*  
 770 *one or more such facilities that will provide such additional total capacity within a reasonable time after*  
 771 *obtaining such approvals, then the Commission, if it finds it in the public interest, may reduce on a*  
 772 *prospective basis any enhanced rate of return on common equity previously applied to any such facility*  
 773 *to no less than the general rate of return for such utility and may apply no less than the utility's general*  
 774 *rate of return to any such facility for which the utility seeks approval in the future under this*  
 775 *subdivision.*

776 *Notwithstanding any other provision of this subdivision, if a Phase II utility obtains approval from*  
 777 *the Commission of a rate adjustment clause pursuant to subdivision A 6 associated with a test or*  
 778 *demonstration project involving a generation facility utilizing energy from offshore wind, and such utility*  
 779 *has not, as of July 1, 2023, commenced construction of a full-scale offshore wind generation facility,*  
 780 *then the Commission, if it finds it in the public interest, may direct that the costs associated with any*  
 781 *such rate adjustment clause involving said test or demonstration project shall thereafter no longer be*  
 782 *recovered through a rate adjustment clause pursuant to subdivision 6, and shall instead be recovered*  
 783 *through the utility's rates for generation and distribution services, with no change in such rates for*  
 784 *generation and distribution services as a result of the combination of such costs with the other costs,*  
 785 *revenues and investments included in the utility's rates for generation and distribution services. Any*  
 786 *such costs shall remain combined with the utility's other costs, revenues and investments included in its*  
 787 *rates for generation and distribution services until such costs are fully recovered.*

788 *7. Any petition filed pursuant to subdivision 4, 5, or 6 shall be considered by the Commission on a*  
 789 *stand-alone basis without regard to the other costs, revenues, investments, or earnings of the utility. Any*  
 790 *costs incurred by a utility prior to the filing of such petition, or during the consideration thereof by the*  
 791 *Commission, that are proposed for recovery in such petition and that are related to subdivision 5 a, or*  
 792 *that are related to facilities and projects described in clause (i) of subdivision 6, or that are related to*  
 793 *new underground facilities described in clause (iv) of subdivision 6, shall be deferred on the books and*  
 794 *records of the utility until the Commission's final order in the matter, or until the implementation of any*  
 795 *applicable approved rate adjustment clauses, whichever is later. Except as otherwise provided in*  
 796 *subdivision 6, any costs prudently incurred on or after July 1, 2007, by a utility prior to the filing of*

797 such petition, or during the consideration thereof by the Commission, that are proposed for recovery in  
798 such petition and that are related to facilities and projects described in clause (ii) or clause (iii) of  
799 subdivision 6 that utilize nuclear power, or coal-fueled facilities and projects described in clause (ii) of  
800 subdivision 6 if such coal-fueled facilities will be built by a Phase I Utility, shall be deferred on the  
801 books and records of the utility until the Commission's final order in the matter, or until the  
802 implementation of any applicable approved rate adjustment clauses, whichever is later. Any costs  
803 prudently incurred after the expiration or termination of capped rates related to other matters described  
804 in subdivision 4, 5, or 6 shall be deferred beginning only upon the expiration or termination of capped  
805 rates, provided, however, that no provision of this act shall affect the rights of any parties with respect  
806 to the rulings of the Federal Energy Regulatory Commission in PJM Interconnection LLC and Virginia  
807 Electric and Power Company, 109 F.E.R.C. P 61,012 (2004). A utility shall establish a regulatory asset  
808 for regulatory accounting and ratemaking purposes under which it shall defer its operation and  
809 maintenance costs incurred in connection with (i) the refueling of any nuclear-powered generating plant  
810 and (ii) other work at such plant normally performed during a refueling outage. The utility shall  
811 amortize such deferred costs over the refueling cycle, but in no case more than 18 months, beginning  
812 with the month in which such plant resumes operation after such refueling. The refueling cycle shall be  
813 the applicable period of time between planned refueling outages for such plant. As of January 1, 2014,  
814 such amortized costs are a component of base rates, recoverable in base rates only ratably over the  
815 refueling cycle rather than when such outages occur, and are the only nuclear refueling costs recoverable  
816 in base rates. This provision shall apply to any nuclear-powered generating plant refueling outage  
817 commencing after December 31, 2013, and the Commission shall treat the deferred and amortized costs  
818 of such regulatory asset as part of the utility's costs for the purpose of proceedings conducted (a) with  
819 respect to ~~biennial~~ *triennial* filings under subdivision 3 made on and after July 1, 2014, and (b) pursuant  
820 to § 56-245 or the Commission's rules governing utility rate increase applications as provided in  
821 subsection B. This provision shall not be deemed to change or reset base rates.

822 The Commission's final order regarding any petition filed pursuant to subdivision 4, 5, or 6 shall be  
823 entered not more than three months, eight months, and nine months, respectively, after the date of filing  
824 of such petition. If such petition is approved, the order shall direct that the applicable rate adjustment  
825 clause be applied to customers' bills not more than 60 days after the date of the order, or upon the  
826 expiration or termination of capped rates, whichever is later.

