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HOUSE BILL NO. 894

Offered January 12, 2022

Prefiled January 12, 2022

A BILL to amend and reenact §§ 2.2-2723, 45.2-1720, 56-576, and 56-585.5 of the Code of Virginia; to amend the Code of Virginia by adding in Chapter 17 of Title 45.2 an article numbered 6.1, consisting of sections numbered 45.2-1724.1 through 45.2-1724.8; and to repeal the sixth and eleventh enactments of Chapter 1193 and the sixth and eleventh enactments of Chapter 1194 of the Acts of Assembly of 2020, relating to the Center for Rural Virginia; development of map of prime farmland; Southwest Virginia Energy Research and Development Authority; promotion of broadband; Southside Virginia Energy Research and Development Authority established; retirement of certain coal-fired electric generating units at end of useful life; Department of Energy; stakeholder group for promotion of advanced small modular reactors; Virginia Energy Plan; economic development of rural Virginia; repeal of fossil fuel moratorium.

Patron—Kilgore

Referred to Committee on Commerce and Energy

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-2723, 45.2-1720, 56-576, and 56-585.5 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 17 of Title 45.2 an article numbered 6.1, consisting of sections numbered 45.2-1724.1 through 45.2-1724.8, as follows:

§ 2.2-2723. Powers and duties of the Board of Trustees and the Center.

A. The Board of Trustees shall have the following powers and duties:

1. Manage, control, maintain, and operate the Center;

2. Take all actions necessary to qualify the Center as exempt from taxation pursuant to § 501(c)(3) of the Internal Revenue Code and operate the Center in accordance with the provisions governing nonstock corporations as set out in Chapter 10 of Title 13.1, provided that, in the event of the dissolution of the Center, assets shall be distributed for one or more exempt purposes within the meaning of § 501(c)(3) of the Internal Revenue Code, or corresponding section of any future federal tax code, or shall be distributed to the Commonwealth or a local government for a public purpose;

3. Establish bylaws as may be necessary for the governance and conduct of business of the Board;

4. Employ and establish the qualifications and duties, and fix salaries and compensation of staff of the Center from such funds as may be available to the Center;

5. Seek federal funds available to state rural development councils, pursuant to the Farm Security and Rural Investment Act of 2002, P.L. 107-171;

6. Seek, accept, administer, and expend gifts, grants, donations, bequests, and any other funds on behalf of the Center to support and facilitate its work;

7. Accept, administer, and expend donations, bequests, or devises of real and personal property for the endowment of the Center or for any special purpose designated by the donor that is consistent with the purposes of the Center set forth in this article;

8. Have, in addition to its other powers, all the corporate powers given to nonstock corporations by the provisions of Title 13.1. The Board shall also have the power to accept, execute, and administer any trust in which it may have an interest under the terms of the instrument creating the trust;

9. Enter into contracts with respect to the duties and responsibilities imposed upon the Center herein;

10. Report annually concerning the status, needs, and accomplishments of the Center to the Governor and the General Assembly; and

11. Perform any lawful acts necessary or appropriate to carry out the purposes of this article.

B. The Center shall have the following powers and duties:

1. Develop a broad-based constituency to advocate for the interests of rural Virginia in the formulation of the Commonwealth's public policies;

2. Coordinate and facilitate research on rural issues and analyze the effect of public policies and private sector interests on rural communities;

3. Prepare a detailed analysis of rural Virginia economies annually for submission to the Board, together with feasible and appropriate alternatives designed to sustain economic growth in rural areas of the Commonwealth;

4. Facilitate public-private investments in the infrastructure of rural Virginia;

5. Develop programs designed to train local elected officials and community leaders for effective leadership in rural communities;

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59 6. Foster innovative strategies that promote the development and prosperity of rural communities in
 60 the Commonwealth;

61 7. Facilitate the development of incentives and provide a forum for competing interests to allow for
 62 job creation and expanded economic opportunities for farm businesses and rural enterprises while
 63 ensuring the rights of localities to develop reasonable regulations of such farm businesses and rural
 64 enterprises to protect the health, safety, and welfare of residents;

65 8. *Develop and maintain, in coordination with the Department of Agriculture and Consumer Services*
 66 *and the Virginia Cooperative Extension, a map or repository of prime farmland, as defined in § 3.2-205,*
 67 *located in the Commonwealth. The Center shall provide localities access to the map or repository to aid*
 68 *in the evaluation of siting a solar project or energy storage project.*

69 9. Provide for the collection, organization, storage, and dissemination of documents, data, and other
 70 information concerning issues relevant to the needs and continuous development of Virginia's rural areas,
 71 including technical and research assistance to rural localities in the development and implementation of
 72 their strategic plans;

73 ~~9.~~ 10. Identify potential public and private resources for the Board's consideration and review that
 74 may be used to generate additional funds to support and facilitate the Center's work and foster the
 75 development of rural communities;

76 ~~10.~~ 11. Submit to the Board of Trustees such reports regarding the Center's work, including, but not
 77 limited to, programs, activities, policy analyses, and financial statements, as may be requested by the
 78 Board; and

79 ~~11.~~ 12. Perform such other acts as may be necessary to accomplish the objectives of this article.

80 **§ 45.2-1720. Powers and duties of the Authority.**

81 In addition to the other powers and duties established under this article, the Authority has the power
 82 and duty to:

83 1. Adopt, use, and alter at will an official seal;

84 2. Make bylaws for the management and regulation of its affairs;

85 3. Maintain an office at any place within the Commonwealth it designates;

86 4. Accept, hold, and administer moneys, grants, securities, or other property transferred, given, or
 87 bequeathed to the Authority, absolutely or in trust, from any source, public or private, for the purposes
 88 for which the Authority is established;

89 5. Make and execute contracts and all other instruments and agreements necessary or convenient for
 90 the exercise of its powers and functions;

91 6. Employ, in its discretion, consultants, attorneys, architects, engineers, accountants, financial
 92 experts, investment bankers, superintendents, managers, and any other employees and agents necessary
 93 and fix their compensation to be payable from funds made available to the Authority;

94 7. Invest its funds as permitted by applicable law;

95 8. Receive and accept from any federal or private agency, foundation, corporation, association, or
 96 person grants, donations of money, or real or personal property for the benefit of the Authority, and
 97 receive and accept from the Commonwealth or any other state, from any municipality, county, or other
 98 political subdivision thereof, or from any other source, aid or contributions of either money, property, or
 99 other things of value, to be held, used, and applied for the purposes for which such grants and
 100 contributions may be made;

101 9. Enter into agreements with any department, agency, or instrumentality of the United States or of
 102 the Commonwealth and with lenders and enter into loans with contracting parties for the purpose of
 103 planning, regulating, and providing for the financing or assisting in the financing of any project;

104 10. Do any lawful act necessary or appropriate to carry out the powers granted or reasonably implied
 105 in this article;

106 11. Leverage the strength in energy workforce and energy technology research and development of
 107 the Commonwealth's public and private institutions of higher education;

108 12. Support the development of pump storage hydropower in Southwest Virginia and energy storage
 109 generally;

110 13. Promote the development of renewable energy generation facilities on brownfield sites, including
 111 abandoned mine sites;

112 14. Promote energy workforce development;

113 15. *Promote the deployment of broadband in Southwest Virginia;*

114 16. Assist energy technology research and development by, among other actions, promoting the
 115 development of a Southwest Virginia Energy Park; and

116 ~~16.~~ 17. Identify and work with the Commonwealth's industries and nonprofit partners in advancing
 117 efforts related to energy development in Southwest Virginia.

