

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

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An Act to amend and reenact §§ 56-576 and 56-585.1:10 of the Code of Virginia, relating to business park electric transmission infrastructure pilot program; location of qualifying projects.

[H 405]

Approved

Be it enacted by the General Assembly of Virginia:
1. That §§ 56-576 and 56-585.1:10 of the Code of Virginia are amended and reenacted as follows:
§ 56-576. Definitions.

As used in this chapter:

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

"Aggregator" means a person that, as an agent or intermediary, (i) offers to purchase, or purchases, electric energy or (ii) offers to arrange for, or arranges for, the purchase of electric energy, for sale to, or on behalf of, two or more retail customers not controlled by or under common control with such person. The following activities shall not, in and of themselves, make a person an aggregator under this chapter: (i) furnishing legal services to two or more retail customers, suppliers or aggregators; (ii) furnishing educational, informational, or analytical services to two or more retail customers, unless direct or indirect compensation for such services is paid by an aggregator or supplier of electric energy; (iii) furnishing educational, informational, or analytical services to two or more suppliers or aggregators; (iv) providing default service under § 56-585; (v) engaging in activities of a retail electric energy supplier, licensed pursuant to § 56-587, which are authorized by such supplier's license; and (vi) engaging in actions of a retail customer, in common with one or more other such retail customers, to issue a request for proposal or to negotiate a purchase of electric energy for consumption by such retail customers.

(Expires December 31, 2023) "Business park" means a land development containing a minimum of 100 contiguous acres classified as a Tier 4 site under the Virginia Economic Development Partnership's Business Ready Sites Program that is developed and constructed by a *locality*, an industrial development authority, or a similar political subdivision of the Commonwealth created pursuant to § 15.2-4903 or other act of the General Assembly, in order to promote business development and that is located in an area of the Commonwealth designated as a qualified opportunity zone by the U.S. Secretary of the Treasury via his delegation of authority to the Internal Revenue Service.

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

"Commission" means the State Corporation Commission.

"Community in which a majority of the population are people of color" means a U.S. Census tract where more than 50 percent of the population comprises individuals who identify as belonging to one or more of the following groups: Black, African American, Asian, Pacific Islander, Native American, other non-white race, mixed race, Hispanic, Latino, or linguistically isolated.

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

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

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

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

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

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

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

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

"Electric distribution grid transformation project" means a project associated with electric distribution infrastructure, including related data analytics equipment, that is designed to accommodate or facilitate

57 the integration of utility-owned or customer-owned renewable electric generation resources with the
 58 utility's electric distribution grid or to otherwise enhance electric distribution grid reliability, electric
 59 distribution grid security, customer service, or energy efficiency and conservation, including advanced
 60 metering infrastructure; intelligent grid devices for real time system and asset information; automated
 61 control systems for electric distribution circuits and substations; communications networks for service
 62 meters; intelligent grid devices and other distribution equipment; distribution system hardening projects
 63 for circuits, other than the conversion of overhead tap lines to underground service, and substations
 64 designed to reduce service outages or service restoration times; physical security measures at key
 65 distribution substations; cyber security measures; energy storage systems and microgrids that support
 66 circuit-level grid stability, power quality, reliability, or resiliency or provide temporary backup energy
 67 supply; electrical facilities and infrastructure necessary to support electric vehicle charging systems; LED
 68 street light conversions; and new customer information platforms designed to provide improved customer
 69 access, greater service options, and expanded access to energy usage information.

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

73 "Energy efficiency program" means a program that reduces the total amount of electricity that is
 74 required for the same process or activity implemented after the expiration of capped rates. Energy
 75 efficiency programs include equipment, physical, or program change designed to produce measured and
 76 verified reductions in the amount of electricity required to perform the same function and produce the
 77 same or a similar outcome. Energy efficiency programs may include, but are not limited to, (i) programs
 78 that result in improvements in lighting design, heating, ventilation, and air conditioning systems,
 79 appliances, building envelopes, and industrial and commercial processes; (ii) measures, such as but not
 80 limited to the installation of advanced meters, implemented or installed by utilities, that reduce fuel use
 81 or losses of electricity and otherwise improve internal operating efficiency in generation, transmission,
 82 and distribution systems; and (iii) customer engagement programs that result in measurable and
 83 verifiable energy savings that lead to efficient use patterns and practices. Energy efficiency programs
 84 include demand response, combined heat and power and waste heat recovery, curtailment, or other
 85 programs that are designed to reduce electricity consumption so long as they reduce the total amount of
 86 electricity that is required for the same process or activity. Utilities shall be authorized to install and
 87 operate such advanced metering technology and equipment on a customer's premises; however, nothing
 88 in this chapter establishes a requirement that an energy efficiency program be implemented on a
 89 customer's premises and be connected to a customer's wiring on the customer's side of the
 90 inter-connection without the customer's expressed consent.