827 8. In any ~~biennial~~ *triennial* review proceeding, the following utility generation and distribution costs  
828 not proposed for recovery under any other subdivision of this subsection, as recorded per books by the  
829 utility for financial reporting purposes and accrued against income, shall be attributed to the test periods  
830 under review *and deemed fully recovered in the period recorded*: costs associated with asset impairments  
831 related to early retirement determinations made by the utility ~~prior to December 31, 2012~~, for utility  
832 generation ~~plant facilities fueled by coal, natural gas or oil or for automated meter reading electric~~  
833 *distribution service meters; costs associated with projects necessary to comply with state or federal*  
834 *environmental laws, regulations or judicial or administrative orders relating to coal combustion*  
835 *by-product management which the utility does not petition to recover through a rate adjustment clause*  
836 *pursuant to subdivision 5 e*; costs associated with severe weather events; and costs associated with  
837 natural disasters. Such costs shall be deemed to have been recovered from customers through rates for  
838 generation and distribution services in effect during the test periods under review unless such costs,  
839 individually or in the aggregate, together with the utility's other costs, revenues, and investments to be  
840 recovered through rates for generation and distribution services, result in the utility's earned return on its  
841 generation and distribution services for the combined test periods under review to fall more than 50  
842 basis points below the fair combined rate of return authorized under subdivision 2 for such periods or,  
843 for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31,  
844 2013, for a Phase I Utility, to fall more than 70 basis points below the fair combined rate of return  
845 authorized under subdivision 2 for such periods. In such cases, the Commission shall, in such ~~biennial~~  
846 *triennial* review proceeding, authorize deferred recovery of such costs and allow the utility to amortize  
847 and recover such deferred costs over future periods as determined by the Commission. The aggregate  
848 amount of such deferred costs shall not exceed an amount that would, together with the utility's other  
849 costs, revenues, and investments to be recovered through rates for generation and distribution services,  
850 cause the utility's earned return on its generation and distribution services to exceed the fair rate of  
851 return authorized under subdivision 2, less 50 basis points, for the combined test periods under review  
852 or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December  
853 31, 2013, for a Phase I Utility, to exceed the fair rate of return authorized under subdivision 2 less 70  
854 basis points. Nothing in this section shall limit the Commission's authority, pursuant to the provisions of  
855 Chapter 10 (§ 56-232 et seq.), including specifically § 56-235.2, following the review of combined test  
856 period earnings of the utility in a ~~biennial~~ *triennial* review, for normalization of nonrecurring test period  
857 costs and annualized adjustments for future costs, in determining any appropriate increase or decrease in  
858 the utility's rates for generation and distribution services pursuant to subdivision 8 a or 8 c.

859 If the Commission determines as a result of such ~~biennial~~ *triennial* review that:

860 a. The utility has, during the test period or periods under review, considered as a whole, earned more  
 861 than 50 basis points below a fair combined rate of return on its generation and distribution services or,  
 862 for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31,  
 863 2013, for a Phase I Utility, more than 70 basis points below a fair combined rate of return on its  
 864 generation and distribution services, as determined in subdivision 2, without regard to any return on  
 865 common equity or other matters determined with respect to facilities described in subdivision 6, the  
 866 Commission shall order increases to the utility's rates necessary to provide the opportunity to fully  
 867 recover the costs of providing the utility's services and to earn not less than such fair combined rate of  
 868 return, using the most recently ended 12-month test period as the basis for determining the amount of  
 869 the rate increase necessary. However, the Commission may not order such rate increase unless it finds  
 870 that the resulting rates are necessary to provide the utility with the opportunity to fully recover its costs  
 871 of providing its services and to earn not less than a fair combined rate of return on both its generation  
 872 and distribution services, as determined in subdivision 2, without regard to any return on common equity  
 873 or other matters determined with respect to facilities described in subdivision 6, using the most recently  
 874 ended 12-month test period as the basis for determining the permissibility of any rate increase under the  
 875 standards of this sentence, and the amount thereof;

876 b. The utility has, during the test period or test periods under review, considered as a whole, earned  
 877 more than 50 basis points above a fair combined rate of return on its generation and distribution  
 878 services or, for any test period commencing after December 31, 2012, for a Phase II Utility and after  
 879 December 31, 2013, for a Phase I Utility, more than 70 basis points above a fair combined rate of  
 880 return on its generation and distribution services, as determined in subdivision 2, without regard to any  
 881 return on common equity or other matters determined with respect to facilities described in subdivision  
 882 6, the Commission shall, subject to the provisions of ~~subdivision~~ *subdivisions 8 d and 9*, direct that 60  
 883 percent of the amount of such earnings that were more than 50 basis points, or, for any test period  
 884 commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I  
 885 Utility, that 70 percent of the amount of such earnings that were more than 70 basis points, above such  
 886 fair combined rate of return for the test period or periods under review, considered as a whole, shall be  
 887 credited to customers' bills. Any such credits shall be amortized over a period of six to 12 months, as  
 888 determined at the discretion of the Commission, following the effective date of the Commission's order,  
 889 and shall be allocated among customer classes such that the relationship between the specific customer  
 890 class rates of return to the overall target rate of return will have the same relationship as the last  
 891 approved allocation of revenues used to design base rates; or

892 c. Such ~~biennial~~ *triennial* review is the second consecutive ~~biennial~~ *triennial* review occurring after  
 893 December 31, 2017, in which the utility has, during the test period or test periods under review,  
 894 considered as a whole, earned more than 50 basis points above a fair combined rate of return on its  
 895 generation and distribution services or, for any test period commencing after December 31, 2012, for a  
 896 Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points above a  
 897 fair combined rate of return on its generation and distribution services, as determined in subdivision 2,  
 898 without regard to any return on common equity or other matter determined with respect to facilities  
 899 described in subdivision 6, *and the combined aggregate level of capital investment made by the utility*  
 900 *during the test periods under review in the two consecutive triennial review proceedings in new*  
 901 *utility-owned generation facilities utilizing energy derived from sunlight, or from onshore or offshore*  
 902 *wind, and in electric distribution grid transformation projects which the Commission has not approved*  
 903 *for recovery through a rate adjustment clause pursuant to subdivision 6, does not equal or exceed 70*  
 904 *percent of the earnings above the utility's fair combined rate of return on its generation and distribution*  
 905 *services for the combined test periods under review in the two consecutive triennial review proceedings,*  
 906 the Commission shall, subject to the provisions of subdivision 9 and in addition to the actions  
 907 authorized in subdivision b, also order reductions to the utility's rates it finds appropriate. However, the  
 908 Commission may not order such rate reduction unless it finds that the resulting rates will provide the  
 909 utility with the opportunity to fully recover its costs of providing its services and to earn not less than a  
 910 fair combined rate of return on its generation and distribution services, as determined in subdivision 2,  
 911 without regard to any return on common equity or other matters determined with respect to facilities  
 912 described in subdivision 6, using the most recently ended 12-month test period as the basis for  
 913 determining the permissibility of any rate reduction under the standards of this sentence, and the amount  
 914 thereof; *or*

