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SENATE BILL NO. 710

FLOOR AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by Senator McClellan
on February 7, 2020)

(Patron Prior to Substitute—Senator McClellan)

A BILL to amend and reenact §§ 56-1.2, 56-594, and 67-102 of the Code of Virginia; to amend the Code of Virginia by adding sections numbered 15.2-2109.4, 56-1.2:2, 56-232.2:2, and 56-594.3; and to repeal Chapters 358 and 382 of the Acts of Assembly of 2013, as amended by Chapter 803 of the Acts of Assembly of 2017, relating to the regulation of sales of electricity under third-party sales agreements; exempt resales of electricity by the owner of a multifamily residential building; net energy metering; installation of solar and wind energy facilities by local governments; and the removal of other barriers to the increased implementation of distributed solar and other renewable energy in the Commonwealth.

Be it enacted by the General Assembly of Virginia:

1. That §§ 56-1.2, 56-594, and 67-102 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 15.2-2109.4, 56-1.2:2, 56-232.2:2, and 56-594.3 as follows:

§ 15.2-2109.4. Installation by localities of solar and wind energy facilities; use of electricity generated.

Notwithstanding any provision of § 56-594 or 56-585.1:8 and subject to § 56-594, any locality that is a nonjurisdictional customer of a Phase II Utility, as defined in § 56-585.1:3, may (i) install solar-powered or wind-powered electric generation facilities with a rated capacity not exceeding five megawatts, whether the facilities are owned by the locality or owned and operated by a third party pursuant to a contract with the locality, on any locality-owned site within the locality and (ii) credit the electricity generated at a facility described in clause (i) as directed by the governing body of the locality to any one or more of the metered accounts of buildings or other facilities of the locality or the locality's public school division that are located within the locality, without regard to whether the buildings and facilities are located at the same site where the electric generation facility is located or at a site contiguous thereto. The amount of the credit for such electricity to the metered accounts of the locality or its public school division shall be identical, with respect to the rate structure, all retail rate components, and monthly charges, to the amount the locality or public school division would otherwise be charged for such amount of electricity under its contract with the public utility, without the assessment by the public utility of any distribution charges, service charges, or fees in connection with or arising out of such crediting. Notwithstanding the foregoing, the provisions of this section shall apply to a government-owned landfill of a nonjurisdictional customer of a Phase II Utility, as defined in § 56-585.1:3.

§ 56-1.2. Persons, localities, and school boards not designated as public utility, public service corporation, etc.

The terms public utility, public service corporation, or public service company, as used in Chapters 1 (§ 56-1 et seq.), 10 (§ 56-232 et seq.), 10.1 (§ 56-265.1 et seq.), and 10.2:1 (§ 56-265.13:1 et seq.) of this title, shall not refer to:

1. Any person who owns or operates property and provides electricity, natural gas, water, or sewer service to residents or tenants on the property, provided that (i) the electricity, natural gas, water, or sewer service provided to the residents or tenants is purchased by the person from a public utility, public service corporation, public service company, or person licensed by the Commission as a competitive provider of energy services, or a county, city or town, or other publicly regulated political subdivision or public body, (ii) the person or his agent charges to the resident or tenant on the property only that portion of the person's utility charges for the electricity, natural gas, water, or sewer service which is attributable to usage by the resident or tenant on the property, and additional service charges permitted by § 55.1-1212 or 55.1-1404, as applicable, and (iii) the person maintains three years' billing records for such charges.*;*

2. Any (i) person who is not a public service corporation and who provides electric vehicle charging service at retail, (ii) school board that operates retail fee-based electric vehicle charging stations on school property pursuant to § 22.1-131, (iii) locality that operates a retail fee-based electric vehicle charging station on property owned or leased by the locality pursuant to § 15.2-967.2, or (iv) board of visitors of any baccalaureate public institution of higher education that operates a retail fee-based electric vehicle charging station on the grounds of such institution pursuant to § 23.1-1301.1. The ownership or operation of a facility at which electric vehicle charging service is sold, and the selling of electric vehicle charging service from that facility, does not render such person, school board, locality, or board

of visitors a public utility, public service corporation, or public service company as used in Chapters 1 (§ 56-1 et seq.), 10 (§ 56-232 et seq.), 10.1 (§ 56-265.1 et seq.), and 10.2:1 (§ 56-265.13:1 et seq.) solely because of that sale, ownership, or operation.*;*