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

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

94 "Historically economically disadvantaged community" means (i) a community in which a majority of
 95 the population are people of color or (ii) a low-income geographic area.

96 "Incumbent electric utility" means each electric utility in the Commonwealth that, prior to July 1,
 97 1999, supplied electric energy to retail customers located in an exclusive service territory established by
 98 the Commission.

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

102 "In the public interest," for purposes of assessing energy efficiency programs, describes an energy
 103 efficiency program if the Commission determines that the net present value of the benefits exceeds the
 104 net present value of the costs as determined by not less than any three of the following four tests: (i) the
 105 Total Resource Cost Test; (ii) the Utility Cost Test (also referred to as the Program Administrator Test);
 106 (iii) the Participant Test; and (iv) the Ratepayer Impact Measure Test. Such determination shall include
 107 an analysis of all four tests, and a program or portfolio of programs shall be approved if the net present
 108 value of the benefits exceeds the net present value of the costs as determined by not less than any three
 109 of the four tests. If the Commission determines that an energy efficiency program or portfolio of
 110 programs is not in the public interest, its final order shall include all work product and analysis
 111 conducted by the Commission's staff in relation to that program, including testimony relied upon by the
 112 Commission's staff, that has bearing upon the Commission's decision. If the Commission reduces the
 113 proposed budget for a program or portfolio of programs, its final order shall include an analysis of the
 114 impact such budget reduction has upon the cost-effectiveness of such program or portfolio of programs.
 115 An order by the Commission (a) finding that a program or portfolio of programs is not in the public
 116 interest or (b) reducing the proposed budget for any program or portfolio of programs shall adhere to
 117 existing protocols for extraordinarily sensitive information. In addition, an energy efficiency program

118 may be deemed to be "in the public interest" if the program (1) provides measurable and verifiable
119 energy savings to low-income customers or elderly customers or (2) is a pilot program of limited scope,
120 cost, and duration, that is intended to determine whether a new or substantially revised program or
121 technology would be cost-effective.

122 "Low-income geographic area" means any locality, or community within a locality, that has a median
123 household income that is not greater than 80 percent of the local median household income, or any area
124 in the Commonwealth designated as a qualified opportunity zone by the U.S. Secretary of the Treasury
125 via his delegation of authority to the Internal Revenue Service.

126 "Low-income utility customer" means any person or household whose income is no more than 80
127 percent of the median income of the locality in which the customer resides. The median income of the
128 locality is determined by the U.S. Department of Housing and Urban Development.

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

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

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

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

145 "Percentage of Income Payment Program (PIPP) eligible utility customer" means any person or
146 household whose income does not exceed 150 percent of the federal poverty level.

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

149 "Previously developed project site" means any property, including related buffer areas, if any, that
150 has been previously disturbed or developed for non-single-family residential, non-agricultural, or
151 non-silvicultural use, regardless of whether such property currently is being used for any purpose.
152 "Previously developed project site" includes a brownfield as defined in § 10.1-1230 or any parcel that
153 has been previously used (i) for a retail, commercial, or industrial purpose; (ii) as a parking lot; (iii) as
154 the site of a parking lot canopy or structure; (iv) for mining, which is any lands affected by coal mining
155 that took place before August 3, 1977, or any lands upon which extraction activities have been permitted
156 by the Department of Energy under Title 45.2; (v) for quarrying; or (vi) as a landfill.

157 "Qualified waste heat resource" means (i) exhaust heat or flared gas from an industrial process that
158 does not have, as its primary purpose, the production of electricity and (ii) a pressure drop in any gas
159 for an industrial or commercial process.