915 d. *In any triennial review proceeding conducted after December 31, 2017, the Commission shall*  
 916 *determine, prior to directing that 70 percent of earnings above the utility's fair combined rate of return*  
 917 *on its generation and distribution services for the test period or periods under review be credited to*  
 918 *customer bills pursuant to subdivision 8 b, the aggregate level of capital investment made by the utility*  
 919 *during the test period or periods under review in both (i) new utility-owned generation facilities utilizing*



920 energy derived from sunlight, or from onshore or offshore wind, and (ii) electric distribution grid  
 921 transformation projects which the Commission has not approved for recovery through a rate adjustment  
 922 clause pursuant to subdivision 6, as determined by the utility's plant balances related to such  
 923 investments as recorded per books by the utility for financial reporting purposes as of the end of the  
 924 most recent test period under review. Any such combined capital investment amounts shall offset any  
 925 customer bill credit amounts, on a dollar for dollar basis, up to the aggregate level of invested or  
 926 committed capital under clauses (i) and (ii). The aggregate level of invested or committed capital under  
 927 clauses (i) and (ii) is referred to in this subdivision as the customer credit reinvestment offset. If 70  
 928 percent of the amount of earnings above the utility's fair combined rate of return on its generation and  
 929 distribution services, as determined in subdivision 2, exceeds the aggregate level of invested capital in  
 930 new utility-owned generation facilities utilizing energy derived from sunlight, or from onshore or  
 931 offshore wind, and electric distribution grid transformation projects, as provided in clauses (i) and (ii),  
 932 during the test period or periods under review, then the amount of such excess shall be credited to  
 933 customer bills as provided in subdivision 8 b in connection with the subsequent triennial review  
 934 proceeding, unless the aggregate level of capital investment in new utility-owned generation facilities  
 935 utilizing energy derived from sunlight, or from onshore or offshore wind, and electric distribution grid  
 936 transformation projects, as provided in clauses (i) and (ii), over the test periods under review in the  
 937 subsequent triennial review proceeding which the Commission has not approved for recovery through a  
 938 rate adjustment clause pursuant to subdivision 6, exceeds both this excess amount and 70 percent of any  
 939 earnings above the utility's fair combined rate of return for the test period or periods under review in  
 940 the subsequent triennial review proceeding. Any costs associated with new utility-owned generation  
 941 facilities utilizing energy derived from sunlight, or from onshore or offshore wind, or electric  
 942 distribution grid transformation projects, that are the subject of any customer credit reinvestment offset  
 943 pursuant to this subdivision shall thereafter be recovered through the utility's rates for generation and  
 944 distribution services over the service life of such facilities, shall be included in the utility's costs,  
 945 revenues and investments in future triennial review proceedings conducted pursuant to subdivision 2  
 946 until such costs are fully recovered, with no rate base or other cost of service adjustment associated  
 947 with the customer credit reinvestment offset pursuant to this subdivision, and shall not be the subject of  
 948 a rate adjustment clause petition pursuant to subdivision 6. Only such costs of new utility-owned  
 949 generation facilities utilizing energy derived from sunlight, or from onshore or offshore wind, or electric  
 950 distribution grid transformation projects which have not included in any customer credit reinvestment  
 951 offset pursuant to this subdivision, and not otherwise recovered through the utility's rates for generation  
 952 and distribution services, may be the subject of a rate adjustment clause petition by the utility pursuant  
 953 to subdivision 6.

954 The Commission's final order regarding such ~~biennial~~ triennial review shall be entered not more than  
 955 eight months after the date of filing, and any revisions in rates or credits so ordered shall take effect not  
 956 more than 60 days after the date of the order. The fair combined rate of return on common equity  
 957 determined pursuant to subdivision 2 in such ~~biennial~~ triennial review shall apply, for purposes of  
 958 reviewing the utility's earnings on its rates for generation and distribution services, to the entire ~~two~~  
 959 three successive 12-month test periods ending December 31 immediately preceding the year of the  
 960 utility's subsequent ~~biennial~~ triennial review filing under subdivision 3 and shall apply to applicable  
 961 rate adjustment clauses under subdivisions 5 and 6 prospectively from the date the Commission's final  
 962 order in the triennial review proceeding, utilizing rate adjustment clause true-up protocols as the  
 963 commission in its discretion may determine.