118 *Article 6.1.*

119 *Southside Virginia Energy Research and Development Authority.*

120 **§ 45.2-1724.1. Definitions.**

121 As used in this article, unless the context requires a different meaning:
122 "Authority" means the Southside Virginia Energy Research and Development Authority established
123 pursuant to this article.

124 "Developer" means any private developer of an energy development project.

125 "Energy development project" means an electric generation facility located within Southside Virginia
126 and includes interests in land, improvements, and ancillary facilities.

127 "Southside Virginia" includes the Counties of Brunswick, Charlotte, Franklin, Greensville, Halifax,
128 Henry, Lunenburg, Mecklenburg, Patrick, and Pittsylvania, and the Cities of Danville, Emporia, and
129 Martinsville.

130 **§ 45.2-1724.2. Southside Virginia Energy Research and Development Authority established;**
131 **purpose.**

132 The Southside Virginia Energy Research and Development Authority is established as a political
133 subdivision of the Commonwealth. The purposes of the Authority are to promote opportunities for
134 energy development in Southside Virginia, create jobs and economic activity in Southside Virginia
135 consistent with the Virginia Energy Plan prepared pursuant to Article 4 (§ 45.2-1710 et seq.), and
136 position Southside Virginia and the Commonwealth as a leader in energy workforce and energy
137 technology research and development. The Authority may also consult with research institutions,
138 businesses, nonprofit organizations, and stakeholders as the Authority deems appropriate. The Authority
139 shall have only those powers enumerated in this article.

140 **§ 45.2-1724.3. Membership; terms; vacancies; expenses.**

141 A. The Authority shall have a total membership of 11 nonlegislative citizen members appointed as
142 follows: four members to be appointed by the Governor, four members to be appointed by the Speaker
143 of the House of Delegates, and three members to be appointed by the Senate Committee on Rules. All
144 members of the Authority shall be citizens of the Commonwealth.

145 B. Except as otherwise provided in this article, all appointments shall be for terms of four years
146 each. No member shall be eligible to serve more than two consecutive four-year terms. After expiration
147 of an initial term of three years or less, two additional four-year terms may be served by such member
148 if appointed thereto. Appointments to fill vacancies, other than by expiration of a term, shall be made
149 for the unexpired terms. Any appointment to fill a vacancy shall be made in the same manner as the
150 original appointment. The remainder of any term to which a member is appointed to fill a vacancy shall
151 not constitute a term in determining the member's eligibility for reappointment.

152 C. The Authority shall appoint from its membership a chairman and a vice-chairman, each of whom
153 shall serve in such capacity at the pleasure of the Authority. The chairman, or in his absence the
154 vice-chairman, shall preside at each meeting of the Authority. The meetings of the Authority shall be
155 held on the call of the chairman or whenever a majority of the members so request. A majority of
156 members of the Authority serving at any one time shall constitute a quorum for the transaction of
157 business.

158 D. Members shall serve without compensation. However, all members may be reimbursed for all
159 reasonable and necessary expenses incurred in the performance of their duties as provided in
160 §§ 2.2-2813 and 2.2-2825. Such expenses shall be paid from funds appropriated to the Authority by the
161 General Assembly.

162 E. Members of the Authority shall be subject to the standards of conduct set forth in the State and
163 Local Government Conflict of Interests Act (§ 2.2-3100 et seq.) and may be removed from office for
164 misfeasance, malfeasance, nonfeasance, neglect of duty, or misconduct in the manner set forth therein.

165 F. Except as otherwise provided in this article, members of the Authority shall be subject to the
166 provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

167 **§ 45.2-1724.4. Powers and duties of the Authority.**

168 In addition to the other powers and duties established under this article, the Authority has the power
169 and duty to:

- 170 1. Adopt, use, and alter at will an official seal;
- 171 2. Make bylaws for the management and regulation of its affairs;
- 172 3. Maintain an office at any place within the Commonwealth it designates;
- 173 4. Accept, hold, and administer moneys, grants, securities, or other property transferred, given, or
174 bequeathed to the Authority, absolutely or in trust, from any source, public or private, for the purposes
175 for which the Authority is established;
- 176 5. Make and execute contracts and all other instruments and agreements necessary or convenient for
177 the exercise of its powers and functions;
- 178 6. Employ, in its discretion, consultants, attorneys, architects, engineers, accountants, financial
179 experts, investment bankers, superintendents, managers, and any other employees and agents necessary
180 and fix their compensation to be payable from funds made available to the Authority;
- 181 7. Invest its funds as permitted by applicable law;

182 8. Receive and accept from any federal or private agency, foundation, corporation, association, or
183 person grants, donations of money, or real or personal property for the benefit of the Authority, and
184 receive and accept from the Commonwealth or any other state, from any municipality, county, or other
185 political subdivision thereof, or from any other source, aid or contributions of either money, property,
186 or other things of value, to be held, used, and applied for the purposes for which such grants and
187 contributions may be made;

188 9. Enter into agreements with any department, agency, or instrumentality of the United States or of
189 the Commonwealth and with lenders and enter into loans with contracting parties for the purpose of
190 planning, regulating, and providing for the financing or assisting in the financing of any project;

191 10. Do any lawful act necessary or appropriate to carry out the powers granted or reasonably
192 implied in this article;

193 11. Leverage the strength in energy workforce and energy technology research and development of
194 the Commonwealth's public and private institutions of higher education;

195 12. Support the development of energy storage in Southside Virginia;

196 13. Promote the development of renewable energy generation facilities on brownfield sites;

197 14. Promote energy workforce development;

198 15. Promote the deployment of broadband in Southside Virginia;

199 16. Assist energy technology research and development by, among other actions, promoting the
200 development of a Southside Virginia Energy Park; and

201 17. Identify and work with the Commonwealth's industries and nonprofit partners in advancing
202 efforts related to energy development in Southside Virginia.