160 "Renewable energy" means energy derived from sunlight, wind, falling water, biomass, sustainable or
161 otherwise, (the definitions of which shall be liberally construed), energy from waste, landfill gas,
162 municipal solid waste, wave motion, tides, and geothermal power, and does not include energy derived
163 from coal, oil, natural gas, or nuclear power. "Renewable energy" also includes the proportion of the
164 thermal or electric energy from a facility that results from the co-firing of biomass. "Renewable energy"
165 does not include waste heat from fossil-fired facilities or electricity generated from pumped storage but
166 includes run-of-river generation from a combined pumped-storage and run-of-river facility.

167 "Renewable thermal energy" means the thermal energy output from (i) a renewable-fueled combined
168 heat and power generation facility that is (a) constructed, or renovated and improved, after January 1,
169 2012, (b) located in the Commonwealth, and (c) utilized in industrial processes other than the combined
170 heat and power generation facility or (ii) a solar energy system, certified to the OG-100 standard of the
171 Solar Ratings and Certification Corporation or an equivalent certification body, that (a) is constructed, or
172 renovated and improved, after January 1, 2013, (b) is located in the Commonwealth, and (c) heats water
173 or air for residential, commercial, institutional, or industrial purposes.

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

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

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

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

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

190 "Rooftop solar installation" means a distributed electric generation facility, storage facility, or
191 generation and storage facility utilizing energy derived from sunlight, with a rated capacity of not less
192 than 50 kilowatts, that is installed on the roof structure of an incumbent electric utility's commercial or
193 industrial class customer, including host sites on commercial buildings, multifamily residential buildings,
194 school or university buildings, and buildings of a church or religious body.

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

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

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

203 "Total annual energy savings" means (i) the total combined kilowatt-hour savings achieved by
204 electric utility energy efficiency and demand response programs and measures installed in that program
205 year, as well as savings still being achieved by measures and programs implemented in prior years, or
206 (ii) savings attributable to newly installed combined heat and power facilities, including waste
207 heat-to-power facilities, and any associated reduction in transmission line losses, provided that biomass
208 is not a fuel and the total efficiency, including the use of thermal energy, for eligible combined heat and
209 power facilities must meet or exceed 65 percent and have a nameplate capacity rating of less than 25
210 megawatts.

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

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

216 "Waste heat to power" means a system that generates electricity through the recovery of a qualified
217 waste heat resource.

218 **§ 56-585.1:10. (Expires December 31, 2023) Pilot program for transmission facilities serving**
219 **business parks.**

220 The Virginia Economic Development Partnership shall conduct a pilot program within the certificated
221 service territory of each investor-owned electric utility, other than a utility described in subsection G of
222 § 56-580 (Pilot Utility), *or within a business park located in Planning District 19* for the purpose of
223 promoting economic development in areas of the Commonwealth designated as an opportunity zone
224 listed by the U.S. Secretary of the Treasury via his delegation of authority to the Internal Revenue
225 Service. The pilot program shall allow any Pilot Utility to complete the construction phase of a
226 transmission line and associated substation to provide the electric infrastructure to a business park, as
227 defined in § 56-576, located in an opportunity zone within the Pilot Utility's certificated service territory
228 *or within Planning District 19* where investments by a locality or an industrial development authority;
229 or a similar political subdivision of the Commonwealth created pursuant to § 15.2-4903 or other act of
230 the General Assembly; in the siting, environmental review, pre-engineering design, and transmission
231 right-of-way acquisition have been made prior to the public announcement of a prospective occupant of
232 the business park. Each pilot program shall be subject to the following terms, conditions, and
233 restrictions:

234 1. As used in this section, "opportunity zone" means areas of the Commonwealth designated as a
235 qualified opportunity zone by the U.S. Secretary of the Treasury via his delegation of authority to the
236 Internal Revenue Service.

237 2. The costs incurred by the Pilot Utility after January 1, 2019, to construct, operate, and maintain
238 transmission lines and associated substations installed in order to provide service to a business park
239 participating in the pilot program shall be recovered by the Pilot Utility pursuant to a rate adjustment

240 clause approved by the Commission in subdivision A 4 of § 56-585.1.
241 3. 2. Qualifying projects shall have revenue sharing agreements between two or more localities.
242 4. 3. Each individual qualifying project shall be less than seven miles in length.
243 5. 4. The role of the Virginia Economic Development Partnership in conducting the pilot program is
244 to certify that up to three petitions ~~within the certificated service territory of~~ *for* each Pilot Utility
245 ~~addresses~~ *address* the eligibility criteria for participation in the pilot program set forth in § 56-576 and
246 in this section.

ENROLLED

HB405ER