964 9. If, as a result of a ~~biennial~~ triennial review required under this subsection and conducted with  
 965 respect to any test period or periods under review ending later than December 31, 2010 (or, if the  
 966 Commission has elected to stagger its biennial reviews of utilities as provided in subdivision 1, under  
 967 review ending later than December 31, 2010, for a Phase I Utility, or December 31, 2011, for a Phase II  
 968 Utility), the Commission finds, with respect to such test period or periods considered as a whole, that (i)  
 969 any utility has, during the test period or periods under review, considered as a whole, earned more than  
 970 50 basis points above a fair combined rate of return on its generation and distribution services or, for  
 971 any test period commencing after December 31, 2012, for a Phase II Utility and after December 31,  
 972 2013, for a Phase I Utility, more than 70 basis points above a fair combined rate of return on its  
 973 generation and distribution services, as determined in subdivision 2, without regard to any return on  
 974 common equity or other matters determined with respect to facilities described in subdivision 6, and (ii)  
 975 the total aggregate regulated rates of such utility at the end of the most recently-ended 12-month test  
 976 period exceeded the annual increases in the United States Average Consumer Price Index for all items,  
 977 all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the United States  
 978 Department of Labor, compounded annually, when compared to the total aggregate regulated rates of  
 979 such utility as determined pursuant to the ~~biennial~~ review conducted for the base period, the  
 980 Commission shall, unless it finds that such action is not in the public interest or that the provisions of  
 981 subdivisions 8 b and c are more consistent with the public interest, direct that any or all earnings for



982 such test period or periods under review, considered as a whole that were more than 50 basis points, or,  
 983 for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31,  
 984 2013, for a Phase I Utility, more than 70 basis points, above such fair combined rate of return shall be  
 985 credited to customers' bills, in lieu of the provisions of subdivisions 8 b and c., *provided that no credits*  
 986 *shall be provided pursuant to this subdivision in connection with any triennial review unless such bill*  
 987 *credits would be payable pursuant to the provisions of subdivision 8 d, and any credits under this*  
 988 *subdivision shall be calculated net of any customer credit reinvestment offset amounts under subdivision*  
 989 *8 d.* Any such credits shall be amortized and allocated among customer classes in the manner provided  
 990 by subdivision 8 b. For purposes of this subdivision:

991 "Base period" means (i) the test period ending December 31, 2010 (or, if the Commission has elected  
 992 to stagger its biennial reviews of utilities as provided in subdivision 1, the test period ending December  
 993 31, 2010, for a Phase I Utility, or December 31, 2011, for a Phase II Utility), or (ii) the most recent test  
 994 period with respect to which credits have been applied to customers' bills under the provisions of this  
 995 subdivision, whichever is later.

996 "Total aggregate regulated rates" shall include: (i) fuel tariffs approved pursuant to § 56-249.6, except  
 997 for any increases in fuel tariffs deferred by the Commission for recovery in periods after December 31,  
 998 2010, pursuant to the provisions of clause (ii) of subsection C of § 56-249.6; (ii) rate adjustment clauses  
 999 implemented pursuant to subdivision 4 or 5; (iii) revisions to the utility's rates pursuant to subdivision 8  
 1000 a; (iv) revisions to the utility's rates pursuant to the Commission's rules governing utility rate increase  
 1001 applications, as permitted by subsection B, occurring after July 1, 2009; and (v) base rates in effect as  
 1002 of July 1, 2009.

1003 10. For purposes of this section, the Commission shall regulate the rates, terms and conditions of any  
 1004 utility subject to this section on a stand-alone basis utilizing the actual end-of-test period capital  
 1005 structure and cost of capital of such utility, unless the Commission finds that the debt to equity ratio of  
 1006 such capital structure is unreasonable for such utility, in which case the Commission may utilize a debt  
 1007 to equity ratio that it finds to be reasonable for such utility in determining any rate adjustment pursuant  
 1008 to subdivisions 8 a and c, and without regard to the cost of capital, capital structure, revenues, expenses  
 1009 or investments of any other entity with which such utility may be affiliated. In particular, and without  
 1010 limitation, the Commission shall determine the federal and state income tax costs for any such utility  
 1011 that is part of a publicly traded, consolidated group as follows: (i) such utility's apportioned state income  
 1012 tax costs shall be calculated according to the applicable statutory rate, as if the utility had not filed a  
 1013 consolidated return with its affiliates, and (ii) such utility's federal income tax costs shall be calculated  
 1014 according to the applicable federal income tax rate and shall exclude any consolidated tax liability or  
 1015 benefit adjustments originating from any taxable income or loss of its affiliates.

1016 B. Nothing in this section shall preclude an investor-owned incumbent electric utility from applying  
 1017 for an increase in rates pursuant to § 56-245 or the Commission's rules governing utility rate increase  
 1018 applications; however, in any such filing, a fair rate of return on common equity shall be determined  
 1019 pursuant to subdivision A 2. Nothing in this section shall preclude such utility's recovery of fuel and  
 1020 purchased power costs as provided in § 56-249.6.

1021 C. Except as otherwise provided in this section, the Commission shall exercise authority over the  
 1022 rates, terms and conditions of investor-owned incumbent electric utilities for the provision of generation,  
 1023 transmission and distribution services to retail customers in the Commonwealth pursuant to the  
 1024 provisions of Chapter 10 (§ 56-232 et seq.), including specifically § 56-235.2.

1025 D. ~~The~~ *Except as otherwise provided in this section, the Commission may determine, during any*  
 1026 *proceeding authorized or required by this section, the reasonableness or prudence of any cost incurred or*  
 1027 *projected to be incurred, by a utility in connection with the subject of the proceeding. A determination*  
 1028 *of the Commission regarding the reasonableness or prudence of any such cost shall be consistent with*  
 1029 *the Commission's authority to determine the reasonableness or prudence of costs in proceedings pursuant*  
 1030 *to the provisions of Chapter 10 (§ 56-232 et seq.). In determining the reasonableness or prudence of a*  
 1031 *utility providing energy and capacity to its customers from renewable energy resources, the Commission*  
 1032 *shall consider the extent to which such renewable energy resources, whether utility-owned or by*  
 1033 *contract, further the objectives of the Commonwealth Energy Policy set forth in §§ 67-101 and 67-102,*  
 1034 *and shall also consider whether the costs of such resources is likely to result in unreasonable increases*  
 1035 *in rates paid by consumers.*

1036 E. The Commission shall promulgate such rules and regulations as may be necessary to implement  
 1037 the provisions of this section.