203 **§ 45.2-1724.5. Annual report.**

204 On or before October 15 of each year, beginning in 2023, the Authority shall submit an annual
205 summary of its activities and recommendations to the Governor and the Chairmen of the House
206 Committee on Appropriations, the Senate Committee on Finance and Appropriations, the House
207 Committee on Labor and Commerce, and the Senate Committee on Commerce and Labor.

208 **§ 45.2-1724.6. Confidentiality of information.**

209 A. The Authority shall hold in confidence the personal and financial information supplied to it or
210 maintained by it concerning the siting and development of energy projects.

211 B. Nothing in this section shall prohibit the Authority, in its discretion, from releasing any
212 information that has been transformed into a statistical or aggregate form that does not allow the
213 identification of the person who supplied particular information.

214 C. Information supplied by or maintained on any person or entity applying for or receiving an
215 allocation of any federal loan guarantee, as well as specific information relating to the amount of, or
216 the identity of the recipient of, such distribution, shall be subject to disclosure in accordance with the
217 Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

218 **§ 45.2-1724.7. Declaration of public purpose; exemption from taxation.**

219 A. The exercise of the powers granted by this article shall be in all respects for the benefit of the
220 citizens of the Commonwealth and for the promotion of their welfare, convenience, and prosperity.

221 B. The Authority shall be deemed to be performing an essential governmental function in the exercise
222 of the powers conferred upon it by this article, and the property of the Authority and its income and
223 operations shall be exempt from taxation or assessments upon any property acquired or used by the
224 Authority under the provisions of this article.

225 **§ 45.2-1724.8. Sunset.**

226 The provisions of this article shall expire on July 1, 2032.

227 **§ 56-576. Definitions.**

228 As used in this chapter:

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

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

243 (Expires December 31, 2023) "Business park" means a land development containing a minimum of

244 100 contiguous acres classified as a Tier 4 site under the Virginia Economic Development Partnership's
 245 Business Ready Sites Program that is developed and constructed by an industrial development authority,
 246 or a similar political subdivision of the Commonwealth created pursuant to § 15.2-4903 or other act of
 247 the General Assembly, in order to promote business development and that is located in an area of the
 248 Commonwealth designated as a qualified opportunity zone by the U.S. Secretary of the Treasury via his
 249 delegation of authority to the Internal Revenue Service.

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

252 "Commission" means the State Corporation Commission.

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

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

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

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

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

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

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

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

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

274 "Electric distribution grid transformation project" means a project associated with electric distribution
 275 infrastructure, including related data analytics equipment, that is designed to accommodate or facilitate
 276 the integration of utility-owned or customer-owned renewable electric generation resources with the
 277 utility's electric distribution grid or to otherwise enhance electric distribution grid reliability, electric
 278 distribution grid security, customer service, or energy efficiency and conservation, including advanced
 279 metering infrastructure; intelligent grid devices for real time system and asset information; automated
 280 control systems for electric distribution circuits and substations; communications networks for service
 281 meters; intelligent grid devices and other distribution equipment; distribution system hardening projects
 282 for circuits, other than the conversion of overhead tap lines to underground service, and substations
 283 designed to reduce service outages or service restoration times; physical security measures at key
 284 distribution substations; cyber security measures; energy storage systems and microgrids that support
 285 circuit-level grid stability, power quality, reliability, or resiliency or provide temporary backup energy
 286 supply; electrical facilities and infrastructure necessary to support electric vehicle charging systems; LED
 287 street light conversions; and new customer information platforms designed to provide improved customer
 288 access, greater service options, and expanded access to energy usage information.

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

292 "Energy efficiency program" means a program that reduces the total amount of electricity that is
 293 required for the same process or activity implemented after the expiration of capped rates. Energy
 294 efficiency programs include equipment, physical, or program change designed to produce measured and
 295 verified reductions in the amount of electricity required to perform the same function and produce the
 296 same or a similar outcome. Energy efficiency programs may include, but are not limited to, (i) programs
 297 that result in improvements in lighting design, heating, ventilation, and air conditioning systems,
 298 appliances, building envelopes, and industrial and commercial processes; (ii) measures, such as but not
 299 limited to the installation of advanced meters, implemented or installed by utilities, that reduce fuel use
 300 or losses of electricity and otherwise improve internal operating efficiency in generation, transmission,
 301 and distribution systems; and (iii) customer engagement programs that result in measurable and
 302 verifiable energy savings that lead to efficient use patterns and practices. Energy efficiency programs
 303 include demand response, combined heat and power and waste heat recovery, curtailment, or other
 304 programs that are designed to reduce electricity consumption so long as they reduce the total amount of

305 electricity that is required for the same process or activity. Utilities shall be authorized to install and
306 operate such advanced metering technology and equipment on a customer's premises; however, nothing
307 in this chapter establishes a requirement that an energy efficiency program be implemented on a
308 customer's premises and be connected to a customer's wiring on the customer's side of the
309 inter-connection without the customer's expressed consent.

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

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

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

315 "Incumbent electric utility" means each electric utility in the Commonwealth that, prior to July 1,
316 1999, supplied electric energy to retail customers located in an exclusive service territory established by
317 the Commission.

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

321 "In the public interest," for purposes of assessing energy efficiency programs, describes an energy
322 efficiency program if the Commission determines that the net present value of the benefits exceeds the
323 net present value of the costs as determined by not less than any three of the following four tests: (i) the
324 Total Resource Cost Test; (ii) the Utility Cost Test (also referred to as the Program Administrator Test);
325 (iii) the Participant Test; and (iv) the Ratepayer Impact Measure Test. Such determination shall include
326 an analysis of all four tests, and a program or portfolio of programs shall be approved if the net present
327 value of the benefits exceeds the net present value of the costs as determined by not less than any three
328 of the four tests. If the Commission determines that an energy efficiency program or portfolio of
329 programs is not in the public interest, its final order shall include all work product and analysis
330 conducted by the Commission's staff in relation to that program, including testimony relied upon by the
331 Commission's staff, that has bearing upon the Commission's decision. If the Commission reduces the
332 proposed budget for a program or portfolio of programs, its final order shall include an analysis of the
333 impact such budget reduction has upon the cost-effectiveness of such program or portfolio of programs.
334 An order by the Commission (a) finding that a program or portfolio of programs is not in the public
335 interest or (b) reducing the proposed budget for any program or portfolio of programs shall adhere to
336 existing protocols for extraordinarily sensitive information. In addition, an energy efficiency program
337 may be deemed to be "in the public interest" if the program (1) provides measurable and verifiable
338 energy savings to low-income customers or elderly customers or (2) is a pilot program of limited scope,
339 cost, and duration, that is intended to determine whether a new or substantially revised program or
340 technology would be cost-effective.

