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SENATE BILL NO. 596

Offered January 9, 2008

Prefiled January 9, 2008

A BILL to amend and reenact §§ 30-201, 30-202, 30-205, 30-209, 56-576, 56-579, 56-582, 56-592, 56-593, 56-596, 58.1-3814, 67-101, and 67-202 of the Code of Virginia and to repeal §§ 30-208 and 56-592.1 of the Code of Virginia, relating to the continuation of the Commission on Electric Utility Restructuring as the Re-regulation Oversight Commission.

Patron—Norment

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That §§ 30-201, 30-202, 30-205, 30-209, 56-576, 56-579, 56-582, 56-592, 56-593, 56-596, 58.1-3814, 67-101, and 67-202 of the Code of Virginia are amended and reenacted as follows:

CHAPTER 31.

RE-REGULATION OVERSIGHT COMMISSION ON ELECTRIC UTILITY RESTRUCTURING.

§ 30-201. Commission on Electric Utility Regulation continued as Re-regulation Oversight Commission; purpose.

The Commission on Electric Utility Restructuring established pursuant to Chapter 885 of the Acts of Assembly of 2003, is continued, effective July 1, 2008, as the Re-regulation Oversight Commission (the Commission) is established in within the legislative branch of state government. The purpose of the Commission is to work collaboratively with monitor the State Corporation Commission in conjunction with the phase-in of retail competition within the Commonwealth Commission's implementation of the Virginia Electric Utility Re-regulation Act (§ 56-576 et seq.).

§ 30-202. Membership; terms.

The Commission shall consist of 10 legislative members. Members shall be appointed as follows: four members of the Senate to be appointed by the Senate Committee on Rules and six members of the House of Delegates to be appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates.

Members of the Commission shall serve terms coincident with their terms of office. All members may be reappointed. Appointments to fill vacancies, other than by expiration of a term, shall be made for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments.

The Commission shall elect a chairman and vice-chairman from among its membership. The chairman of the Commission shall be authorized to designate one or more members of the Commission to observe and participate in the discussions of any work group convened by the State Corporation Commission in furtherance of its duties under the Virginia Electric Utility Restructuring Re-regulation Act (§ 56-576 et seq.) and this chapter. Members participating in such discussions shall be entitled to compensation and reimbursement provided in § 30-204, if approved by the Joint Rules Committee or its Budget Oversight Subcommittee.

§ 30-205. Powers and duties of the Commission.

The Commission shall have the following powers and duties:

1. Monitor the work of the State Corporation Commission in implementing Chapter 23 (§ 56-576 et seq.) of Title 56, receiving such reports as the Commission may be required to make pursuant thereto, including reviews, analyses, and impact on consumers of electric utility restructuring programs regulation in other states;

2. Determine whether, and on what basis, incumbent electric utilities should be permitted to discount capped generation rates established pursuant to § 56-582;

3. Monitor, after the commencement of customer choice and with the assistance of the State Corporation Commission and the Office of Attorney General, the incumbent electric utilities, suppliers, and retail customers, whether the recovery of stranded costs, as provided in § 56-584, has resulted or is likely to result in the overrecovery or underrecovery of just and reasonable net stranded costs;

4. Examine (i) utility worker protection during the transition to retail competition, (ii) generation, transmission and distribution systems reliability concerns, and (iii) energy assistance programs for low-income households;

5. Evaluate and assess the implications of the scheduled expiration of the capped rates established pursuant to § 56-582;

6. Establish one or more subcommittees, composed of its membership, persons with expertise in the matters under consideration by the Commission, or both, to meet at the direction of the chairman of

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the Commission, for any purpose within the scope of the duties prescribed to the Commission by this section, provided that such persons who are not members of the Commission shall serve without compensation but shall be entitled to be reimbursed from funds appropriated or otherwise available to the Commission for reasonable and necessary expenses incurred in the performance of their duties; and

7 4. Report annually to the General Assembly and the Governor ~~on the progress of each stage of the phase-in of retail competition and offer with~~ such recommendations as may be appropriate for legislative and administrative consideration in order to maintain *reliable service in the Commonwealth while preserving* the Commonwealth's position as a low-cost electricity market ~~and ensure that residential customers and small business customers benefit from competition.~~

§ 30-209. Sunset.

This chapter shall expire on July 1, 2008 ~~2010~~.

CHAPTER 23.

VIRGINIA ELECTRIC UTILITY RESTRUCTURING RE-REGULATION ACT.

§ 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.