1038 **§ 56-585.1:1. Transitional Rate Period: review of rates, terms and conditions for utility**  
 1039 **generation facilities.**

1040 ~~Notwithstanding the provisions of §§ 56-249.6 and 56-585.1:~~

1041 A. No biennial reviews of the rates, terms, and conditions for any service of a Phase I Utility, as  
 1042 defined in § 56-585.1, shall be conducted at any time by the State Corporation Commission for the four

1043 successive 12-month test periods beginning January 1, 2014, and ending December 31, 2017. No  
1044 biennial reviews of the rates, terms, and conditions for any service of a Phase II Utility, as defined in  
1045 § 56-585.1, shall be conducted at any time by the ~~State Corporation~~ Commission for the ~~five~~ *three*  
1046 successive 12-month test periods beginning January 1, 2015, and ending December 31, ~~2019~~2017. Such  
1047 test periods beginning January 1, 2014, and ending December 31, 2017, for a Phase I Utility, and  
1048 beginning January 1, 2015, and ending December 31, ~~2019~~2017, for a Phase II Utility, are collectively  
1049 referred to herein as the "Transitional Rate Period." Review of recovery of fuel and purchase power  
1050 costs shall continue during the Transitional Rate Period in accordance with § 56-249.6. Any biennial  
1051 review of the rates, terms, and conditions for any service of a Phase II Utility occurring in 2015 during  
1052 the Transitional Rate Period shall be solely a review of the utility's earnings on its rates for generation  
1053 and distribution services for the two 12-month test periods ending December 31, 2014, and a  
1054 determination of whether any credits to customers are due for such test periods pursuant to subdivision  
1055 A 8 b of § 56-585.1. After the conclusion of the Transitional Rate Period, ~~biennial~~ *reviews of the*  
1056 *utility's rates for generation and distribution services* shall resume for a Phase I Utility in 2020, with the  
1057 first such proceeding utilizing the two successive 12-month test periods beginning January 1, 2018, and  
1058 ending December 31, 2019. After the conclusion of the Transitional Rate Period, ~~biennial~~ *reviews of the*  
1059 *utility's rates for generation and distribution services* shall resume for a Phase II Utility, ~~as defined in~~  
1060 ~~§ 56-585.1~~, in ~~2022~~2021, with the first such proceeding utilizing the ~~two~~ *three* successive 12-month test  
1061 periods beginning January 1, ~~2020~~2018, and ending December 31, ~~2024~~2020. Consistent with this  
1062 provision, (i) no biennial review filings shall be made by an investor-owned incumbent electric utility in  
1063 the years 2016 through 2019, inclusive, and (ii) no adjustment to an investor-owned incumbent electric  
1064 utility's existing tariff rates, including any rates adopted pursuant to § 56-235.2, shall be made between  
1065 the beginning of the Transitional Rate Period and the conclusion of the first ~~biennial~~ review after the  
1066 conclusion of the Transitional Rate Period, except as may be provided pursuant to § 56-245 or 56-249.6  
1067 or subdivisions A 4, 5, or 6 of § 56-585.1.

1068 B. During the Transitional Rate Period, pursuant to § 56-36, the Commission shall have the right at  
1069 all times to inspect the books, papers and documents of any investor-owned incumbent electric utility  
1070 and to require from such companies, from time to time, special reports and statements, under oath,  
1071 concerning their business.

1072 C. 1. Commencing in 2016 and concluding in 2018, the State Corporation Commission, after notice  
1073 and opportunity for a hearing, shall conduct a proceeding every two years to determine the fair rate of  
1074 return on common equity to be used by a Phase I Utility as the general rate of return applicable to rate  
1075 adjustment clauses under subdivisions A 5 or A 6 of § 56-585.1. A Phase I Utility's filing in such  
1076 proceedings shall be made on or before March 31 of 2016, and 2018.

1077 2. Commencing in 2017 and concluding in 2019, the State Corporation Commission, after notice and  
1078 opportunity for a hearing, shall conduct a proceeding every two years to determine the fair rate of return  
1079 on common equity to be used by a Phase II Utility as the general rate of return applicable to rate  
1080 adjustment clauses under subdivisions A 5 or A 6 of § 56-585.1. A Phase II utility's filing in such  
1081 proceedings shall be made on or before March 31 of 2017 and 2019.

1082 3. Such fair rate of return shall be calculated pursuant to the methodology set forth in subdivisions A  
1083 2 a and b of § 56-585.1 and shall utilize the utility's actual end-of-test-period capital structure and cost  
1084 of capital, as well as a 12-month test period ending December 31 immediately preceding the year in  
1085 which the proceeding is conducted. The Commission's final order in such a proceeding shall be entered  
1086 no later than eight months after the date of filing, with any adjustment to the fair rate of return for  
1087 applicable rate adjustment clauses under subdivisions A 5 and 6 of § 56-585.1 taking effect on the date  
1088 of the Commission's final order in the proceeding, utilizing rate adjustment clause true-up protocols as  
1089 the Commission may in its discretion determine. Such proceeding shall concern only the issue of the  
1090 determination of such fair rate of return to be used for rate adjustment clauses under subdivisions A 5  
1091 and 6 of § 56-585.1, and such determination shall have no effect on rates other than those applicable to  
1092 such rate adjustment clauses; however, after the final such proceeding for a utility has been concluded,  
1093 the fair combined rate of return on common equity so determined therein shall also be deemed equal to  
1094 the fair combined rate of return on common equity to be used in such utility's ~~first~~ *biennial* review  
1095 proceeding conducted after the end of the utility's Transitional Rate Period to review such utility's  
1096 earnings on its rates for generation and distribution services for the historic test periods.