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

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

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

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

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

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

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

366 "Person" means any individual, corporation, partnership, association, company, business, trust, joint

367 venture, or other private legal entity, and the Commonwealth or any municipality.

368 "Previously developed project site" means any property, including related buffer areas, if any, that
369 has been previously disturbed or developed for non-single-family residential, non-agricultural, or
370 non-silvicultural use, regardless of whether such property currently is being used for any purpose.

371 "Previously developed project site" includes a brownfield as defined in § 10.1-1230 or any parcel that
372 has been previously used (i) for a retail, commercial, or industrial purpose; (ii) as a parking lot; (iii) as
373 the site of a parking lot canopy or structure; (iv) for mining, which is any lands affected by coal mining
374 that took place before August 3, 1977, or any lands upon which extraction activities have been permitted
375 by the Department of Energy under Title 45.2; (v) for quarrying; or (vi) as a landfill.

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

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

386 "Renewable thermal energy" means the thermal energy output from (i) a renewable-fueled combined
387 heat and power generation facility that is (a) constructed, or renovated and improved, after January 1,
388 2012, (b) located in the Commonwealth, and (c) utilized in industrial processes other than the combined
389 heat and power generation facility or (ii) a solar energy system, certified to the OG-100 standard of the
390 Solar Ratings and Certification Corporation or an equivalent certification body, that (a) is constructed, or
391 renovated and improved, after January 1, 2013, (b) is located in the Commonwealth, and (c) heats water
392 or air for residential, commercial, institutional, or industrial purposes.

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

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

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

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

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

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

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

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

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

422 "Total annual energy savings" means (i) the total combined kilowatt-hour savings achieved by
423 electric utility energy efficiency and demand response programs and measures installed in that program
424 year, as well as savings still being achieved by measures and programs implemented in prior years, or
425 (ii) savings attributable to newly installed combined heat and power facilities, including waste
426 heat-to-power facilities, and any associated reduction in transmission line losses, provided that biomass
427 is not a fuel and the total efficiency, including the use of thermal energy, for eligible combined heat and

428 power facilities must meet or exceed 65 percent and have a nameplate capacity rating of less than 25
429 megawatts.

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

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

435 *"Waste coal" means usable material that is a byproduct of previous coal processing operations.*

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

438 **§ 56-585.5. Generation of electricity from renewable and zero carbon sources.**

439 A. As used in this section:

440 "Accelerated renewable energy buyer" means a commercial or industrial customer of a Phase I or
441 Phase II Utility, irrespective of generation supplier, with an aggregate load over 25 megawatts in the
442 prior calendar year, that enters into arrangements pursuant to subsection G, as certified by the
443 Commission.

444 "Aggregate load" means the combined electrical load associated with selected accounts of an
445 accelerated renewable energy buyer with the same legal entity name as, or in the names of affiliated
446 entities that control, are controlled by, or are under common control of, such legal entity or are the
447 names of affiliated entities under a common parent.

448 "Control" has the same meaning as provided in § 56-585.1:11.

449 "Falling water" means hydroelectric resources, including run-of-river generation from a combined
450 pumped-storage and run-of-river facility. "Falling water" does not include electricity generated from
451 pumped-storage facilities.

452 "Low-income qualifying projects" means a project that provides a minimum of 50 percent of the
453 respective electric output to low-income utility customers as that term is defined in § 56-576.

454 "Phase I Utility" has the same meaning as provided in subdivision A 1 of § 56-585.1.

455 "Phase II Utility" has the same meaning as provided in subdivision A 1 of § 56-585.1.

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

464 "Total electric energy" means total electric energy sold to retail customers in the Commonwealth
465 service territory of a Phase I or Phase II Utility, other than accelerated renewable energy buyers, by the
466 incumbent electric utility or other retail supplier of electric energy in the previous calendar year,
467 excluding an amount equivalent to the annual percentages of the electric energy that was supplied to
468 such customer from nuclear generating plants located within the Commonwealth in the previous calendar
469 year, provided such nuclear units were operating by July 1, 2020, or from any zero-carbon electric
470 generating facilities not otherwise RPS eligible sources and placed into service in the Commonwealth
471 after July 1, 2030.

472 "Zero-carbon electricity" means electricity generated by any generating unit that does not emit carbon
473 dioxide as a by-product of combusting fuel to generate electricity.

474 B. 1. By December 31, 2024, except for any coal-fired electric generating units (i) jointly owned
475 with a cooperative utility or (ii) owned and operated by a Phase II Utility located in the coalfield region
476 of the Commonwealth that co-fires with biomass, any Phase I and Phase II Utility shall retire all
477 generating units principally fueled by oil with a rated capacity in excess of 500 megawatts and all
478 coal-fired electric generating units operating in the Commonwealth.

479 2. By December 31, 2028, each Phase I and II Utility shall retire all biomass-fired electric generating
480 units that do not co-fire with coal.

481 3. By December 31, 2045, each Phase I and II Utility shall retire all other electric generating units
482 located in the Commonwealth that emit carbon as a by-product of combusting fuel to generate
483 electricity.

484 4. A Phase I or Phase II Utility may petition the Commission for relief from the requirements of this
485 subsection on the basis that the requirement would threaten the reliability or security of electric service
486 to customers. The Commission shall consider in-state and regional transmission entity resources and
487 shall evaluate the reliability of each proposed retirement on a case-by-case basis in ruling upon any such
488 petition.

489 5. *Notwithstanding the provisions of this subsection or any other provision of law, no electric*

490 *generating unit located in the coalfield region of the Commonwealth capable of generating electricity*
 491 *from waste coal that began commercial operations after January 1, 2010, shall be required to retire*
 492 *before such unit reaches the end of its useful life.*

493 C. Each Phase I and Phase II Utility shall participate in a renewable energy portfolio standard
 494 program (RPS Program) that establishes annual goals for the sale of renewable energy to all retail
 495 customers in the utility's service territory, other than accelerated renewable energy buyers pursuant to
 496 subsection G, regardless of whether such customers purchase electric supply service from the utility or
 497 from suppliers other than the utility. To comply with the RPS Program, each Phase I and Phase II
 498 Utility shall procure and retire Renewable Energy Certificates (RECs) originating from renewable energy
 499 standard eligible sources (RPS eligible sources). For purposes of complying with the RPS Program from
 500 2021 to 2024, a Phase I and Phase II Utility may use RECs from any renewable energy facility, as
 501 defined in § 56-576, provided that such facilities are located in the Commonwealth or are physically
 502 located within the PJM Interconnection, LLC (PJM) region. However, at no time during this period or
 503 thereafter may any Phase I or Phase II Utility use RECs from (i) renewable thermal energy, (ii)
 504 renewable thermal energy equivalent, (iii) biomass-fired facilities that are outside the Commonwealth, or
 505 (iv) biomass-fired facilities operating in the Commonwealth as of January 1, 2020, that supply 10
 506 percent or more of their annual net electrical generation to the electric grid or more than 15 percent of
 507 their annual total useful energy to any entity other than the manufacturing facility to which the
 508 generating source is interconnected. From compliance year 2025 and all years after, each Phase I and
 509 Phase II Utility may only use RECs from RPS eligible sources for compliance with the RPS Program.