"Commission" means the State Corporation Commission.

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

"Covered entity" means a provider in the Commonwealth of an electric service not subject to competition but shall 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.

"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.

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

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

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

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

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

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

"Period of transition to customer choice" means the period beginning on January 1, 2002, and ending on January 1, 2004, unless otherwise extended by the Commission pursuant to this chapter, during which the Commission and all electric utilities authorized to do business in the Commonwealth shall implement customer choice for retail customers in the Commonwealth.

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

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

"Renewable energy" means energy derived from sunlight, wind, falling water, sustainable biomass, energy from waste, wave motion, tides, and geothermal power, and does not include energy derived from coal, oil, natural gas or nuclear power.

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

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

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

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

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

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

§ 56-579. Regional transmission entities.

A. As set forth in § 56-577, each incumbent electric utility owning, operating, controlling, or having an entitlement to transmission capacity shall join or establish a regional transmission entity, which hereafter may be referred to as "RTE," to which such utility shall transfer the management and control of its transmission assets, subject to the following:

1. No such incumbent electric utility shall transfer to any person any ownership or control of, or any responsibility to operate, any portion of any transmission system located in the Commonwealth prior to July 1, 2004, and without obtaining, following notice and hearing, the prior approval of the Commission, as hereinafter provided. However, each incumbent electric utility shall file an application for approval pursuant to this section by July 1, 2003, and shall transfer management and control of its transmission assets to a regional transmission entity by January 1, 2005, subject to Commission approval as provided in this section.

2. The Commission shall develop rules and regulations under which any such incumbent electric utility owning, operating, controlling, or having an entitlement to transmission capacity within the Commonwealth, may transfer all or part of such control, ownership or responsibility to an RTE, upon such terms and conditions that the Commission determines will:

a. Promote:

(1) Practices for the reliable planning, operating, maintaining, and upgrading of the transmission systems and any necessary additions thereto; and

(2) Policies for the pricing and access for service over such systems that are safe, reliable, efficient, not unduly discriminatory and consistent with the orderly development of competition in the Commonwealth;

b. Be consistent with lawful requirements of the Federal Energy Regulatory Commission;

c. Be effectuated on terms that fairly compensate the transferor;

d. Generally promote the public interest, and are consistent with (i) ensuring that consumers' needs for economic and reliable transmission are met and (ii) meeting the transmission needs of electric generation suppliers both within and without this Commonwealth, including those that do not own, operate, control or have an entitlement to transmission capacity.

B. The Commission shall also adopt rules and regulations, with appropriate public input, establishing elements of regional transmission entity structures essential to the public interest, which elements shall be applied by the Commission in determining whether to authorize transfer of ownership or control from an incumbent electric utility to a regional transmission entity.

C. The Commission shall, to the fullest extent permitted under federal law, participate in any and all proceedings concerning regional transmission entities furnishing transmission services within the Commonwealth, before the Federal Energy Regulatory Commission. Such participation may include such intervention as is permitted state utility regulators under Federal Energy Regulatory Commission rules and procedures.

D. Nothing in this section shall be deemed to abrogate or modify:

1. The Commission's authority over transmission line or facility construction, enlargement or acquisition within this Commonwealth, as set forth in Chapter 10.1 (§ 56-265.1 et seq.) of this title;

2. The laws of this Commonwealth concerning the exercise of the right of eminent domain by a public service corporation pursuant to the provisions of Article 5 (§ 56-257 et seq.) of Chapter 10 of this title; or

3. The Commission's authority over retail electric energy sold to retail customers within the Commonwealth by licensed suppliers of electric service, including necessary reserve requirements, all as specified in § 56-587.

E. For purposes of this section, transmission capacity shall not include capacity that is primarily operated in a distribution function, as determined by the Commission, taking into consideration any binding federal precedents.

F. Any request to the Commission for approval of such transfer of ownership or control of or responsibility for transmission facilities shall include a study of the comparative costs and benefits thereof, which study shall analyze the economic effects of the transfer on consumers, including the effects of transmission congestion costs. The Commission may approve such a transfer if it finds, after notice and hearing, that the transfer satisfies the conditions contained in this section.

G. The Commission shall report annually to the *Re-regulation Oversight Commission on Electric Utility Restructuring* its assessment of the success in the practices and policies of the RTE facilitating the orderly development of competition in the Commonwealth. Such report shall set forth actions taken by the Commission regarding requests for the approval of any transfer of ownership or control of transmission facilities to an RTE, including a description of the economic effects of such proposed transfers on consumers.