3. The Department of Conservation and Recreation when operating a retail fee-based electric vehicle charging station on property of any existing state park or similar recreational facility the Department controls pursuant to § 10.1-104.01. The ownership or operation of a facility at which electric vehicle charging service is sold, or the selling of electric vehicle charging service from that facility, does not render the Department of Conservation and Recreation a public utility, public service corporation, or public service company as used in Chapters 1 (§ 56-1 et seq.), 10 (§ 56-232 et seq.), 10.1 (§ 56-265.1 et seq.), and 10.2:1 (§ 56-265.13:1 et seq.) solely because of that sale, ownership, or operation.*;*

4. The Chancellor of the Virginia Community College System when operating a retail fee-based electric vehicle charging station on the grounds of any comprehensive community college pursuant to § 23.1-2908.1. The ownership or operation of a facility at which electric vehicle charging service is sold, or the selling of electric vehicle charging service from that facility, does not render the Chancellor of the Virginia Community College System a public utility, public service corporation, or public service company as used in Chapters 1 (§ 56-1 et seq.), 10 (§ 56-232 et seq.), 10.1 (§ 56-265.1 et seq.), and 10.2:1 (§ 56-265.13:1 et seq.) solely because of that sale, ownership, or operation.*;*

5. The Department of General Services, Department of Motor Vehicles, or Department of Transportation when operating a retail fee-based electric vehicle charging station on any property or facility that such agency controls. The ownership or operation of a facility at which electric vehicle charging service is sold, or the selling of electric vehicle charging service from that facility, does not render the agency a public utility, public service corporation, or public service company as used in Chapters 1 (§ 56-1 et seq.), 10 (§ 56-232 et seq.), 10.1 (§ 56-265.1 et seq.), and 10.2:1 (§ 56-265.13:1 et seq.) solely because of that sale, ownership, or operation.*;*

6. For investor-owned utilities, any person that is not a public service corporation and that sells electricity generated on site entirely from sources of renewable energy as defined in § 56-576 at retail to a customer pursuant to a third-party power purchase agreement, as defined in § 56-1.2:2, if the sale of electricity is conducted pursuant to § 56-594.3. The ownership or operation of such an onsite facility generating electric energy derived entirely from sources of renewable energy from which electric energy is sold to a customer pursuant to a third-party power purchase agreement, and the selling of electric energy to such a customer from that facility, does not render the person a public utility, public service corporation, public service company, or electric utility as used in Chapters 1 (§ 56-1 et seq.), 10 (§ 56-232 et seq.), 10.1 (§ 56-265.1 et seq.), 10.2:1 (§ 56-265.13:1 et seq.), and 23 (§ 56-576 et seq.) solely because of that sale of electricity or its ownership or operation of such a generation facility;

7. For investor-owned utilities, any eligible owner that sells or offers to sell electric power to an eligible customer pursuant to § 56-585.1:8. The ownership or operation of a renewable energy facility at which electricity is generated for the purpose of sale to eligible purchasers, and the selling of electric power from that facility, pursuant to § 56-585.1:8, does not render such person a public utility, public service corporation, or public service company as used in Chapters 1 (§ 56-1 et seq.), 10 (§ 56-232 et seq.), 10.1 (§ 56-265.1 et seq.), 10.2:1 (§ 56-265.13:1 et seq.), and 23 (§ 56-576 et seq.) solely because of that sale, ownership, or operation; or

8. For electric cooperatives, any third-party power purchase agreement provider, as that term is referred to in subsections K and L of § 56-594.01.