510 In order to qualify as RPS eligible sources, such sources must be (a) electric-generating resources
 511 that generate electric energy derived from solar or wind located in the Commonwealth or off the
 512 Commonwealth's Atlantic shoreline or in federal waters and interconnected directly into the
 513 Commonwealth or physically located within the PJM region; (b) falling water resources located in the
 514 Commonwealth or physically located within the PJM region that were in operation as of January 1,
 515 2020, that are owned by a Phase I or Phase II Utility or for which a Phase I or Phase II Utility has
 516 entered into a contract prior to January 1, 2020, to purchase the energy, capacity, and renewable
 517 attributes of such falling water resources; (c) non-utility-owned resources from falling water that (1) are
 518 less than 65 megawatts, (2) began commercial operation after December 31, 1979, or (3) added
 519 incremental generation representing greater than 50 percent of the original nameplate capacity after
 520 December 31, 1979, provided that such resources are located in the Commonwealth or are physically
 521 located within the PJM region; (d) waste-to-energy or landfill gas-fired generating resources located in
 522 the Commonwealth and in operation as of January 1, 2020, provided that such resources do not use
 523 waste heat from fossil fuel combustion or forest or woody biomass as fuel; or (e) biomass-fired facilities
 524 in operation in the Commonwealth and in operation as of January 1, 2020, that supply no more than 10
 525 percent of their annual net electrical generation to the electric grid or no more than 15 percent of their
 526 annual total useful energy to any entity other than the manufacturing facility to which the generating
 527 source is interconnected. Regardless of any future maintenance, expansion, or refurbishment activities,
 528 the total amount of RECs that may be sold by any RPS eligible source using biomass in any year shall
 529 be no more than the number of megawatt hours of electricity produced by that facility in 2019;
 530 however, in no year may any RPS eligible source using biomass sell RECs in excess of the actual
 531 megawatt-hours of electricity generated by such facility that year. In order to comply with the RPS
 532 Program, each Phase I and Phase II Utility may use and retire the environmental attributes associated
 533 with any existing owned or contracted solar, wind, or falling water electric generating resources in
 534 operation, or proposed for operation, in the Commonwealth or physically located within the PJM region,
 535 with such resource qualifying as a Commonwealth-located resource for purposes of this subsection, as of
 536 January 1, 2020, provided such renewable attributes are verified as RECs consistent with the PJM-EIS
 537 Generation Attribute Tracking System.

538 The RPS Program requirements shall be a percentage of the total electric energy sold in the previous
 539 calendar year and shall be implemented in accordance with the following schedule:

540	Year	RPS Program	Year	RPS Program
541		Requirement		Requirement
542	2021	6%	2021	14%
543	2022	7%	2022	17%
544	2023	8%	2023	20%
545	2024	10%	2024	23%
546	2025	14%	2025	26%
547	2026	17%	2026	29%
548	2027	20%	2027	32%
549	2028	24%	2028	35%
550	2029	27%	2029	38%
551	2030	30%	2030	41%

552	2031	33%	2031	45%
553	2032	36%	2032	49%
554	2033	39%	2033	52%
555	2034	42%	2034	55%
556	2035	45%	2035	59%
557	2036	53%	2036	63%
558	2037	53%	2037	67%
559	2038	57%	2038	71%
560	2039	61%	2039	75%
561	2040	65%	2040	79%
562	2041	68%	2041	83%
563	2042	71%	2042	87%
564	2043	74%	2043	91%
565	2044	77%	2044	95%
566	2045	80%	2045 and thereafter	100%
567	2046	84%		
568	2047	88%		
569	2048	92%		
570	2049	96%		
571	2050 and thereafter	100%		

572 A Phase II Utility shall meet one percent of the RPS Program requirements in any given compliance
 573 year with solar, wind, or anaerobic digestion resources of one megawatt or less located in the
 574 Commonwealth, with not more than 3,000 kilowatts at any single location or at contiguous locations
 575 owned by the same entity or affiliated entities and, to the extent that low-income qualifying projects are
 576 available, then no less than 25 percent of such one percent shall be composed of low-income qualifying
 577 projects.

578 Beginning with the 2025 compliance year and thereafter, at least 75 percent of all RECs used by a
 579 Phase II Utility in a compliance period shall come from RPS eligible resources located in the
 580 Commonwealth.

581 Any Phase I or Phase II Utility may apply renewable energy sales achieved or RECs acquired in
 582 excess of the sales requirement for that RPS Program to the sales requirements for RPS Program
 583 requirements in the year in which it was generated and the five calendar years after the renewable
 584 energy was generated or the RECs were created. To the extent that a Phase I or Phase II Utility
 585 procures RECs for RPS Program compliance from resources the utility does not own, the utility shall be
 586 entitled to recover the costs of such certificates at its election pursuant to § 56-249.6 or subdivision A 5
 587 d of § 56-585.1.

588 D. Each Phase I or Phase II Utility shall petition the Commission for necessary approvals to procure
 589 zero-carbon electricity generating capacity as set forth in this subsection and energy storage resources as
 590 set forth in subsection E. To the extent that a Phase I or Phase II Utility constructs or acquires new
 591 zero-carbon generating facilities or energy storage resources, the utility shall petition the Commission for
 592 the recovery of the costs of such facilities, at the utility's election, either through its rates for generation
 593 and distribution services or through a rate adjustment clause pursuant to subdivision A 6 of § 56-585.1.
 594 All costs not sought for recovery through a rate adjustment clause pursuant to subdivision A 6 of
 595 § 56-585.1 associated with generating facilities provided by sunlight or onshore or offshore wind are
 596 also eligible to be applied by the utility as a customer credit reinvestment offset as provided in
 597 subdivision A 8 of § 56-585.1. Costs associated with the purchase of energy, capacity, or environmental
 598 attributes from facilities owned by the persons other than the utility required by this subsection shall be
 599 recovered by the utility either through its rates for generation and distribution services or pursuant to
 600 § 56-249.6.

601 1. Each Phase I Utility shall petition the Commission for necessary approvals to construct, acquire,
 602 or enter into agreements to purchase the energy, capacity, and environmental attributes of 600 megawatts
 603 of generating capacity using energy derived from sunlight or onshore wind.