§ 56-582. Rate caps.

A. The Commission shall establish capped rates, effective January 1, 2001, for each service territory of every incumbent utility as follows:

1. Capped rates shall be established for customers purchasing bundled electric transmission, distribution and generation services from an incumbent electric utility.

2. Capped rates for electric generation services, only, shall also be established for the purpose of effecting customer choice for those retail customers authorized under this chapter to purchase generation services from a supplier other than the incumbent utility during this period.

3. The capped rates established under this section shall be the rates in effect for each incumbent utility as of the effective date of this chapter, or rates subsequently placed into effect pursuant to a rate application filed by an incumbent electric utility with the Commission prior to January 1, 2001, and subsequently approved by the Commission, and made by an incumbent electric utility that is not currently bound by a rate case settlement adopted by the Commission that extends in its application beyond January 1, 2002. If such rate application is filed, the rates proposed therein shall go into effect on January 1, 2001, but such rates shall be interim in nature and subject to refund until such time as the Commission has completed its investigation of such application. Any amount of the rates found excessive by the Commission shall be subject to refund with interest, as may be ordered by the Commission. The Commission shall act upon such applications prior to commencement of the period of transition to customer choice January 1, 2002. Such rate application and the Commission's approval shall give due consideration, on a forward-looking basis, to the justness and reasonableness of rates to be effective for a period of time ending as late as July 1, 2007. The capped rates established under this section, which include rates, tariffs, electric service contracts, and rate programs (including experimental rates, regardless of whether they otherwise would expire), shall be such rates, tariffs, contracts, and programs of each incumbent electric utility, provided that experimental rates and rate programs may be closed to new customers upon application to the Commission. Such capped rates shall also include rates for new services where, subsequent to January 1, 2001, rate applications for any such rates are filed by incumbent electric utilities with the Commission and are thereafter approved by the Commission. In establishing such rates for new services, the Commission may use any rate method that promotes the public interest and that is fairly compensatory to any utilities requesting such rates.

B. The Commission may adjust such capped rates in connection with the following: (i) utilities' recovery of fuel and purchased power costs pursuant to § 56-249.6, and, if applicable, in accordance with the terms of any Commission order approving the divestiture of generation assets pursuant to § 56-590, (ii) any changes in the taxation by the Commonwealth of incumbent electric utility revenues, (iii) any financial distress of the utility beyond its control, (iv) with respect to cooperatives that were not members of a power supply cooperative on January 1, 1999, and as long as they do not become members, their cost of purchased wholesale power and discounts from capped rates to match the cost of providing distribution services, (v) with respect to cooperatives that were members of a power supply cooperative on January 1, 1999, their recovery of fuel costs, through the wholesale power cost adjustment clauses of their tariffs pursuant to § 56-231.33, and (vi) with respect to incumbent electric utilities that were not, as of the effective date of this chapter, bound by a rate case settlement adopted by the Commission that extended in its application beyond January 1, 2002, the Commission shall adjust such utilities' capped rates, not more than once in any 12-month period, for the timely recovery of their incremental costs for transmission or distribution system reliability and compliance with state or federal environmental laws or regulations to the extent such costs are prudently incurred on and after July 1, 2004. Any adjustments pursuant to § 56-249.6 and clause (i) of this subsection by an incumbent electric

utility that transferred all of its generation assets to an affiliate with the approval of the Commission pursuant to § 56-590 prior to January 1, 2002, shall be effective only on and after July 1, 2007. Notwithstanding the provisions of § 56-249.6, the Commission may authorize tariffs that include incentives designed to encourage an incumbent electric utility to reduce its fuel costs by permitting retention of a portion of cost savings resulting from fuel cost reductions or by other methods determined by the Commission to be fair and reasonable to the utility and its customers.

C. A utility may petition the Commission to terminate the capped rates to all customers any time after January 1, 2004, and such capped rates may be terminated upon the Commission finding of an effectively competitive market for generation services within the service territory of that utility. If its capped rates, as established and adjusted from time to time pursuant to subsections A and B, are continued after January 1, 2004, an incumbent electric utility that is not, as of the effective date of this chapter, bound by a rate case settlement adopted by the Commission that extends in its application beyond January 1, 2002, may petition the Commission, during the period January 1, 2004, through June 30, 2007, for approval of a one-time change in its rates, and if the capped rates are continued after July 1, 2007, such incumbent electric utility may at any time after July 1, 2007, petition the Commission for approval of a one-time change in its rates. Any change in rates pursuant to this subsection by an incumbent electric utility that divested its generation assets with approval of the Commission pursuant to § 56-590 prior to January 1, 2002, shall be in accordance with the terms of any Commission order approving such divestiture. Any petition for changes to capped rates filed pursuant to this subsection shall be governed by the provisions of Chapter 10 (§ 56-232 et seq.) of this title.