§ 56-1.2:2. Sale of electricity in connection with the sale of a renewable generation facility pursuant to a third-party power purchase agreement.

A. As used in this section and §§ 56-1.2 and 56-232.2:2, unless the context requires a different meaning:

"Renewable energy facility" means a facility that generates electricity derived entirely from sources of renewable energy as defined in § 56-576.

"Third-party power purchase agreement" means a power purchase agreement under which a seller sells electricity to a customer from a renewable energy facility located on premises owned or leased by a customer.

B. The sale of electricity generated at a renewable energy facility by a person that is not a public utility, public service corporation, or public service company to a customer that is purchasing or leasing the renewable energy facility shall not constitute the retail sale of electricity subject to regulation under this title.

§ 56-232.2:2. Regulation of third-party power purchase agreements.

The Commission shall not regulate or prescribe the rates, charges, and fees for the sale by any person that is not a public service corporation of electric energy generated on site entirely from sources of renewable energy to a customer pursuant to a third-party power purchase agreement entered into pursuant to § 56-594.3. Sales of electricity by public utilities to persons that are not public service corporations pursuant to third-party power purchase agreements shall continue to be regulated by the

Commission to the same extent as are other services provided by public utilities. The Commission may adopt regulations implementing this section.

§ 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 *serving the eligible agricultural customer-generator* that are located at *the same or* separate ~~but contiguous~~ sites, *whether or not contiguous,* 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~~ *three megawatts* for nonresidential customers ~~on an electrical generating facility placed in service after July 1, 2015~~; (ii) uses as its total source of fuel renewable energy, as defined in § 56-576; (iii) is located on ~~the customer's premises~~ *land owned or leased by the customer* 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. *The capacity limitation in clause (i) on the capacity of electrical generating facilities for nonresidential customers does not apply to electrical generating facilities that are operated pursuant to § 15.2-2109.4.*

"Low-to-moderate-income" means having a household income at or below 80 percent of the state median income or regional median income, whichever is greater.

"Low-to-moderate-income projects" means renewable energy projects that (i) provide electric energy output exclusively to low-to-moderate-income retail customers; (ii) if serving multiple customers or subscribers, provide at least 50 percent of their electric energy output to low-to-moderate-income retail customers or subscribers; or (iii) are low-income shared solar facilities. Low-to-moderate-income projects shall provide significant energy bill savings to the low-to-moderate-income retail customers or subscribers served and shall be certified to meet the requirements of this section, consistent with Department of Mines, Minerals, and Energy criteria and in coordination with the Clean Energy

Advisory Board established in Chapter 27 (§ 45.1-395 et seq.) of Title 45.1.

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

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

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

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

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

E. If electricity generated by an eligible customer-generator or eligible agricultural customer-generator over the net metering period exceeds the electricity consumed by the eligible customer-generator or eligible agricultural customer-generator, the customer-generator or eligible agricultural customer-generator shall be compensated for the excess electricity if the entity contracting to receive such electric energy and the eligible customer-generator or eligible agricultural customer-generator enter into a power purchase agreement for such excess electricity. Upon the written request of the eligible customer-generator or eligible agricultural customer-generator, the supplier that serves the eligible customer-generator or eligible agricultural customer-generator shall enter into a power purchase agreement with the requesting eligible customer-generator or eligible agricultural customer-generator that is consistent with the minimum requirements for contracts established by the Commission pursuant to subsection D. The power purchase agreement shall obligate the supplier to purchase such excess electricity at the rate that is provided for such purchases in a net metering standard contract or tariff approved by the Commission, unless the parties agree to a higher rate. The eligible customer-generator or eligible agricultural customer-generator owns any renewable energy certificates associated with its electrical generating facility; however, at the time that the eligible customer-generator or eligible agricultural customer-generator enters into a power purchase agreement with its supplier, the eligible customer-generator or eligible agricultural customer-generator shall have a one-time option to sell the renewable energy certificates associated with such electrical generating facility to its supplier and be compensated at an amount that is established by the Commission to reflect the value of such renewable energy certificates. Nothing in this section shall prevent the eligible customer-generator or eligible agricultural customer-generator and the supplier from voluntarily entering into an agreement for the sale and purchase of excess electricity or renewable energy certificates at mutually-agreed upon prices if the eligible customer-generator or eligible agricultural customer-generator does not exercise its option to sell its renewable energy certificates to its supplier at Commission-approved prices at the time that the eligible customer-generator or eligible agricultural customer-generator enters into a power purchase agreement with its supplier. All costs incurred by the supplier to purchase excess electricity and renewable energy certificates from eligible customer-generators or eligible agricultural