604 a. By December 31, 2023, each Phase I Utility shall petition the Commission for necessary approvals
 605 to construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental
 606 attributes of at least 200 megawatts of generating capacity located in the Commonwealth using energy
 607 derived from sunlight or onshore wind, and 35 percent of such generating capacity procured shall be
 608 from the purchase of energy, capacity, and environmental attributes from solar or onshore wind facilities
 609 owned by persons other than the utility, with the remainder, in the aggregate, being from construction or
 610 acquisition by such Phase I Utility.

611 b. By December 31, 2027, each Phase I Utility shall petition the Commission for necessary approvals
 612 to construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental
 613 attributes of at least 200 megawatts of additional generating capacity located in the Commonwealth
 614 using energy derived from sunlight or onshore wind, and 35 percent of such generating capacity
 615 procured shall be from the purchase of energy, capacity, and environmental attributes from solar or

616 onshore wind facilities owned by persons other than the utility, with the remainder, in the aggregate,
617 being from construction or acquisition by such Phase I Utility.

618 c. By December 31, 2030, each Phase I Utility shall petition the Commission for necessary approvals
619 to construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental
620 attributes of at least 200 megawatts of additional generating capacity located in the Commonwealth
621 using energy derived from sunlight or onshore wind, and 35 percent of such generating capacity
622 procured shall be from the purchase of energy, capacity, and environmental attributes from solar or
623 onshore wind facilities owned by persons other than the utility, with the remainder, in the aggregate,
624 being from construction or acquisition by such Phase I Utility.

625 d. Nothing in this subdivision 1 shall prohibit such Phase I Utility from constructing, acquiring, or
626 entering into agreements to purchase the energy, capacity, and environmental attributes of more than 600
627 megawatts of generating capacity located in the Commonwealth using energy derived from sunlight or
628 onshore wind, provided the utility receives approval from the Commission pursuant to §§ 56-580 and
629 56-585.1.

630 2. By December 31, 2035, each Phase II Utility shall petition the Commission for necessary
631 approvals to (i) construct, acquire, or enter into agreements to purchase the energy, capacity, and
632 environmental attributes of 16,100 megawatts of generating capacity located in the Commonwealth using
633 energy derived from sunlight or onshore wind, which shall include 1,100 megawatts of solar generation
634 of a nameplate capacity not to exceed three megawatts per individual project and 35 percent of such
635 generating capacity procured shall be from the purchase of energy, capacity, and environmental attributes
636 from solar facilities owned by persons other than a utility, including utility affiliates and deregulated
637 affiliates and (ii) pursuant to § 56-585.1:11, construct or purchase one or more offshore wind generation
638 facilities located off the Commonwealth's Atlantic shoreline or in federal waters and interconnected
639 directly into the Commonwealth with an aggregate capacity of up to 5,200 megawatts. At least 200
640 megawatts of the 16,100 megawatts shall be placed on previously developed project sites.

641 a. By December 31, 2024, each Phase II Utility shall petition the Commission for necessary
642 approvals to construct, acquire, or enter into agreements to purchase the energy, capacity, and
643 environmental attributes of at least 3,000 megawatts of generating capacity located in the
644 Commonwealth using energy derived from sunlight or onshore wind, and 35 percent of such generating
645 capacity procured shall be from the purchase of energy, capacity, and environmental attributes from
646 solar or onshore wind facilities owned by persons other than the utility, with the remainder, in the
647 aggregate, being from construction or acquisition by such Phase II Utility.

648 b. By December 31, 2027, each Phase II Utility shall petition the Commission for necessary
649 approvals to construct, acquire, or enter into agreements to purchase the energy, capacity, and
650 environmental attributes of at least 3,000 megawatts of additional generating capacity located in the
651 Commonwealth using energy derived from sunlight or onshore wind, and 35 percent of such generating
652 capacity procured shall be from the purchase of energy, capacity, and environmental attributes from
653 solar or onshore wind facilities owned by persons other than the utility, with the remainder, in the
654 aggregate, being from construction or acquisition by such Phase II Utility.

655 c. By December 31, 2030, each Phase II Utility shall petition the Commission for necessary
656 approvals to construct, acquire, or enter into agreements to purchase the energy, capacity, and
657 environmental attributes of at least 4,000 megawatts of additional generating capacity located in the
658 Commonwealth using energy derived from sunlight or onshore wind, and 35 percent of such generating
659 capacity procured shall be from the purchase of energy, capacity, and environmental attributes from
660 solar or onshore wind facilities owned by persons other than the utility, with the remainder, in the
661 aggregate, being from construction or acquisition by such Phase II Utility.

662 d. By December 31, 2035, each Phase II Utility shall petition the Commission for necessary
663 approvals to construct, acquire, or enter into agreements to purchase the energy, capacity, and
664 environmental attributes of at least 6,100 megawatts of additional generating capacity located in the
665 Commonwealth using energy derived from sunlight or onshore wind, and 35 percent of such generating
666 capacity procured shall be from the purchase of energy, capacity, and environmental attributes from
667 solar or onshore wind facilities owned by persons other than the utility, with the remainder, in the
668 aggregate, being from construction or acquisition by such Phase II Utility.

669 e. Nothing in this subdivision 2 shall prohibit such Phase II Utility from constructing, acquiring, or
670 entering into agreements to purchase the energy, capacity, and environmental attributes of more than
671 16,100 megawatts of generating capacity located in the Commonwealth using energy derived from
672 sunlight or onshore wind, provided the utility receives approval from the Commission pursuant to
673 §§ 56-580 and 56-585.1.

674 3. Nothing in this section shall prohibit a utility from petitioning the Commission to construct or
675 acquire zero-carbon electricity or from entering into contracts to procure the energy, capacity, and
676 environmental attributes of zero-carbon electricity generating resources in excess of the requirements in

677 subsection B. The Commission shall determine whether to approve such petitions on a stand-alone basis
678 pursuant to §§ 56-580 and 56-585.1, provided that the Commission's review shall also consider whether
679 the proposed generating capacity (i) is necessary to meet the utility's native load, (ii) is likely to lower
680 customer fuel costs, (iii) will provide economic development opportunities in the Commonwealth, and
681 (iv) serves a need that cannot be more affordably met with demand-side or energy storage resources.