D. Until the expiration or termination of capped rates as provided in this section, the incumbent electric utility, consistent with the functional separation plan implemented under § 56-590, shall make electric service available at capped rates established under this section to any customer in the incumbent electric utility's service territory, including any customer that, until the expiration or termination of capped rates, requests such service after a period of utilizing service from another supplier.

E. During the period when capped rates are in effect for an incumbent electric utility, such utility may file with the Commission a plan describing the method used by such utility to assure full funding of its nuclear decommissioning obligation and specifying the amount of the revenues collected under either the capped rates, as provided in this section, or the wires charges, as provided in former § 56-583, that are dedicated to funding such nuclear decommissioning obligation under the plan. The Commission shall approve the plan upon a finding that the plan is not contrary to the public interest.

F. The capped rates established pursuant to this section shall expire on December 31, 2008, unless sooner terminated by the Commission pursuant to the provisions of subsection C; however, rates after the expiration or termination of capped rates shall equal capped rates until such rates are changed pursuant to other provisions of this title.

§ 56-592. Consumer protection.

A. The Commission shall develop a consumer education program designed to provide the following information to retail customers during the period of transition to retail competition and thereafter:

1. Opportunities and options in choosing (i) suppliers and aggregators of electric energy and (ii) any other service made competitive pursuant to this chapter;

2. Marketing and billing information suppliers and aggregators of electric energy will be required to furnish retail customers;

3. Retail customers' rights and obligations concerning the purchase of electric energy and related services; and

4. Such other information as the Commission may deem necessary and appropriate in the public interest.

B. The Commission shall complete the development of the consumer education program described in subsection A, and report its findings and recommendations to the Commission on Electric Utility Restructuring on or before December 1, 1999, and as frequently thereafter as may be required by such Commission concerning:

1. The scope of such recommended program consistent with the requirements of subsection A;

2. Materials and media required to effectuate any such program;

3. State agency and nongovernmental entity participation;

4. Program duration;

5. Funding requirements and mechanisms for any such program; and

6. Such other findings and recommendations the Commission deems appropriate in the public interest.

C. The Commission shall develop regulations governing marketing practices by public service companies, licensed suppliers, aggregators or any other providers of services made competitive by this chapter, including regulations to prevent unauthorized switching of suppliers, unauthorized charges, and improper solicitation activities. The Commission shall also establish standards for marketing information

305 to be furnished by licensed suppliers, aggregators or any other providers of services made competitive
306 by this chapter ~~during the period of transition to retail competition, and thereafter~~, which information
307 shall include standards concerning:

- 308 1. Pricing and other key contract terms and conditions;
- 309 2. To the extent feasible, fuel mix and emissions data on at least an annualized basis;
- 310 3. Customer's rights of cancellation following execution of any contract;
- 311 4. Toll-free telephone number for customer assistance; and
- 312 5. Such other and further marketing information as the Commission may deem necessary and
313 appropriate in the public interest.

314 ~~DB.~~ The Commission shall also establish standards for billing information to be furnished by public
315 service companies, suppliers, aggregators or any other providers of services made competitive by this
316 chapter ~~during the period of transition to retail competition, and thereafter~~. Such billing information
317 standards shall require that billing formation:

- 318 1. Distinguishes between charges for regulated services and unregulated services;
- 319 2. ~~Itemizes any and all nonbypassable wires charges;~~
- 320 3. Is presented in a format that complies with standards to be established by the Commission;
- 321 4. Discloses, to the extent feasible, fuel mix and emissions data on at least an annualized basis; and
- 322 5. Includes such other billing information as the Commission deems necessary and appropriate in
323 the public interest.

324 ~~EC.~~ The Commission shall establish or maintain a complaint bureau for the purpose of receiving,
325 reviewing and investigating complaints by retail customers against public service companies, licensed
326 suppliers, aggregators and other providers of any services made competitive under this chapter. Upon the
327 request of any interested person or the Attorney General, or upon its own motion, the Commission shall
328 be authorized to inquire into possible violations of this chapter and to enjoin or punish any violations
329 thereof pursuant to its authority under this chapter, this title, and under Title 12.1. The Attorney General
330 shall have a right to participate in such proceedings consistent with the Commission's Rules of Practice
331 and Procedure.