customer-generators shall be recoverable through its Renewable Energy Portfolio Standard (RPS) rate adjustment clause, if the supplier has a Commission-approved RPS plan. If not, then all costs shall be recoverable through the supplier's fuel adjustment clause. For purposes of this section, "all costs" shall be defined as the rates paid to the eligible customer-generator or eligible agricultural customer-generator for the purchase of excess electricity and renewable energy certificates and any administrative costs incurred to manage the eligible customer-generator's or eligible agricultural customer-generator's power purchase arrangements. The net metering standard contract or tariff shall be available to eligible customer-generators or eligible agricultural customer-generators on a first-come, first-served basis in each electric distribution company's Virginia service area until the rated generating capacity owned and operated by eligible customer-generators, eligible agricultural customer-generators, and small agricultural generators in the Commonwealth reaches ~~one~~ *10* percent of each electric distribution company's adjusted Virginia peak-load forecast for the previous year (the systemwide cap), and shall require the supplier to pay the eligible customer-generator or eligible agricultural customer-generator for such excess electricity in a timely manner at a rate to be established by the Commission. *Within such systemwide cap, one percent of each electric distribution company's adjusted Virginia peak-load forecast for the previous year shall be reserved for low-to-moderate-income customers. The supplier shall develop, under the supervision of the Commission, a system to allow low-to-moderate-income customers to identify themselves as eligible for the reserved low-to-moderate-income portion of the systemwide cap.*

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

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

H. A person that owns or operates a solar-powered or wind-powered electricity generation facility located on premises owned or leased by an eligible customer-generator, as defined in § 56-594, shall be permitted to sell the electricity generated from such facility exclusively to such eligible customer-generator under a power purchase agreement used to provide third-party financing of the costs of such a renewable generation facility (third-party power purchase agreement), subject to the following terms, conditions, and restrictions:

1. For a Phase II investor-owned utility, as defined in § 56-585.1:3, the aggregated capacity of all jurisdictional and nonjurisdictional customers' generation facilities subject to such third-party power purchase agreements shall not exceed 500 megawatts. For a Phase I Utility as defined in § 56-585.1:3, the aggregated capacity of all customers' generation facilities having a capacity of no less than 50 kilowatts and subject to such third-party power purchase agreements shall not exceed 40 megawatts in total for jurisdictional customers and nonjurisdictional customers, and there shall be no cap on the aggregated capacity of residential customers' generation facilities subject to such third-party power purchase agreements. For any investor-owned utility that is not a Phase I or Phase II Utility, as defined in § 56-585.1:3, the aggregated capacity of all customers' generation facilities having a capacity of no less than 50 kilowatts and subject to such third-party power purchase agreements shall not exceed 10 megawatts for jurisdictional customers, and there shall be no cap on the aggregated capacity of nonjurisdictional customers' or residential customers' generation facilities subject to such third-party power purchase agreements.

2. Such limitation on the aggregated capacity of such facilities shall constitute a portion of the existing limit of six percent of each utility's adjusted Virginia peak-load forecast for the previous year that is available to eligible customer-generators pursuant to subsection E of § 56-594. The seller and

the customer shall elect either to (i) enter into their third-party power purchase agreement subject to the conditions and provisions of the utility's net energy metering program under § 56-594 or (ii) provide that electricity generated from the generation facilities subject to the third-party power purchase agreement will not be net metered under § 56-594, except that the customer under a third-party power purchase agreement shall, regardless of such election, be subject to the interconnection and safety requirements imposed on eligible customer-generators and eligible agricultural customer-generators pursuant to subsection C of § 56-594.