682 Each Phase I and Phase II Utility shall, at least once every year, conduct a request for proposals for
683 new solar and wind resources. Such requests shall quantify and describe the utility's need for energy,
684 capacity, or renewable energy certificates. The requests for proposals shall be publicly announced and
685 made available for public review on the utility's website at least 45 days prior to the closing of such
686 request for proposals. The requests for proposals shall provide, at a minimum, the following information:
687 (a) the size, type, and timing of resources for which the utility anticipates contracting; (b) any minimum
688 thresholds that must be met by respondents; (c) major assumptions to be used by the utility in the bid
689 evaluation process, including environmental emission standards; (d) detailed instructions for preparing
690 bids so that bids can be evaluated on a consistent basis; (e) the preferred general location of additional
691 capacity; and (f) specific information concerning the factors involved in determining the price and
692 non-price criteria used for selecting winning bids. A utility may evaluate responses to requests for
693 proposals based on any criteria that it deems reasonable but shall at a minimum consider the following
694 in its selection process: (1) the status of a particular project's development; (2) the age of existing
695 generation facilities; (3) the demonstrated financial viability of a project and the developer; (4) a
696 developer's prior experience in the field; (5) the location and effect on the transmission grid of a
697 generation facility; (6) benefits to the Commonwealth that are associated with particular projects,
698 including regional economic development and the use of goods and services from Virginia businesses;
699 and (7) the environmental impacts of particular resources, including impacts on air quality within the
700 Commonwealth and the carbon intensity of the utility's generation portfolio.

701 4. In connection with the requirements of this subsection, each Phase I and Phase II Utility shall,
702 commencing in 2020 and concluding in 2035, submit annually a plan and petition for approval for the
703 development of new solar and onshore wind generation capacity. Such plan shall reflect, in the
704 aggregate and over its duration, the requirements of subsection D concerning the allocation percentages
705 for construction or purchase of such capacity. Such petition shall contain any request for approval to
706 construct such facilities pursuant to subsection D of § 56-580 and a request for approval or update of a
707 rate adjustment clause pursuant to subdivision A 6 of § 56-585.1 to recover the costs of such facilities.
708 Such plan shall also include the utility's plan to meet the energy storage project targets of subsection E,
709 including the goal of installing at least 10 percent of such energy storage projects behind the meter. In
710 determining whether to approve the utility's plan and any associated petition requests, the Commission
711 shall determine whether they are reasonable and prudent and shall give due consideration to (i) the RPS
712 and carbon dioxide reduction requirements in this section, (ii) the promotion of new renewable
713 generation and energy storage resources within the Commonwealth, and associated economic
714 development, and (iii) fuel savings projected to be achieved by the plan. Notwithstanding any other
715 provision of this title, the Commission's final order regarding any such petition and associated requests
716 shall be entered by the Commission not more than six months after the date of the filing of such
717 petition.

718 5. If, in any year, a Phase I or Phase II Utility is unable to meet the compliance obligation of the
719 RPS Program requirements or if the cost of RECs necessary to comply with RPS Program requirements
720 exceeds \$45 per megawatt hour, such supplier shall be obligated to make a deficiency payment equal to
721 \$45 for each megawatt-hour shortfall for the year of noncompliance, except that the deficiency payment
722 for any shortfall in procuring RECs for solar, wind, or anaerobic digesters located in the Commonwealth
723 shall be \$75 per megawatts hour for resources one megawatt and lower. The amount of any deficiency
724 payment shall increase by one percent annually after 2021. A Phase I or Phase II Utility shall be entitled
725 to recover the costs of such payments as a cost of compliance with the requirements of this subsection
726 pursuant to subdivision A 5 d of § 56-585.1. All proceeds from the deficiency payments shall be
727 deposited into an interest-bearing account administered by the Department of Energy. In administering
728 this account, the Department of Energy shall manage the account as follows: (i) 50 percent of total
729 revenue shall be directed to job training programs in historically economically disadvantaged
730 communities; (ii) 16 percent of total revenue shall be directed to energy efficiency measures for public
731 facilities; (iii) 30 percent of total revenue shall be directed to renewable energy programs located in
732 historically economically disadvantaged communities; and (iv) four percent of total revenue shall be
733 directed to administrative costs.

734 For any project constructed pursuant to this subsection or subsection E, a utility shall, subject to a
735 competitive procurement process, procure equipment from a Virginia-based or United States-based
736 manufacturer using materials or product components made in Virginia or the United States, if reasonably
737 available and competitively priced.

738 E. To enhance reliability and performance of the utility's generation and distribution system, each

739 Phase I and Phase II Utility shall petition the Commission for necessary approvals to construct or
740 acquire new, utility-owned energy storage resources.

741 1. By December 31, 2035, each Phase I Utility shall petition the Commission for necessary approvals
742 to construct or acquire 400 megawatts of energy storage capacity. Nothing in this subdivision shall
743 prohibit a Phase I Utility from constructing or acquiring more than 400 megawatts of energy storage,
744 provided that the utility receives approval from the Commission pursuant to §§ 56-580 and 56-585.1.

745 2. By December 31, 2035, each Phase II Utility shall petition the Commission for necessary
746 approvals to construct or acquire 2,700 megawatts of energy storage capacity. Nothing in this
747 subdivision shall prohibit a Phase II Utility from constructing or acquiring more than 2,700 megawatts
748 of energy storage, provided that the utility receives approval from the Commission pursuant to
749 §§ 56-580 and 56-585.1.

750 3. No single energy storage project shall exceed 500 megawatts in size, except that a Phase II Utility
751 may procure a single energy storage project up to 800 megawatts.

752 4. All energy storage projects procured pursuant to this subsection shall meet the competitive
753 procurement protocols established in subdivision D 3.

754 5. After July 1, 2020, at least 35 percent of the energy storage facilities placed into service shall be
755 (i) purchased by the public utility from a party other than the public utility or (ii) owned by a party
756 other than a public utility, with the capacity from such facilities sold to the public utility. By January 1,
757 2021, the Commission shall adopt regulations to achieve the deployment of energy storage for the
758 Commonwealth required in subdivisions 1 and 2, including regulations that set interim targets and
759 update existing utility planning and procurement rules. The regulations shall include programs and
760 mechanisms to deploy energy storage, including competitive solicitations, behind-the-meter incentives,
761 non-wires alternatives programs, and peak demand reduction programs.

762 F. All costs incurred by a Phase I or Phase II Utility related to compliance with the requirements of
763 this section or pursuant to § 56-585.1:11, including (i) costs of generation facilities powered by sunlight
764 or onshore or offshore wind, or energy storage facilities, that are constructed or acquired by a Phase I or
765 Phase II Utility after July 1, 2020, (ii) costs of capacity, energy, or environmental attributes from
766 generation facilities powered by sunlight or onshore or offshore wind, or falling water, or energy storage
767 facilities purchased by the utility from persons other than the utility through agreements after July 1,
768 2020, and (iii) all other costs of compliance, including costs associated with the purchase of RECs
769 associated with RPS Program requirements pursuant to this section shall be recovered from all retail
770 customers in the service territory of a Phase I or Phase II Utility as a non-bypassable charge,
771 irrespective of the generation supplier of such customer, except (a) as provided in subsection G for an
772 accelerated renewable energy buyer or (b) as provided in subdivision C 3 of § 56-585.1:11, with respect
773 to the costs of an offshore wind generation facility, for a PIPP eligible utility customer or an advanced
774 clean energy buyer or qualifying large general service customer, as those terms are defined in
775 § 56-585.1:11. If a Phase I or Phase II Utility serves customers in more than one jurisdiction, such
776 utility shall recover all of the costs of compliance with the RPS Program requirements from its Virginia
777 customers through the applicable cost recovery mechanism, and all associated energy, capacity, and
778 environmental attributes shall be assigned to Virginia to the extent that such costs are requested but not
779 recovered from any system customers outside the Commonwealth.