332 ~~FD.~~ The Commission shall establish reasonable limits on customer security deposits required by
333 public service companies, suppliers, aggregators or any other persons providing competitive services
334 pursuant to this chapter.

335 § 56-593. Retail customers' private right of action; marketing practices.

336 A. No entity subject to this chapter shall use any deception, fraud, false pretense, misrepresentation,
337 or any deceptive or unfair practices in providing, distributing or marketing electric service.

338 B. 1. Any person who suffers loss (i) as the result of marketing practices, including telemarketing
339 practices, engaged in by any public service company, licensed supplier, aggregator or any other provider
340 of any service made competitive under this chapter, and in violation of subsection C A of § 56-592,
341 including any rule or regulation adopted by the Commission pursuant thereto, or (ii) as the result of any
342 violation of subsection A, shall be entitled to initiate an action to recover actual damages, or \$500,
343 whichever is greater. If the trier of fact finds that the violation was willful, it may increase damages to
344 an amount not exceeding three times the actual damages sustained, or \$1,000, whichever is greater.

345 2. Upon referral from the Commission, the Attorney General, the attorney for the Commonwealth, or
346 the attorney for any city, county, or town may cause an action to be brought in the appropriate circuit
347 court for relief of violations within the scope of (i) subsection C A of § 56-592, including any rule or
348 regulation adopted by the Commission pursuant thereto or (ii) subsection A.

349 C. Notwithstanding any other provision of law to the contrary, in addition to any damages awarded,
350 such person, or any governmental agency initiating such action, also may be awarded reasonable
351 attorney's fees and court costs.

352 D. Any action pursuant to this section shall be commenced within two years after its accrual. The
353 cause of action shall accrue as provided in § 8.01-230. However, if the Commission initiates
354 proceedings, or any other governmental agency files suit for the purpose of enforcing subsection A of
355 this section or the provisions of subsection C A of § 56-592, the time during which such proceeding or
356 governmental suit and all appeals therefrom is pending shall not be counted as any part of the period
357 within which an action under this section shall be brought.

358 E. The circuit court may make such additional orders or decrees as may be necessary to restore to
359 any identifiable person any money or property, real, personal, or mixed, tangible or intangible, which
360 may have been acquired from such person by means of any act or practice violative of subsection A of
361 this section or subsection C A of § 56-592, provided, that such person shall be identified by order of the
362 court within 180 days from the date of any order permanently enjoining the unlawful act or practice.

363 F. In any case arising under this section, no liability shall be imposed upon any licensed supplier,
364 aggregator or any other provider of any service made competitive under this chapter, who shows by a
365 preponderance of the evidence that (i) the act or practice alleged to be in violation of subsection A of
366 this section or subsection C A of § 56-592 was an act or practice over which the same had no control or

(ii) the alleged violation resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adopted to avoid a violation. However, nothing in this section shall prevent the court from ordering restitution and payment of reasonable attorney's fees and court costs pursuant to subsection C to individuals aggrieved as a result of an unintentional violation of subsection A of this section or subsection C of § 56-592.

§ 56-596. Consideration of economic development; report.

A. In all relevant proceedings pursuant to this Act, the Commission shall take into consideration, among other things, the goals of advancement of competition and goal of economic development in the Commonwealth.

B. By September 1 of each year, the Commission shall report to the *Re-regulation Oversight Commission on Electric Utility Restructuring* and the Governor information on the status of competition in the Commonwealth, the status of the development of regional competitive markets, the implementation of this chapter and its recommendations to facilitate effective competition in the Commonwealth as soon as practical regarding the implementation of the provisions of this chapter. This report shall include any the Commission's recommendations of for any actions to be taken by the General Assembly, the Commission, electric utilities, suppliers, generators, distributors and regional transmission entities it or any other entity that the Commission considers to be in the public interest. Such recommendations shall include actions regarding the supply and demand balance for generation services, new and existing generation capacity, transmission constraints, market power, suppliers licensed and operating in the Commonwealth, and the shared or joint use of generation sites.

§ 58.1-3814. Water or heat, light and power companies.

