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HOUSE BILL NO. 2155

Offered January 14, 2009

Prefiled January 14, 2009

A *BILL to amend and reenact § 56-594 of the Code of Virginia, relating to electric utility service; net energy metering.*

Patrons—Toscano, Caputo, Hugo, Lingamfelter, McClellan, Peace, Plum and Valentine

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That § 56-594 of the Code of Virginia is amended and reenacted as follows:

§ 56-594. Net energy metering provisions.

A. The Commission shall establish by regulation a program, to begin no later than July 1, 2000, ~~which that~~ affords eligible customer-generators the opportunity to participate in net energy metering, ~~and a program, to begin no later than July 1, 2010, that affords eligible aggregating customers the opportunity to participate in net energy metering as provided in subsection F.~~ The regulations may include, but need not be limited to, requirements for (i) retail sellers; (ii) owners and/or operators of distribution or transmission facilities; (iii) providers of default service; (iv) eligible customer-generators; (v) *eligible aggregating customers*; or ~~(vi)~~ any combination of the foregoing, as the Commission determines will facilitate the provision of net energy metering, provided that the Commission determines that such requirements do not adversely affect the public interest.

B. For the purpose of this section:

"Eligible aggregating customer" means a retail customer that (i) receives electric service at more than one separately metered location within the certificated service territory of an electric service provider, and (ii) is an eligible customer-generator at one or more of such locations.

"Eligible customer-generator" means a customer that owns and operates, or contracts with other persons to own, operate, or both, an electrical generating facility that (i) has a capacity of not more than 10 kilowatts for residential customers and ~~500 kilowatts~~ two megawatts for nonresidential customers; (ii) uses as its total source of fuel renewable energy, as defined in § 56-576; (iii) is located on the customer's premises and is connected to the customer's wiring on the customer's side of its interconnection with the distributor; (iv) is interconnected and operated in parallel with an electric company's transmission and distribution facilities; and (v) is intended primarily to offset all or part of the customer's own electricity requirements.

"Net energy metering" means measuring the difference, over the net metering period, between (i) electricity supplied to an eligible customer-generator *or eligible aggregating customer* from the electric grid and (ii) the electricity generated and fed back to the electric grid by the eligible customer-generator *or eligible aggregating customer, as appropriate.*

"Net metering period" means the 12-month period following the date of final interconnection of the eligible customer-generator's system with an electric service provider, and each 12-month period thereafter.

"Participating facility" means a facility operated by an eligible aggregating customer that the eligible aggregating customer designates for participation in a net energy metering program pursuant to subsection F.

C. The Commission's regulations shall ensure that the metering equipment installed for net metering shall be capable of measuring the flow of electricity in two directions, and shall allocate fairly the cost of such equipment and any necessary interconnection. An eligible customer-generator's electrical generating system shall meet all applicable safety and performance standards established by the National Electrical Code, the Institute of Electrical and Electronics Engineers, and accredited testing laboratories such as Underwriters Laboratories. Beyond the requirements set forth in this section, an eligible customer-generator whose electrical generating system meets those standards and rules shall bear the reasonable cost, if any, as determined by the Commission, to (i) install additional controls, (ii) perform or pay for additional tests, or (iii) purchase additional liability insurance.

D. The Commission shall establish minimum requirements for contracts to be entered into by the parties to net metering arrangements. Such requirements shall protect the customer-generator *or the eligible aggregating customer* against discrimination by virtue of its status as a customer-generator *or eligible aggregating customer.*

E. If electricity generated by an eligible customer-generator over the net metering period exceeds the electricity consumed by the customer-generator, the customer-generator shall be compensated for the

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59 excess electricity if the entity contracting to receive such electric energy and the customer-generator
60 enter into a power purchase agreement for such excess electricity. If the eligible customer-generator
61 receives generation service from a default service provider, the default service provider, upon the written
62 request of the customer-generator, shall enter into a power purchase agreement with the requesting
63 eligible customer-generator that is consistent with the minimum requirements for contracts established by
64 the Commission pursuant to subsection D. The power purchase agreement shall obligate the default
65 service provider to purchase such excess electricity at the rate that is provided for such purchases in a
66 net metering standard contract or tariff approved by the Commission, unless the parties agree to a higher
67 rate; *however, the customer-generator shall be compensated at an amount that is at least equal to the*
68 *retail tariff rate that the customer-generator is charged for its electricity consumption by the default*
69 *service provider.* The net metering standard contract or tariff shall be available to eligible
70 customer-generators on a first-come, first-served basis in each electric distribution company's Virginia
71 service area until the rated generating capacity owned and operated by eligible customer-generators in
72 the state reaches one percent of each electric distribution company's adjusted Virginia peak-load forecast
73 for the previous year, and shall require the default service provider to pay the eligible
74 customer-generator for such excess electricity in a timely manner at a rate to be established by the
75 Commission.

76 *F. The program to afford eligible aggregating customers the opportunity to participate in net energy*
77 *metering shall provide that:*

78 *1. The electric service provider shall treat each participating facility of an eligible aggregating*
79 *customer as a single facility for purposes of billing and the application of all net metering provisions of*
80 *this section;*

81 *2. If electricity generated at a participating facility of the eligible aggregating customer over a net*
82 *metering period exceeds the consumption of electricity by the eligible aggregating customer at the*
83 *participating facility, such excess shall be credited in the same net metering period against such*
84 *consumption by the eligible aggregating customer at its other participating facilities;*

85 *3. The crediting of excess generation to consumption at other participating facilities of the eligible*
86 *aggregating customer shall comply with the provisions of subsection E;*

87 *4. The power purchase agreement shall obligate the electric service provider to purchase excess*
88 *electricity generated by the eligible aggregating customer at the rate as provided in subsection E, which*
89 *excess shall be calculated by netting the electricity generated by all of the participating facilities of the*
90 *eligible aggregating customer against the electricity consumed by all of the participating facilities of the*
91 *eligible aggregating customer;*

92 *5. An eligible aggregating customer shall not be required to designate all of its facilities within an*
93 *electric service provider's certificated service territory as participating facilities; and*

94 *6. Each participating facility shall receive electric service under the same rate schedule.*