1097 D. In furtherance of rate stability during the Transitional Rate Period, any Phase II Utility carrying a  
1098 prior period deferred fuel expense recovery balance on its books and records as of December 31, 2014,  
1099 shall not recover from customers 50 percent of any such balance outstanding as of December 31, 2014,  
1100 and the State Corporation Commission shall implement as soon as practicable reductions in the fuel  
1101 factor rate of any such Phase II Utility to reflect the nonrecovery of any such fuel expense as well as  
1102 any reduction in the fuel factor associated with the Phase II Utility's current period forecasted fuel  
1103 expense over recovery for the 2014-2015 fuel year and projected fuel expense for the 2015-2016 fuel  
1104 year.

1105 E. Except for early retirement plans identified by the utility in an integrated resource plan filed with  
 1106 the State Corporation Commission by September 1, 2014, for utility generation plants, an investor-owned  
 1107 incumbent electric utility shall not permanently retire an electric power generation facility from service  
 1108 during the Transitional Rate Period without first obtaining the approval of the State Corporation  
 1109 Commission, upon petition from such investor-owned incumbent electric utility, and a finding by the  
 1110 State Corporation Commission that the retirement determination is reasonable and prudent. During the  
 1111 Transitional Rate Period, an investor-owned incumbent electric utility shall recover the following costs,  
 1112 as recorded per books by the utility for financial reporting purposes and accrued against income, only  
 1113 through its existing tariff rates for generation or distribution services, except such costs as may be  
 1114 recovered pursuant to § 56-245, § 56-249.6 or subdivisions A 4, A 5, or A 6 of § 56-585.1: (i) costs  
 1115 associated with asset impairments related to early retirement determinations for utility generation  
 1116 facilities resulting from the implementation of carbon emission guidelines for existing electric power  
 1117 generation facilities that the U.S. Environmental Protection Agency has issued pursuant to § 111(d) of  
 1118 the Clean Air Act; (ii) costs associated with severe weather events; and (iii) costs associated with natural  
 1119 disasters.

1120 F. During the Transitional Rate Period:

1121 1. The State Corporation Commission shall submit a report and make recommendations to the  
 1122 Governor and the General Assembly annually on or before December 1 of each year assessing the  
 1123 updated integrated resource plan of any investor-owned incumbent electric utility. The report shall  
 1124 include an analysis of, among other matters, the amount, reliability, and type of generation facilities  
 1125 needed to serve Virginia native load compared to what is then available to serve such load and what  
 1126 may be available to serve such load in the future in view of market conditions and current and pending  
 1127 state and federal environmental regulations. As a part of such report, the State Corporation Commission  
 1128 shall update its estimate of the impact upon electric rates in Virginia of the implementation of carbon  
 1129 emission guidelines for existing electric power generation facilities that the U.S. Environmental  
 1130 Protection Agency has issued pursuant to § 111(d) of the federal Clean Air Act. The State Corporation  
 1131 Commission shall submit copies of such annual reports to the Chairmen of the House and Senate  
 1132 Committees on Commerce and Labor and the Chairman of the Commission on Electric Utility  
 1133 Regulation; and

1134 2. The Department of Environmental Quality shall submit a report and make recommendations to the  
 1135 Governor and the General Assembly annually on or before December 1 of each year concerning the  
 1136 implementation of carbon emission guidelines for existing electric power generation facilities that the  
 1137 U.S. Environmental Protection Agency has issued pursuant to § 111(d) of the federal Clean Air Act. The  
 1138 report shall include an analysis of, among other matters, the impact of such federal regulations on the  
 1139 operation of any investor-owned incumbent electric utility's electric power generation facilities and any  
 1140 changes, interdiction, or suspension of such regulations. The Department of Environmental Quality shall  
 1141 submit copies of such annual reports to the Chairmen of the House and Senate Committees on  
 1142 Commerce and Labor and the Chairman of the Commission on Electric Utility Regulation.

1143 G. The construction or purchase by an investor-owned incumbent utility of one or more generation  
 1144 facilities with at least one megawatt of generating capacity, and with an aggregate rated capacity that  
 1145 does not exceed 500 4,000 megawatts, *including rooftop solar installations with a capacity of not less*  
 1146 *than 50 kilowatts, and with an aggregate capacity of 50 megawatts,* that use energy derived from  
 1147 sunlight and are located in the Commonwealth, regardless of whether any of such facilities are located  
 1148 within or without such utility's service territory, is in the public interest, and in determining whether to  
 1149 approve such facility, the Commission shall liberally construe the provisions of this section. Such utility  
 1150 shall utilize goods or services sourced, in whole or in part, from one or more Virginia businesses. The  
 1151 utility may propose a rate adjustment clause based on a market index in lieu of a cost of service model  
 1152 for such facility. An investor-owned incumbent utility may enter into short-term or long-term power  
 1153 purchase contracts for the power derived from sunlight generated by such generation facility prior to  
 1154 purchasing the generation facility.