A. Any county, city or town may impose a tax on the consumers of the utility service or services provided by any water or heat, light and power company or other corporations coming within the provisions of Chapter 26 (§ 58.1-2600 et seq.) of this title, which tax shall not be imposed at a rate in excess of 20 percent of the monthly amount charged to consumers of the utility service and shall not be applicable to any amount so charged in excess of \$15 per month for residential customers. Any city, town or county that on July 1, 1972, imposed a utility consumer tax in excess of limits specified herein may continue to impose such a tax in excess of such limits, but no more. For taxable years beginning on and after January 1, 2001, any tax imposed by a county, city or town on consumers of electricity shall be imposed pursuant to subsections C through J of this section only.

B. Any tax enacted pursuant to the provisions of this section, or any change in a tax or structure already in existence, shall not be effective until 60 days subsequent to written notice by certified mail from the county, city or town imposing such tax or change thereto, to the registered agent of the utility corporation that is required to collect the tax.

C. Any county, city or town may impose a tax on the consumers of services provided within its jurisdiction by any electric light and power, water or gas company owned by another municipality; provided, that no county shall be authorized under this section to impose a tax within a municipality on consumers of services provided by an electric light and power, water or gas company owned by that municipality. Any county tax imposed hereunder shall not apply within the limits of any incorporated town located within such county which town imposes a town tax on consumers of utility service or services provided by any corporation coming within the provisions of Chapter 26 (§ 58.1-2600 et seq.) of this title, provided that such town (i) provides police or fire protection, and water or sewer services, provided that any such town served by a sanitary district or service authority providing water or sewer services or served by the county in which the town is located when such service or services are provided pursuant to an agreement between the town and county shall be deemed to be providing such water and sewer services itself, or (ii) constitutes a special school district and is operated as a special school district under a town school board of three members appointed by the town council.

Any county, city or town may provide for an exemption from the tax for any public safety answering point as defined in § 58.1-3813.1.

Any municipality required to collect a tax imposed under authority of this section for another city or county or town shall be entitled to a reasonable fee for such collection.

D. In a consolidated county wherein a tier-city exists, any county tax imposed hereunder shall apply within the limits of any tier-city located in such county, as may be provided in the agreement or plan of consolidation, and such tier-city may impose a tier-city tax on the same consumers of utility service or services, provided that the combined county and tier-city rates do not exceed the maximum permitted by state law.

E. The tax authorized by this section shall not apply to utility sales of products used as motor vehicle fuels.

F.1. Any county, city or town may impose a tax on consumers of electricity provided by electric suppliers as defined in § 58.1-400.2.

The tax so imposed shall be based on kilowatt hours delivered monthly to consumers, and shall not

428 exceed the limits set forth in this subsection. The provider of billing services shall bill the tax to all
429 users who are subject to the tax and to whom it bills for electricity service, and shall remit such tax to
430 the appropriate locality in accordance with § 58.1-2901. Any locality that imposed a tax pursuant to this
431 section prior to January 1, 2001, based on the monthly revenue amount charged to consumers of
432 electricity shall convert its tax to a tax based on kilowatt hours delivered monthly to consumers, taking
433 into account minimum billing charges. The kilowatt hour tax rates shall, to the extent practicable: (i)
434 avoid shifting the amount of the tax among electricity consumer classes and (ii) maintain annual
435 revenues being received by localities from such tax at the time of the conversion. The current service
436 provider shall provide to localities no later than August 1, 2000, information to enable localities to
437 convert their tax. The maximum amount of tax imposed on residential consumers as a result of the
438 conversion shall be limited to \$3 per month, except any locality that imposed a higher maximum tax on
439 July 1, 1972, may continue to impose such higher maximum tax on residential consumers at an amount
440 no higher than the maximum tax in effect prior to January 1, 2001, as converted to kilowatt hours. For
441 nonresidential consumers, the initial maximum rate of tax imposed as a result of the conversion shall be
442 based on the annual amount of revenue received from each class of nonresidential consumers in calendar
443 year 1999 for the kilowatt hours used that year. Kilowatt hour tax rates imposed on nonresidential
444 consumers shall be based at a class level on such factors as existing minimum charges, the amount of
445 kilowatt hours used, and the amount of consumer utility tax paid in calendar year 1999 on the same
446 kilowatt hour usage. The limitations in this section on kilowatt hour rates for nonresidential consumers
447 shall not apply after January 1, 2004, which is the scheduled date of completion of the electric
448 deregulation transition period pursuant to the Virginia Electric Utility Restructuring Act (§ 56-576 et
449 seq.). On or before October 31, 2000, any locality imposing a tax on consumers of electricity shall duly
450 amend its ordinance under which such tax is imposed so that the ordinance conforms to the
451 requirements of subsections C through J of this section. Notice of such amendment shall be provided to
452 service providers in a manner consistent with subsection B of this section except that "registered agent
453 of the provider of billing services" shall be substituted for "registered agent of the utility corporation."
454 Any conversion of a tax to conform to the requirements of this subsection shall not be effective before
455 the first meter reading after December 31, 2000, prior to which time the tax previously imposed by the
456 locality shall be in effect.