I. For purposes of this section, the Commission shall liberally construe eligible customer-generators' rights to contract with other persons to own or operate, or both, an electrical generating facility, and such rights shall include the right to finance electrical generating facilities via leases and power purchase agreements. Nothing in this section shall be construed as (i) rendering any person that contracts with such eligible customer-generator pursuant to this section to be a public utility or a competitive service provider; (ii) imposing a requirement that such a person meet 100 percent of the load requirements for each customer account it serves; or (iii) affecting leases, power purchase agreements, or other third-party financing arrangements in effect prior to July 1, 2020.

J. The Commission may adopt such rules or establish such guidelines as may be necessary for its general administration of this section.

§ 56-594.3. Third-party power purchase agreements.

A. As used in this section, unless the context requires a different meaning:

"Renewable energy facility" means a facility that generates electricity derived entirely from sources of renewable energy as defined in § 56-576.

"Seller" means a person that owns or operates a renewable energy facility located on premises owned or leased by a customer.

"Third-party power purchase agreement" means a power purchase agreement under which a seller sells electricity to a customer from a renewable energy facility located on premises owned or leased by a customer.

B. A seller shall be permitted to sell the electricity generated from a renewable energy facility exclusively to the customer on whose premises the renewable energy facility is located under a third-party power purchase agreement, subject to the following terms, conditions, and restrictions:

1. A renewable energy facility that is the subject of a third-party power purchase agreement shall serve only one customer, and a third-party power purchase agreement shall not serve multiple customers;

2. The customer under a third-party power purchase agreement shall be subject to the interconnection and other requirements imposed on eligible customer-generators pursuant to subsection C of § 56-594, including the requirement that the customer bear the reasonable costs, as determined by the Commission, of the items described in clauses (a), (b), and (c) of subsection C of § 56-594;

3. A third-party power purchase agreement shall not be valid unless it conforms in all respects to the requirements of this section; and

4. An affiliate of an electric utility shall be permitted to offer and enter into third-party power purchase agreements on the same basis as may any other person that satisfies the requirements of being a seller under a third-party power purchase agreement.

C. Except as necessary to ensure compliance with the provisions of this section and the provisions of § 56-594 if the renewable energy facility is operated by an eligible customer-generator under a net energy metering program, the Commission shall not have jurisdiction to regulate the terms and conditions of a third-party power purchase agreement.

D. Nothing in this section shall be construed as (i) rendering any person, by virtue of its selling electric power to a customer under a third-party power purchase agreement entered into pursuant to this section, a public utility or a competitive service provider; (ii) imposing a requirement that such a person meet 100 percent of the load requirements for each retail customer account it serves; or (iii) affecting third-party power purchase agreements in effect prior to July 1, 2020.

E. The Commission may adopt such rules or establish such guidelines as may be necessary for its general administration of this section.

F. The provisions of this section shall apply only in the certificated service territories of investor-owned utilities.

§ 67-102. Commonwealth Energy Policy.

A. To achieve the objectives enumerated in § 67-101, it shall be the policy of the Commonwealth to:

1. Support research and development of, and promote the use of, renewable energy sources;

2. Ensure that the combination of energy supplies and energy-saving systems are sufficient to support the demands of economic growth;

3. Promote research and development of clean coal technologies, including but not limited to integrated gasification combined cycle systems;

4. Promote cost-effective conservation of energy and fuel supplies;

5. Ensure the availability of affordable natural gas throughout the Commonwealth by expanding Virginia's natural gas distribution and transmission pipeline infrastructure; developing coalbed methane gas resources and methane hydrate resources; encouraging the productive use of landfill gas; and siting one or more liquefied natural gas terminals;

6. Promote the generation of electricity through technologies that do not contribute to greenhouse gases and global warming;

