

VIRGINIA ACTS OF ASSEMBLY -- 2021 SPECIAL SESSION I

CHAPTER 42

An Act to amend and reenact § 56-599 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 26 of Title 45.1 a section numbered 45.1-394.1, relating to public disclosure of electric generating facility closures; integrated resource plans.

[S 1247]

Approved March 11, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 56-599 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Chapter 26 of Title 45.1 a section numbered 45.1-394.1 as follows:

§ 45.1-394.1. Public disclosure of certain electric generating facility closures.

A. The provisions of this section shall apply to any electric generating facility that:

- 1. Has a nameplate generating capacity of 80 megawatts or more;*
- 2. Is located in the Commonwealth;*
- 3. Emits carbon dioxide as a byproduct of combusting fuel, whether or not certificated by the State Corporation Commission pursuant to subsection D of § 56-580; and*
- 4. Is subject to, and not exempt from, regulations adopted pursuant to subsection E of § 10.1-1308 or § 10.1-1330.*

B. Within 30 days of an owner of an electric generating facility making public the decision to close such facility, or within 30 days of the owner of an electric generating facility making a filing with the U.S. Securities and Exchange Commission regarding a material impact to the cost, operations, or financial condition of the owner, which material impact is a direct precursor to the closure of the electric generating facility, the owner shall send a written notice of the impending closure to:

- 1. The governing body of the locality where the facility is located;*
- 2. The governing body of any locality adjoining the locality where the facility is located;*
- 3. Any town council located within a county described in subdivision 1;*
- 4. Any planning district commission of any locality described in subdivision 1 or 2;*
- 5. The State Corporation Commission Division of Public Utility Regulation;*
- 6. The Department and the Division;*
- 7. The Department of Housing and Community Development;*
- 8. PJM Interconnection, LLC;*
- 9. The Virginia Employment Commission;*
- 10. The Department of Environmental Quality; and*
- 11. The Virginia Council on Environmental Justice.*

C. The notice required by subsection B shall include, at a minimum, (i) the anticipated closure date of the facility; (ii) references to any website maintained by the owner containing closure information; (iii) a list of permits obtained from a local government, the State Air Pollution Control Board, the State Water Control Board, or the Department of Environmental Quality, including the permit number and date of issuance; (iv) anticipated future use of the facility site, if known; (v) workforce transition assistance information; and (vi) decommissioning information. If the owner of the facility is a registrant with the U.S. Securities and Exchange Commission, any filings mentioning the impending closure shall also be included with the notice.

D. In the six months following receipt of the notice required by subsection B, the governing body of the locality where the facility is located shall conduct at least three public hearings, which may be part of a regular meeting agenda, where at least one representative of the owner of the facility being closed shall be present, make a presentation regarding the impending closure, and take questions from the governing body and the public.

E. In the six months following receipt of the notice required by subsection B, the planning district commission of the locality where the facility is located shall conduct at least one public hearing, which may be part of a regular meeting agenda, where at least one representative of the owner of the facility being closed shall be present, make a presentation regarding the impending closure, and take questions from the planning district commission and the public.

F. The Division shall maintain a public website listing the facilities subject to this section and their anticipated closure dates, if such dates are reasonably known by virtue of the laws of the Commonwealth or a public record or filing with an agency of the Commonwealth, including the State Corporation Commission, and a link shall be provided to the facilities' environmental protection or remediation obligations included in permits obtained from the Department, State Air Pollution Control Board, State Water Control Board, Department of Environmental Quality, or local governing body. At least every 12 months, the State Corporation Commission shall transmit to the Division any information

that it reasonably believes would necessitate updates to the anticipated closure dates or other information contained on the Division's website.

G. As providing advance notice to affected communities of an impending closure of a facility under this section is a matter of vital importance for public policy, this section shall be liberally construed. The obligations imposed on agencies of the Commonwealth under this section are to be construed in favor of public disclosure of the information required by subsection F.

H. Notwithstanding the provisions of subsection A, the provisions of this section shall not apply to any electric generating facility that has a nameplate generating capacity of 90 megawatts or less and that filed a deactivation notice with PJM Interconnection, LLC, prior to September 1, 2019.

§ 56-599. Integrated resource plan required.

A. Each electric utility shall file an updated integrated resource plan by July 1, 2015. Thereafter, each electric utility shall file an updated integrated resource plan by May 1, in each year immediately preceding the year the utility is subject to a triennial review filing. A copy of each integrated resource plan shall be provided to the Chairmen of the House and Senate Committees on Commerce and Labor and to the Chairman of the Commission on Electric Utility Regulation. All updated integrated resource plans shall comply with the provisions of any relevant order of the Commission establishing guidelines for the format and contents of updated and revised integrated resource plans. Each integrated resource plan shall consider options for maintaining and enhancing rate stability, energy independence, economic development including retention and expansion of energy-intensive industries, and service reliability.

B. In preparing an integrated resource plan, each electric utility shall systematically evaluate and may propose:

1. Entering into short-term and long-term electric power purchase contracts;
2. Owning and operating electric power generation facilities;
3. Building new generation facilities;
4. Relying on purchases from the short term or spot markets;
5. Making investments in demand-side resources, including energy efficiency and demand-side management services;
6. Taking such other actions, as the Commission may approve, to diversify its generation supply portfolio and ensure that the electric utility is able to implement an approved plan;
7. The methods by which the electric utility proposes to acquire the supply and demand resources identified in its proposed integrated resource plan;
8. The effect of current and pending state and federal environmental regulations upon the continued operation of existing electric generation facilities or options for construction of new electric generation facilities;
9. The most cost effective means of complying with current and pending state and federal environmental regulations, including compliance options to minimize effects on customer rates of such regulations;
10. Long-term electric distribution grid planning and proposed electric distribution grid transformation projects;
11. Developing a long-term plan for energy efficiency measures to accomplish policy goals of reduction in customer bills, particularly for low-income, elderly, and disabled customers; reduction in emissions; and reduction in carbon intensity; and
12. Developing a long-term plan to integrate new energy storage facilities into existing generation and distribution assets to assist with grid transformation.

C. *As part of preparing any integrated resource plan pursuant to this section, each utility shall conduct a facility retirement study for owned facilities located in the Commonwealth that emit carbon dioxide as a byproduct of combusting fuel and shall include the study results in its integrated resource plan. Upon filing the integrated resource plan with the Commission, the utility shall contemporaneously disclose the study results to each planning district commission, county board of supervisors, and city and town council where such electric generation unit is located, the Department of Mines, Minerals and Energy, the Department of Housing and Community Development, the Virginia Employment Commission, and the Virginia Council on Environmental Justice. The disclosure shall include (i) the driving factors of the decision to retire and (ii) the anticipated retirement year of any electric generation unit included in the plan. Any electric generating facility with an anticipated retirement date that meets the criteria of § 45.1-394.1 shall comply with the public disclosure requirements therein.*

D. The Commission shall analyze and review an integrated resource plan and, after giving notice and opportunity to be heard, the Commission shall make a determination within nine months after the date of filing as to whether such an integrated resource plan is reasonable and is in the public interest.