457 2. For purposes of this section, "kilowatt hours delivered" shall mean in the case of eligible
458 customer-generators, as defined in § 56-594, those kilowatt hours supplied from the electric grid to such
459 customer-generators, minus the kilowatt hours generated and fed back to the electric grid by such
460 customer-generators.

461 G. Until the consumer pays the tax to such provider of billing services, the tax shall constitute a debt
462 to the locality. If any consumer receives and pays for electricity but refuses to pay the tax on the bill
463 that is imposed by a locality, the provider of billing services shall notify the locality of the name and
464 address of such consumer. If any consumer fails to pay a bill issued by a provider of billing services,
465 including the tax imposed by a locality as stated thereon, the provider of billing services shall follow its
466 normal collection procedures with respect to the charge for electric service and the tax, and upon
467 collection of the bill or any part thereof shall (i) apportion the net amount collected between the charge
468 for electric service and the tax and (ii) remit the tax portion to the appropriate locality. After the
469 consumer pays the tax to the provider of billing services, the taxes shall be deemed to be held in trust
470 by such provider of billing services until remitted to the localities.

471 H. Any county, city or town may impose a tax on consumers of natural gas provided by pipeline
472 distribution companies and gas utilities. The tax so imposed shall be based on CCF delivered monthly to
473 consumers and shall not exceed the limits set forth in this subsection. The pipeline distribution company
474 or gas utility shall bill the tax to all users who are subject to the tax and to whom it delivers gas and
475 shall remit such tax to the appropriate locality in accordance with § 58.1-2905. Any locality that
476 imposed a tax pursuant to this section prior to January 1, 2001, based on the monthly revenue amount
477 charged to consumers of gas shall convert to a tax based on CCF delivered monthly to consumers,
478 taking into account minimum billing charges. The CCF tax rates shall, to the extent practicable: (i)
479 avoid shifting the amount of the tax among gas consumer classes and (ii) maintain annual revenues
480 being received by localities from such tax at the time of the conversion. Current pipeline distribution
481 companies and gas utilities shall provide to localities not later than August 1, 2000, information to
482 enable localities to convert their tax. The maximum amount of tax imposed on residential consumers as
483 a result of the conversion shall be limited to \$3 per month, except any locality that imposed a higher
484 maximum tax on July 1, 1972, may continue to impose such higher maximum tax on residential
485 consumers at an amount no higher than the maximum tax in effect prior to January 1, 2001, as
486 converted to CCF. For nonresidential consumers, the initial maximum rate of tax imposed as a result of
487 the conversion shall be based on the annual amount of revenue received and due from each of the
488 nonresidential gas purchase and gas transportation classes in calendar year 1999 for the CCF used that
489 year. CCF tax rates imposed on nonresidential consumers shall be based at a class level on such factors

as existing minimum charges, the amount of CCF used, and the amount of consumer utility tax paid and due in calendar year 1999 on the same CCF usage. The initial maximum rate of tax imposed under this section shall continue, unless lowered, until December 31, 2003. Beginning January 1, 2004, nothing in this section shall be construed to prohibit or limit any locality from imposing a consumer utility tax on nonresidential customers up to the amount authorized by subsection A.

On or before October 31, 2000, any locality imposing a tax on consumers of gas shall duly amend its ordinance under which such tax is imposed so that the ordinance conforms to the requirements of subsections C through J of this section. Notice of such amendment shall be provided to pipeline distribution companies and gas utilities in a manner consistent with subsection B except that "registered agent of the pipeline distribution company or gas utility" shall be substituted for "registered agent of the utility corporation." Any conversion of a tax to conform to the requirements of this subsection shall not be effective before the first meter reading after December 31, 2000, prior to which time the tax previously imposed by the locality shall be in effect.

