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SENATE BILL NO. 842

Offered January 8, 2020

Prefiled January 8, 2020

A BILL to amend the Code of Virginia by adding a section numbered 56-585.1:11, relating to electric energy; customer choice.

Patron—Petersen

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 56-585.1:11 as follows: § 56-585.1:11. Customer choice for electric energy.

A. As used in this section:

"Phase I Utility" means an investor-owned incumbent electric utility that was, as of July 1, 1999, not bound by a rate case settlement adopted by the Commission that extended in its application beyond January 1, 2002.

"Phase II Utility" means an investor-owned incumbent electric utility that was bound by a rate case settlement adopted by the Commission that extended in its application beyond January 1, 2002.

"Renewable energy" means energy derived from sunlight, wind, falling water, sustainable biomass, wave motion, tides, and geothermal power. "Renewable energy" does not include energy derived from coal, oil, natural gas, or nuclear power or the portion of the thermal or electric energy from a facility that results from the co-firing of biomass or any material with coal or any fossil fuel.

"Sustainable biomass" means nonhazardous organic material not derived from fossil fuels that is cultivated and harvested in a sustainable manner and is available on a recurring basis. "Sustainable biomass" does not include construction and demolition waste, post-consumer wastepaper products, finished biomass products from sawmills, paper mills, or stud mills, organic refuse fuel derived separately from municipal solid waste, biomass from old growth timber stands, or exotic invasive plant species.

B. Notwithstanding any other provision of law, on and after January 1, 2023, all retail customers of electric energy within the Commonwealth shall be permitted to purchase electricity from any supplier licensed to sell retail electric energy within the Commonwealth, subject to the provisions of this section.

C. On or before January 1, 2022, the Commission shall promulgate all regulations that the Commission deems necessary to ensure the orderly transition to a competitive market for electric energy in the Commonwealth, subject to the provisions of this section. Such regulations shall, at a minimum, (i) provide for the customer choice for electricity for all customer classes, thereby deregulating the retail sale and pricing of the generation component of electricity service; (ii) require the divestiture of generation assets or the functional separation of the generation and transmission and distribution businesses of each incumbent electric utility operating in the Commonwealth; (iii) provide all retail customers with guaranteed access to fairly priced electric generation service from a provider of last resort; (iv) provide benefits to all rate classes; (v) include adequate consumer protections, marketing standards, and complaint procedures; and (vi) ensure reliability and compliance with federal and state environmental laws and regulations. In adopting such regulations:

1. The Commission may establish a phase-in schedule for customers by class, and by percentages of class, to ensure that by January 1, 2022, all retail customers are permitted to purchase electric energy from any licensed supplier.

2. Notwithstanding any deadline set in subsection B or this subsection, the Commission may delay or accelerate the implementation of any of the provisions of subsection B or this subsection, provided that any such delay or acceleration shall be based on considerations of reliability, safety, equity, or market power and that any such delay shall be limited to the period of time required to resolve the issues necessitating the delay, but in no event shall any such delay extend the implementation of customer choice for all customers beyond January 1, 2024.

3. The Commission shall allow each incumbent electric utility to recover all of its just and reasonable net stranded costs, provided that each incumbent electric utility shall only recover its just and reasonable net stranded costs through rates for electric distribution service. The Commission may use any methodology it determines to be fair and reasonable for the determination of such stranded costs, provided that the just and reasonable net stranded costs for a Phase I Utility and Phase II Utility shall be reduced by any amounts the Commission determines were collected by such utilities in excess of each utility's authorized rate of return for combined generation and distribution services in effect during

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59 *the calendar years 2016 through 2020. In determining such amounts, the Commission may use any*
60 *methodology it determines to be fair and reasonable for such purposes, including examining the books*
61 *and records of a Phase I or Phase II utility.*

62 *4. When designating providers of last resort, the Commission may designate providers pursuant to*
63 *the standards for default service in § 56-585 or pursuant to any other standards the Commission deems*
64 *appropriate. The Commission may require an incumbent electric utility or distribution utility to provide*
65 *one or more components of such services, or to form an affiliate to do so, in one or more regions of the*
66 *Commonwealth, at rates that are fairly compensatory to the utility and that reflect any cost of energy*
67 *prudently procured, including energy procured from the competitive market.*

68 *5. The Commission shall establish or maintain a complaint bureau for the purpose of receiving,*
69 *reviewing, and investigating complaints by retail customers against licensed suppliers, aggregators, and*
70 *other providers of any services made competitive under this section. The Commission shall establish*
71 *reasonable limits on customer security deposits required by public service companies, suppliers,*
72 *aggregators, or any other person providing competitive services pursuant to this section.*

73 *D. Nothing in this section shall impair the distribution service territorial rights of retail electric*
74 *energy to retail customers in the Commonwealth, and incumbent electric utilities shall continue to*
75 *provide distribution services within their exclusive service territories as established by the Commission.*

76 *E. The Commission shall continue to regulate the distribution of retail electric energy to retail*
77 *customers in the Commonwealth, and, to the extent permitted under federal law, the transmission of*
78 *electric energy in the Commonwealth. Nothing in this section shall impair the Commission's existing*
79 *authority over the provision of electric distribution services to retail customers in the Commonwealth,*
80 *including the authority contained in Chapters 10 (§ 56-232 et seq.) and 10.1 (§ 56-265.1 et seq.).*

81 *F. The Commission shall promulgate regulations requiring all suppliers of electric energy, including*
82 *providers of last resort, to obtain at least 25 percent of their retail energy sales in the Commonwealth*
83 *from renewable energy by January 1, 2025; 50 percent of their retail energy sales in the Commonwealth*
84 *from renewable energy by January 1, 2030; and 100 percent of their retail energy sales in the*
85 *Commonwealth from renewable energy by January 1, 2050. The Commission may establish additional*
86 *incremental benchmarks and other criteria to implement this subdivision, provided that in its*
87 *implementation the Commission shall prioritize the following objectives: (i) reducing the aggregate*
88 *amount of carbon dioxide emissions from generation facilities used to provide electric energy to retail*
89 *customers in the Commonwealth, (ii) protecting consumers from unreasonable rate increases, and (iii)*
90 *supporting economic development in the Commonwealth.*

91 *G. It is in the public interest that all retail customers of electric energy within the Commonwealth*
92 *are permitted to purchase electricity from any supplier licensed to sell retail electric energy within the*
93 *Commonwealth.*

94 *H. To the extent that the provisions of this section are inconsistent with any provision of law, the*
95 *provisions of this section shall control.*