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## HOUSE BILL NO. 1067

Offered January 8, 2020

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

Patron—Kory

Referred to Committee on Labor and Commerce

**Be it enacted by the General Assembly of Virginia:****1. That § 56-594 of the Code of Virginia is amended and reenacted as follows:****§ 56-594. Net energy metering provisions.**

A. The Commission shall establish by regulation a program that affords eligible customer-generators the opportunity to participate in net energy metering, and a program, to begin no later than July 1, 2014, for customers of investor-owned utilities and to begin no later than July 1, 2015, and to end July 1, 2019, for customers of electric cooperatives as provided in subsection G, to afford eligible agricultural customer-generators the opportunity to participate in net energy metering. The regulations may include, but need not be limited to, requirements for (i) retail sellers; (ii) owners or operators of distribution or transmission facilities; (iii) providers of default service; (iv) eligible customer-generators; (v) eligible agricultural customer-generators; or (vi) any combination of the foregoing, as the Commission determines will facilitate the provision of net energy metering, provided that the Commission determines that such requirements do not adversely affect the public interest. On and after July 1, 2017, small agricultural generators or eligible agricultural customer-generators may elect to interconnect pursuant to the provisions of this section or as small agricultural generators pursuant to § 56-594.2, but not both. Existing eligible agricultural customer-generators may elect to become small agricultural generators, but may not revert to being eligible agricultural customer-generators after such election. On and after July 1, 2019, interconnection of eligible agricultural customer-generators shall cease for electric cooperatives only, and such facilities shall interconnect solely as small agricultural generators. For electric cooperatives, eligible agricultural customer-generators whose renewable energy generating facilities were interconnected before July 1, 2019, may continue to participate in net energy metering pursuant to this section for a period not to exceed 25 years from the date of their renewable energy generating facility's original interconnection.

**B. For the purpose of this section:**

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

"Eligible customer-generator" means a customer that owns and operates, or contracts with other persons to own, operate, or both, an electrical generating facility that (i) has a capacity of not more than 20 kilowatts for residential customers and not more than one megawatt for nonresidential customers on an electrical generating facility placed in service after July 1, 2015; (ii) uses as its total source of fuel renewable energy, as defined in § 56-576; (iii) is located on the customer's premises and is connected to the customer's wiring on the customer's side of its interconnection with the distributor; (iv) is interconnected and operated in parallel with an electric company's transmission and distribution facilities; and (v) is intended primarily to offset all or part of the customer's own electricity requirements. In addition to the electrical generating facility size limitations in clause (i), the capacity of any generating facility installed under this section after July 1, 2015, shall not exceed the expected annual energy consumption based on the previous 12 months of billing history or an annualized calculation of billing history if 12 months of billing history is not available.

"Net energy metering" means measuring the difference, over the net metering period, between (i)

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59 electricity supplied to an eligible customer-generator or eligible agricultural customer-generator from the  
60 electric grid and (ii) the electricity generated and fed back to the electric grid by the eligible  
61 customer-generator or eligible agricultural customer-generator.

62 "Net metering period" means the 12-month period following the date of final interconnection of the  
63 eligible customer-generator's or eligible agricultural customer-generator's system with an electric service  
64 provider, and each 12-month period thereafter.

65 "Small agricultural generator" has the same meaning that is ascribed to that term in § 56-594.2.

66 C. The Commission's regulations shall ensure that (i) the metering equipment installed for net  
67 metering shall be capable of measuring the flow of electricity in two directions and (ii) any eligible  
68 customer-generator seeking to participate in net energy metering shall notify its supplier and receive  
69 approval to interconnect prior to installation of an electrical generating facility. The electric distribution  
70 company shall have 30 days from the date of notification for residential facilities, and 60 days from the  
71 date of notification for nonresidential facilities, to determine whether the interconnection requirements  
72 have been met. Such regulations shall allocate fairly the cost of such equipment and any necessary  
73 interconnection. An eligible customer-generator's electrical generating system, and each electrical  
74 generating system of an eligible agricultural customer-generator, shall meet all applicable safety and  
75 performance standards established by the National Electrical Code, the Institute of Electrical and  
76 Electronics Engineers, and accredited testing laboratories such as Underwriters Laboratories. Beyond the  
77 requirements set forth in this section and to ensure public safety, power quality, and reliability of the  
78 supplier's electric distribution system, an eligible customer-generator or eligible agricultural  
79 customer-generator whose electrical generating system meets those standards and rules shall bear all  
80 reasonable costs of equipment required for the interconnection to the supplier's electric distribution  
81 system, including costs, if any, to (a) install additional controls, (b) perform or pay for additional tests,  
82 and (c) purchase additional liability insurance.