1155 *H. To the extent the provisions of this section are inconsistent with the provisions of §§ 56-249.6 and*  
 1156 *56-585.1, the provisions of this section shall control.*

1157 **2. § 1. There is hereby established a pilot program to further the understanding of underground**  
 1158 **electric transmission lines in regard to electric reliability, construction methods and related cost**  
 1159 **and timeline estimating, and the probability of meeting such projections. The pilot program shall**  
 1160 **consist of the approval to construct qualifying electrical transmission lines of 230 kilovolts or less**  
 1161 **(but greater than 69 kilovolts) in whole or in part underground. Such pilot program shall consist**  
 1162 **of a total of two qualifying electrical transmission line projects, constructed in whole or in part**  
 1163 **underground, as specified and set forth in this act.**

1164 **§ 2. Notwithstanding any other law to the contrary, as a part of the pilot program established**  
 1165 **pursuant to this Act, the State Corporation Commission shall approve as a qualifying project a**

1166 transmission line of 230 kilovolts or less that is pending final approval of a certificate of public  
1167 convenience and necessity from the State Corporation Commission as of December 31, 2017, for  
1168 the construction of an electrical transmission line approximately 5.3 miles in length utilizing both  
1169 overhead and underground transmission facilities, of which the underground portion shall be  
1170 approximately 3.1 miles in length, which has been previously proposed for construction within or  
1171 immediately adjacent to the right of way of an interstate highway. Once the State Corporation  
1172 Commission has affirmed the project need through a final order, the project shall be constructed  
1173 in part underground, and the underground portion shall consist of a double circuit.

1174 The State Corporation Commission shall approve such underground construction within 30 days  
1175 of receipt of the written request of the public utility to participate in the pilot program pursuant  
1176 to this section. The State Corporation Commission shall not require the submission of additional  
1177 technical and cost analyses as a condition of its approval, but may request such analyses for its  
1178 review. The State Corporation Commission shall approve the underground construction of one  
1179 contiguous segment of the transmission line that is approximately 3.1 miles in length that was  
1180 previously proposed for construction within or immediately adjacent to the right of way of the  
1181 interstate highway, which, by resolution, the city/locality has indicated general community support.  
1182 The remainder of the construction for the transmission line shall be aboveground. The  
1183 Commission shall not be required to perform any further analysis as to the impacts of this route,  
1184 including environmental impacts or impacts upon historical resources.

1185 The electric utility may proceed to acquire right of way and take such other actions as it deems  
1186 appropriate in furtherance of the construction of the approved transmission line, including  
1187 acquiring the cables necessary for the underground installation.

1188 § 3. In reviewing applications submitted by public utilities for certificates of public convenience  
1189 and necessity for the construction of electrical transmission lines of 230 kilovolts or less filed  
1190 between the effective date of this Act and July 1, 2020, the State Corporation Commission shall  
1191 approve, consistent with the requirements of § 4 of this enactment, one additional application as a  
1192 qualifying project to be constructed in whole or in part underground, as a part of this pilot  
1193 program. The one qualifying project shall be in addition to the qualifying project described in § 2  
1194 of this enactment.

1195 §4. For purposes of § 3, a project shall be qualified to be placed underground, in whole or in part,  
1196 if it meets all of the following criteria: (i) an engineering analysis demonstrates that it is  
1197 technically feasible to place the proposed line, in whole or in part, underground; (ii) the governing  
1198 body of each locality in which a portion of the proposed line will be placed underground indicates,  
1199 by resolution, general community support for the project and that it supports the transmission line  
1200 to be placed underground; (iii) a project has been filed with the State Corporation Commission or  
1201 is pending issuance of a certificate of public convenience and necessity by July 1, 2020; (iv) the  
1202 estimated additional cost of placing the proposed line, in whole or in part, underground does not  
1203 exceed 2.5 times the cost of placing the same line overhead, assuming accepted industry standards  
1204 for undergrounding to ensure safety and reliability; if the public utility, the affected localities, and  
1205 the State Corporation Commission agree, a proposed underground line whose cost exceeds 2.5  
1206 times the cost of placing the line overhead may also be accepted into the pilot program; (v) the  
1207 public utility requests that the project be considered as a qualifying project under this enactment;  
1208 and, (vi) the primary need of the project shall be for purposes of grid reliability, grid resiliency,  
1209 or to support economic development priorities of the Commonwealth and shall not be to address  
1210 aging assets that would have otherwise been replaced in due course.

1211 § 5. Approval of a transmission line pursuant to this enactment for inclusion in the pilot program  
1212 shall be deemed to satisfy the requirements of § 15.2-2232 and local zoning ordinances with respect  
1213 to such transmission line and any associated facilities, such as stations, substations, transition  
1214 stations and locations, and switchyards or stations, that may be required.

1215 § 6. The State Corporation Commission shall report annually to the Commission on Electric Utility  
1216 Restructuring, the Joint Commission on Technology and Science, and the Governor on the  
1217 progress of the pilot program by no later than December 1 of each year that this act is in effect.  
1218 The State Corporation Commission shall submit a final report to the Commission on Electric  
1219 Utility Restructuring, the Joint Commission on Technology and Science, and the Governor no later  
1220 than December 1, 2024, analyzing the entire program and making recommendations about the  
1221 continued placement of transmission lines underground in the Commonwealth. The State  
1222 Corporation Commission's final report shall include, but not limited to, analysis and findings of  
1223 the costs of underground construction and historical and future consumer rate effects of such  
1224 costs, effect of underground transmission lines on grid reliability, operability (including operating  
1225 voltage), probability of meeting cost and construction timeline estimates of such underground  
1226 transmission lines, and aesthetic or other benefits attendant to the placement of transmission lines  
1227 underground.