I. Until the consumer pays the tax to such gas utility or pipeline distribution company, the tax shall constitute a debt to the locality. If any consumer receives and pays for gas but refuses to pay the tax that is imposed by the locality, the gas utility or pipeline distribution company shall notify the localities of the names and addresses of such consumers. If any consumer fails to pay a bill issued by a gas utility or pipeline distribution company, including the tax imposed by a locality, the gas utility or pipeline distribution company shall follow its normal collection procedures with regard to the charge for the gas and the tax and upon collection of the bill or any part thereof shall (i) apportion the net amount collected between the charge for gas service and the tax and (ii) remit the tax portion to the appropriate locality. After the consumer pays the tax to the gas utility or pipeline distribution company, the taxes shall be deemed to be held in trust by such gas utility or pipeline distribution company until remitted to the localities.

J. For purposes of this section:

"Class of consumers" means a category of consumers served under a rate schedule established by the pipeline distribution company and approved by the State Corporation Commission.

"Gas utility" has the same meaning as provided in § 56-235.8.

"Pipeline distribution company" has the same meaning as provided in § 58.1-2600.

"Service provider" and "provider of billing services" have the same meanings as provided in subsection E of § 58.1-2901, and "class" of consumers means a category of consumers defined as a class by their service provider.

K. Nothing in this section shall prohibit a locality from enacting an ordinance or other local law to allow such locality to impose a tax on consumers of natural gas provided by pipeline distribution companies and gas utilities, beginning at such time as natural gas service is first made available in such locality. The maximum amount of tax imposed on residential consumers based on CCF delivered monthly to consumers shall not exceed \$3 per month. The maximum tax rate imposed by such locality on nonresidential consumers based on CCF delivered monthly to consumers shall not exceed an average of the tax rates on nonresidential consumers of natural gas in effect (at the time natural gas service is first made available in such locality) in localities whose residents are being provided natural gas from the same pipeline distribution company or gas utility or both that is also providing natural gas to the residents of such locality. Beginning January 1, 2004, the tax rates for residential and nonresidential consumers of natural gas in such locality shall be determined in accordance with the provisions of subsection H.

§ 67-101. Energy objectives.

The Commonwealth recognizes each of the following objectives pertaining to energy issues will advance the health, welfare, and safety of the residents of the Commonwealth:

1. Ensuring the availability of reliable energy at costs that are reasonable and in quantities that will support the Commonwealth's economy;

2. Managing the rate of consumption of existing energy resources in relation to economic growth;

3. Establishing sufficient supply and delivery infrastructure to maintain reliable energy availability in the event of a disruption occurring to a portion of the Commonwealth's energy matrix;

4. Using energy resources more efficiently;

5. Facilitating conservation;

6. Optimizing intrastate and interstate use of energy supply and delivery to maximize energy availability, reliability, and price opportunities to the benefit of all user classes and the Commonwealth's economy as stated in subdivision 2 of § 67-100;

7. Increasing Virginia's reliance on sources of energy that, compared to traditional energy resources, are less polluting of the Commonwealth's air and waters;

8. Researching the efficacy, cost, and benefits of reducing, avoiding, or sequestering the emissions of greenhouse gases produced in connection with the generation of energy;

551 9. Removing impediments to the use of abundant low-cost energy resources located within and
552 outside the Commonwealth and ensuring the economic viability of the producers, especially those in the
553 Commonwealth, of such resources;

554 10. Developing energy resources and facilities in a manner that does not impose a disproportionate
555 adverse impact on economically disadvantaged or minority communities;

556 11. Recognizing the need to foster those economically developable alternative sources of energy that
557 can be provided at market prices as vital components of a diversified portfolio of energy resources; and

558 12. Increasing Virginia's reliance on biodiesel and ethanol produced from corn, soybeans, hullless
559 barley, and other suitable crops grown in the Commonwealth that will create jobs and income, produce
560 clean-burning fuels that will help to improve air quality, and provide the new markets for Virginia's
561 agricultural products needed to preserve farm employment, conserve farmland, and help pay for
562 agricultural best management practices to protect water quality.

563 Nothing in this section shall be deemed to abrogate or modify in any way the provisions of the
564 Virginia Electric Utility Restructuring Re-regulation Act (§ 56-576 et seq.).

565 § 67-202. Schedule.

566 A. The Division shall complete the Plan by July 1, 2007.

567 B. Prior to completion of the Plan *and updates thereof*, the Division shall present drafts to, and
568 consult with, the Coal and Energy Commission and the *Re-regulation Oversight Commission on Electric*
569 *Utility Restructuring*.

570 C. The Plan shall be updated by the Division no less frequently than every five years.

571 **2. That §§ 30-208 and 56-592.1 of the Code of Virginia are repealed.**