780 By September 1, 2020, the Commission shall direct the initiation of a proceeding for each Phase I
781 and Phase II Utility to review and determine the amount of such costs, net of benefits, that should be
782 allocated to retail customers within the utility's service territory which have elected to receive electric
783 supply service from a supplier of electric energy other than the utility, and shall direct that tariff
784 provisions be implemented to recover those costs from such customers beginning no later than January
785 1, 2021. Thereafter, such charges and tariff provisions shall be updated and trued up by the utility on an
786 annual basis, subject to continuing review and approval by the Commission.

787 G. 1. An accelerated renewable energy buyer may contract with a Phase I or Phase II Utility, or a
788 person other than a Phase I or Phase II Utility, to obtain (i) RECs from RPS eligible resources or (ii)
789 bundled capacity, energy, and RECs from solar or wind generation resources located within the PJM
790 region and initially placed in commercial operation after January 1, 2015, including any contract with a
791 utility for such generation resources that does not allocate to or recover from any other customer of the
792 utility the cost of such resources. Such an accelerated renewable energy buyer may offset all or a
793 portion of its electric load for purposes of RPS compliance through such arrangements. An accelerated
794 renewable energy buyer shall be exempt from the assignment of non-bypassable RPS compliance costs
795 pursuant to subsection F, with the exception of the costs of an offshore wind generating facility pursuant
796 to § 56-585.1:11, based on the amount of RECs obtained pursuant to this subsection in proportion to the
797 customer's total electric energy consumption, on an annual basis. An accelerated renewable energy buyer
798 obtaining RECs only shall not be exempt from costs related to procurement of new solar or onshore
799 wind generation capacity, energy, or environmental attributes, or energy storage facilities, by the utility

800 pursuant to subsections D and E, however, an accelerated renewable energy buyer that is a customer of
801 a Phase II Utility and was subscribed, as of March 1, 2020, to a voluntary companion experimental
802 tariff offering of the utility for the purchase of renewable attributes from renewable energy facilities that
803 requires a renewable facilities agreement and the purchase of a minimum of 2,000 renewable attributes
804 annually, shall be exempt from allocation of the net costs related to procurement of new solar or
805 onshore wind generation capacity, energy, or environmental attributes, or energy storage facilities, by the
806 utility pursuant to subsections D and E, based on the amount of RECs associated with the customer's
807 renewable facilities agreements associated with such tariff offering as of that date in proportion to the
808 customer's total electric energy consumption, on an annual basis. To the extent that an accelerated
809 renewable energy buyer contracts for the capacity of new solar or wind generation resources pursuant to
810 this subsection, the aggregate amount of such nameplate capacity shall be offset from the utility's
811 procurement requirements pursuant to subsection D. All RECs associated with contracts entered into by
812 an accelerated renewable energy buyer with the utility, or a person other than the utility, for an RPS
813 Program shall not be credited to the utility's compliance with its RPS requirements, and the calculation
814 of the utility's RPS Program requirements shall not include the electric load covered by customers
815 certified as accelerated renewable energy buyers.

816 2. Each Phase I or Phase II Utility shall certify, and verify as necessary, to the Commission that the
817 accelerated renewable energy buyer has satisfied the exemption requirements of this subsection for each
818 year, or an accelerated renewable energy buyer may choose to certify satisfaction of this exemption by
819 reporting to the Commission individually. The Commission may promulgate such rules and regulations
820 as may be necessary to implement the provisions of this subsection.

821 3. Provided that no incremental costs associated with any contract between a Phase I or Phase II
822 Utility and an accelerated renewable energy buyer is allocated to or recovered from any other customer
823 of the utility, any such contract with an accelerated renewable energy buyer that is a jurisdictional
824 customer of the utility shall not be deemed a special rate or contract requiring Commission approval
825 pursuant to § 56-235.2.

826 H. No customer of a Phase II Utility with a peak demand in excess of 100 megawatts in 2019 that
827 elected pursuant to subdivision A 3 of § 56-577 to purchase electric energy from a competitive service
828 provider prior to April 1, 2019, shall be allocated any non-bypassable charges pursuant to subsection F
829 for such period that the customer is not purchasing electric energy from the utility, and such customer's
830 electric load shall not be included in the utility's RPS Program requirements. No customer of a Phase I
831 Utility that elected pursuant to subdivision A 3 of § 56-577 to purchase electric energy from a
832 competitive service provider prior to February 1, 2019, shall be allocated any non-bypassable charges
833 pursuant to subsection F for such period that the customer is not purchasing electric energy from the
834 utility, and such customer's electric load shall not be included in the utility's RPS Program requirements.

835 I. Nothing in this section shall apply to any entity organized under Chapter 9.1 (§ 56-231.15 et seq.).

836 J. The Commission shall adopt such rules and regulations as may be necessary to implement the
837 provisions of this section, including a requirement that participants verify whether the RPS Program
838 requirements are met in accordance with this section.

839 **2. That the sixth and eleventh enactments of Chapters Chapter 1193 and the sixth and eleventh**
840 **enactments of Chapter 1194 of the Acts of Assembly of 2020 are repealed.**

841 **3. That the Department of Energy, in cooperation with the Virginia Nuclear Energy Consortium**
842 **Authority, shall convene a stakeholder work group to identify strategies and any needed public**
843 **policies, including statutory or regulatory changes, for (i) promoting the development of advanced**
844 **small modular reactors in localities in the Commonwealth that formerly hosted fossil fuel electric**
845 **generation facilities and that have expressed interest in acting as a host site through resolution by**
846 **their governing board and (ii) siting such reactors on brownfield sites or former military sites in**
847 **such localities.**

848 **4. That the Department of Energy shall consider the economic development of rural Virginia a key**
849 **priority in completing its update to the Virginia Energy Plan scheduled for 2022.**

850 **5. That the Board of Trustees of the Center for Rural Virginia shall report to the Governor and**
851 **the General Assembly an initial report on development of a prime farmland map or repository**
852 **required by this act by December 1, 2022.**