7. Facilitate the development of new, and the expansion of existing, petroleum refining facilities within the Commonwealth;

8. Promote the use of motor vehicles that utilize alternate fuels and are highly energy efficient;

9. Support efforts to reduce the demand for imported petroleum by developing alternative technologies, including but not limited to the production of synthetic and hydrogen-based fuels, and the infrastructure required for the widespread implementation of such technologies;

10. Promote the sustainable production and use of biofuels produced from silvicultural and agricultural crops grown in the Commonwealth, and support the delivery infrastructure needed for statewide distribution to consumers;

11. Ensure that development of new, or expansion of existing, energy resources or facilities does not have a disproportionate adverse impact on economically disadvantaged or minority communities; ~~and~~

12. Ensure that energy generation and delivery systems that may be approved for development in the Commonwealth, including liquefied natural gas and related delivery and storage systems, should be located so as to minimize impacts to pristine natural areas and other significant onshore natural resources, and as near to compatible development as possible*; and*

13. Support the distributed generation of renewable electricity by:

a. Encouraging private sector investments in distributed renewable energy;

b. Increasing the security of the electricity grid by supporting distributed renewable energy projects with the potential to supply electric energy to critical facilities during a widespread power outage; and

c. Augmenting the exercise of private property rights by landowners desiring to generate their own energy from renewable energy sources on their lands.

B. The elements of the policy set forth in subsection A shall be referred to collectively in this title as the Commonwealth Energy Policy.

C. All agencies and political subdivisions of the Commonwealth, in taking discretionary action with regard to energy issues, shall recognize the elements of the Commonwealth Energy Policy and where appropriate, shall act in a manner consistent therewith.

D. The Commonwealth Energy Policy is intended to provide guidance to the agencies and political subdivisions of the Commonwealth in taking discretionary action with regard to energy issues, and shall not be construed to amend, repeal, or override any contrary provision of applicable law. The failure or refusal of any person to recognize the elements of the Commonwealth Energy Policy, to act in a manner consistent with the Commonwealth Energy Policy, or to take any other action whatsoever, shall not create any right, action, or cause of action or provide standing for any person to challenge the action of the Commonwealth or any of its agencies or political subdivisions.

2. That Chapters 358 and 382 of the Acts of Assembly of 2013, as amended by Chapter 803 of the Acts of Assembly of 2017, are repealed.

3. That the repeal of Chapters 358 and 382 of the Acts of Assembly of 2013, as amended by Chapter 803 of the Acts of Assembly of 2017, shall not affect the validity of any third-party power purchase agreement entered into prior to July 1, 2020, under a pilot project authorized pursuant to Chapters 358 and 382 of the Acts of Assembly of 2013.

4. That when the rated generating capacity owned and operated by eligible customer-generators, eligible agricultural customer-generators, and small agricultural generators in the Commonwealth reaches 60 percent of the net metering systemwide cap provided for in § 56-594 of the Code of Virginia, as amended by this act, or the year 2025 for a Phase II Utility or the year 2024 for a Phase I Utility, whichever occurs first, the State Corporation Commission (the Commission) shall conduct a study proceeding to address the following questions: (i) What should customers pay to be connected to the grid? and (ii) What should a utility pay for energy placed on the grid? Notwithstanding the results of the study proceeding undertaken by the Commission, (i) for net metering customers with existing power purchase agreements entered into with a Phase I Utility or Phase II Utility before the entry of the final order of such proceeding, such power purchase agreement shall obligate the supplier to purchase excess electricity at the full retail rate, notwithstanding any rate that is provided for such purchases in a net metering standard contract or tariff approved by the Commission, unless the parties agree to a higher rate, and (ii) the power purchase agreement entered into between a supplier and a low-to-moderate-income net metering customer shall obligate the supplier to purchase excess electricity at the full retail rate, notwithstanding the date of such customer's initial participation and notwithstanding any rate that

is provided for such purchases in a net metering standard contract or tariff approved by the Commission, unless the parties agree to a higher rate.