1228 § 7. For the qualifying projects chosen pursuant to this enactment and not fully recoverable as  
1229 charges for new transmission facilities pursuant to subdivision A 4 of § 56-585.1, the State  
1230 Corporation Commission shall approve a rate adjustment clause. The rate adjustment clause shall  
1231 provide for the full and timely recovery of any portion of the cost of such project not recoverable  
1232 under applicable rates, terms, and conditions approved by the Federal Energy Regulatory  
1233 Commission and shall include the use of the fair return on common equity most recently approved  
1234 in a State Corporation Commission proceeding for such utility. Such costs shall be entirely  
1235 assigned to the utility's Virginia jurisdictional customers. The State Corporation Commission's  
1236 final order regarding any petition filed pursuant to this subsection shall be entered not more than  
1237 three months after the filing of such petition.

1238 § 8. Approval of a proposed transmission line for inclusion in this program shall not preclude the  
1239 placing of existing or future overhead facilities in the same area or corridor by other transmission  
1240 projects.

1241 § 9. The provisions of this enactment shall not be construed to limit the ability of the State  
1242 Corporation Commission to approve additional applications for placement of transmission lines  
1243 underground.

1244 § 10. If two applications are not submitted to the State Corporation Commission that meet the  
1245 requirements of this act, the State Corporation Commission shall document the failure of the  
1246 projects to qualify for the pilot program in order to justify approving fewer than two projects to  
1247 be placed underground, in whole or in part.

1248 § 11. Insofar as the provisions of this act are inconsistent with the provisions of any other law or  
1249 local ordinance, the provisions of this act shall be controlling.

1250 3. That, no later than thirty (30) days following the effective date of this act, a Phase II Utility  
1251 shall provide to its current customers a one-time, voluntary generation and distribution services  
1252 bill credit, to be allocated on an historic test period energy usage basis, in an aggregate amount of  
1253 \$133 million. The one-time voluntary generation and distribution services bill credit shall not be  
1254 included in any earnings test after the effective date of this act.

1255 4. That any Phase II utility shall no longer recover from customers, as of the effective date of this  
1256 act, any costs previously approved by the State Corporation Commission associated with major  
1257 unit modifications to convert existing generation facilities to become operational as generation  
1258 units utilizing biomass fuel through a rate adjustment clause pursuant to subdivision A 6 of  
1259 § 56-585.1, and shall, as of the effective date of this act, instead begin to recover any such  
1260 remaining costs through the utility's rates for generation and distribution services, with no change  
1261 in such rates for generation and distribution services as a result of the combination of such costs  
1262 with the other costs, revenues and investments included in its rates for generation and distribution  
1263 services. Any such costs shall remain combined with the utility's other costs, revenues and  
1264 investments included in its rates for generation and distribution services until such costs are fully  
1265 recovered.

1266 5. That the State Corporation Commission shall implement reductions in the rates for generation  
1267 and distribution services of incumbent electric utilities, as defined in § 56-576, effective April 1,  
1268 2019, to reflect the actual annual reductions in corporate income taxes to be paid by such utilities  
1269 pursuant to the provisions of the federal Tax Cuts and Jobs Act of 2017 (Public Law 115-97).

1270 6. In advance of the determination of the State Corporation Commission as to rate reductions to  
1271 reflect reductions in corporate income taxes pursuant to the fifth enactment of this act, any Phase  
1272 II utility as defined in subdivision A 1 of § 56-585.1 of the Code of Virginia shall reduce its  
1273 existing rates for generation and distribution services on an interim basis, within thirty (30) days  
1274 of the effective date of this act, in an amount sufficient to reduce its annual revenues from such  
1275 rates by an aggregate amount of \$125 million, provided, however, that such \$125 million shall be  
1276 reduced by the amount of any annual revenue requirement associated with any rate adjustment  
1277 clause previously authorized pursuant to subdivision A 6 of § 56-585.1 and relating to major unit  
1278 modifications of generation facilities that utilize biomass fuel which are withdrawn as of the  
1279 effective date of this act pursuant to the fourth enactment of this act. The net amount of such  
1280 interim reduction in rates for generation and distribution services shall be attributable to  
1281 reductions in the corporate income tax obligations of the utility pursuant to the provisions of the  
1282 Federal Tax Cut and Jobs Act of 2017 (Public Law 115-97). In implementing any further  
1283 reductions to the rates for generation and distribution services of any such Phase II Utility  
1284 effective April 1, 2019, pursuant to the fifth enactment of this act, the Commission shall consider  
1285 this interim revenue requirement reduction, and its actions shall be limited to a true-up of this  
1286 interim reduction amount to the actual annual reduction in corporate tax obligations of such  
1287 utility as of the effective date of this act.

1288 7. That the provisions of this act amending and reenacting § 56-585.1 of the Code of Virginia by

1289 adding subdivision A 8 d shall expire on July 1, 2028.

1290 8. That each Phase I and Phase II utility, as such terms are defined in subdivision A 1 of  
1291 § 56-585.1 of the Code of Virginia, shall continue, at no less than the existing levels of funding, as  
1292 of the effective date of this act, the pilot programs established pursuant to Chapter 6 of the Acts  
1293 of Assembly of 2015 for energy assistance and weatherization for low income, elderly, and disabled  
1294 individuals in their respective service territories in the Commonwealth. Each such utility shall  
1295 report on the status of its pilot program, including the number of individuals served thereby, to  
1296 the Governor, the State Corporation Commission, and the Chairmen of the House and Senate  
1297 Commerce and Labor Committees on July 1, 2019, and annually thereafter.

1298 9. That this act shall be known as The Grid Modernization and Security Act.