83 D. The Commission shall establish minimum requirements for contracts to be entered into by the  
84 parties to net metering arrangements. Such requirements shall protect the eligible customer-generator or  
85 eligible agricultural customer-generator against discrimination by virtue of its status as an eligible  
86 customer-generator or eligible agricultural customer-generator, and permit customers that are served on  
87 time-of-use tariffs that have electricity supply demand charges contained within the electricity supply  
88 portion of the time-of-use tariffs to participate as an eligible customer-generator or eligible agricultural  
89 customer-generator. Notwithstanding the cost allocation provisions of subsection C, eligible  
90 customer-generators or eligible agricultural customer-generators served on demand charge-based  
91 time-of-use tariffs shall bear the incremental metering costs required to net meter such customers.

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

121 recoverable through the supplier's fuel adjustment clause. For purposes of this section, "all costs" shall  
122 be defined as the rates paid to the eligible customer-generator or eligible agricultural customer-generator  
123 for the purchase of excess electricity and renewable energy certificates and any administrative costs  
124 incurred to manage the eligible customer-generator's or eligible agricultural customer-generator's power  
125 purchase arrangements. The net metering standard contract or tariff shall be available to eligible  
126 customer-generators or eligible agricultural customer-generators on a first-come, first-served basis in  
127 each electric distribution company's Virginia service area until the rated generating capacity owned and  
128 operated by eligible customer-generators, eligible agricultural customer-generators, and small agricultural  
129 generators in the Commonwealth reaches one percent of each electric distribution company's adjusted  
130 Virginia peak-load forecast for the previous year ~~(the systemwide cap)~~, and shall require the supplier to  
131 pay the eligible customer-generator or eligible agricultural customer-generator for such excess electricity  
132 in a timely manner at a rate to be established by the Commission.

133 F. Any residential eligible customer-generator or eligible agricultural customer-generator who owns  
134 and operates, or contracts with other persons to own, operate, or both, an electrical generating facility  
135 with a capacity that exceeds 10 kilowatts shall pay to its supplier, in addition to any other charges  
136 authorized by law, a monthly standby charge. The amount of the standby charge and the terms and  
137 conditions under which it is assessed shall be in accordance with a methodology developed by the  
138 supplier and approved by the Commission. The Commission shall approve a supplier's proposed standby  
139 charge methodology if it finds that the standby charges collected from all such eligible  
140 customer-generators and eligible agricultural customer-generators allow the supplier to recover only the  
141 portion of the supplier's infrastructure costs that are properly associated with serving such eligible  
142 customer-generators or eligible agricultural customer-generators. Such an eligible customer-generator or  
143 eligible agricultural customer-generator shall not be liable for a standby charge until the date specified in  
144 an order of the Commission approving its supplier's methodology.

145 G. On and after the later of July 1, 2019, or the effective date of regulations that the Commission is  
146 required to adopt pursuant to § 56-594.01, (i) net energy metering in the service territory of each  
147 electric cooperative shall be conducted as provided in a program implemented pursuant to § 56-594.01  
148 and (ii) the provisions of this section shall not apply to net energy metering in the service territory of an  
149 electric cooperative except as provided in § 56-594.01.

150 *H. An electrical generating facility located on real property owned by the customer that is at a*  
151 *location that is separated by a right-of-way or other easement from the location on the customer's real*  
152 *property where the electrical generation facility is connected to the customer's meter or where the*  
153 *customer consumes the electricity generated from the electrical generating facility shall be deemed to be*  
154 *located on the customer's premises.*

155 **2. That the provisions of this act are declarative of existing law.**