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HOUSE BILL NO. 1695

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the House Committee on Commerce and Labor
on January 31, 2013)

(Patron Prior to Substitute—Delegate Minchew)

A BILL to amend and reenact § 56-594 of the Code of Virginia, relating to renewable energy incentives through net metering programs.

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, that affords eligible customer-generators the opportunity to participate in net energy metering, and a program, to begin no later than July 1, 2014, for customers of investor-owned utilities and no later than July 1, 2015, for customers of electric cooperatives, to afford eligible agricultural customer-generators the opportunity to participate in net energy metering. The regulations may include, but need not be limited to, requirements for (i) retail sellers; (ii) owners and/or or operators of distribution or transmission facilities; (iii) providers of default service; (iv) eligible customer-generators; (v) eligible agricultural customer-generators; or (v) (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 agricultural customer-generator" means a customer that operates a renewable energy generating facility as part of an agricultural business, which generating facility (i) uses as its sole energy source solar power, wind power, or aerobic or anaerobic digester gas, (ii) does not have an aggregate generation capacity of more than 500 kilowatts, (iii) is located on land owned or controlled by the agricultural business, (iv) is connected to the customer's wiring on the customer's side of its interconnection with the distributor; (v) is interconnected and operated in parallel with an electric company's transmission and distribution facilities, and (vi) is used primarily to provide energy to metered accounts of the agricultural business. An eligible agricultural customer-generator may be served by multiple meters that are located at separate but contiguous sites, such that the eligible agricultural customer-generator may aggregate in a single account the electricity consumption and generation measured by the meters, provided that the same utility serves all such meters. The aggregated load shall be served under the appropriate tariff.

"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 20 kilowatts for residential customers and 500 kilowatts for nonresidential customers unless a utility elects a higher capacity limit for such a facility; (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 agricultural customer-generator from the electric grid and (ii) the electricity generated and fed back to the electric grid by the eligible customer-generator or eligible agricultural customer-generator.

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

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. Such regulations shall allocate fairly the cost of such equipment and any necessary interconnection. An eligible customer-generator's electrical generating system, and each electrical generating system of an eligible agricultural customer-generator, 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 or eligible agricultural 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) (a) install additional controls, (ii) (b) perform or pay for additional tests, or (iii) (c) purchase additional liability insurance.

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60 D. The Commission shall establish minimum requirements for contracts to be entered into by the
61 parties to net metering arrangements. Such requirements shall protect the *eligible* customer-generator or
62 *eligible agricultural customer-generator* against discrimination by virtue of its status as a *an eligible*
63 *customer-generator or eligible agricultural customer-generator*, and permit customers that are served on
64 time-of-use tariffs that have electricity supply demand charges contained within the electricity supply
65 portion of the time-of-use tariffs to participate as an eligible customer-generator or *eligible agricultural*
66 *customer-generator*. Notwithstanding the cost allocation provisions of subsection C, eligible
67 customer-generators or *eligible agricultural customer-generators* served on demand charge-based
68 time-of-use tariffs shall bear the incremental metering costs required to net meter such customers.

69 E. If electricity generated by an eligible customer-generator or *eligible agricultural*
70 *customer-generator* over the net metering period exceeds the electricity consumed by the *eligible*
71 *customer-generator or eligible agricultural customer-generator*, the customer-generator or *eligible*
72 *agricultural customer-generator* shall be compensated for the excess electricity if the entity contracting
73 to receive such electric energy and the *eligible* customer-generator or *eligible agricultural*
74 *customer-generator* enter into a power purchase agreement for such excess electricity. Upon the written
75 request of the *eligible* customer-generator or *eligible agricultural customer-generator*, the supplier that
76 serves the eligible customer-generator or *eligible agricultural customer-generator* shall enter into a
77 power purchase agreement with the requesting eligible customer-generator or *eligible agricultural*
78 *customer-generator* that is consistent with the minimum requirements for contracts established by the
79 Commission pursuant to subsection D. The power purchase agreement shall obligate the supplier to
80 purchase such excess electricity at the rate that is provided for such purchases in a net metering standard
81 contract or tariff approved by the Commission, unless the parties agree to a higher rate. The eligible
82 customer-generator or *eligible agricultural customer-generator* owns ~~the~~ *any* renewable energy
83 certificates associated with its electrical generating facility; however, at the time that the eligible
84 customer-generator or *eligible agricultural customer-generator* enters into a power purchase agreement
85 with its supplier, the *eligible* customer-generator or *eligible agricultural customer-generator* shall have a
86 one-time option to sell the renewable energy certificates associated with such electrical generating
87 facility to its supplier and be compensated at an amount that is established by the Commission to reflect
88 the value of such renewable energy certificates. Nothing in this section shall prevent the eligible
89 customer-generator or *eligible agricultural customer-generator* and the supplier from voluntarily entering
90 into an agreement for the sale and purchase of excess electricity or renewable energy certificates at
91 mutually-agreed upon prices if the eligible customer-generator or *eligible agricultural*
92 *customer-generator* does not exercise its option to sell its renewable energy certificates to its supplier at
93 Commission-approved prices at the time that the eligible customer-generator or *eligible agricultural*
94 *customer-generator* enters into a power purchase agreement with its supplier. All costs incurred by the
95 supplier to purchase excess electricity and renewable energy certificates from eligible
96 customer-generators or *eligible agricultural customer-generators* shall be recoverable through its
97 Renewable Energy Portfolio Standard (RPS) rate adjustment clause, if the supplier has a
98 Commission-approved RPS plan. If not, then all costs shall be recoverable through the supplier's fuel
99 adjustment clause. For purposes of this section, "all costs" shall be defined as the rates paid to the
100 eligible customer-generator or *eligible agricultural customer-generator* for the purchase of excess
101 electricity and renewable energy certificates and any administrative costs incurred to manage the eligible
102 customer-generator's or *eligible agricultural customer-generator's* power purchase arrangements. The net
103 metering standard contract or tariff shall be available to eligible customer-generators or *eligible*
104 *agricultural customer-generators* on a first-come, first-served basis in each electric distribution
105 company's Virginia service area until the rated generating capacity owned and operated by eligible
106 customer-generators or *eligible agricultural customer-generators* in the state reaches one percent of each
107 electric distribution company's adjusted Virginia peak-load forecast for the previous year, and shall
108 require the supplier to pay the eligible customer-generator or *eligible agricultural customer-generator* for
109 such excess electricity in a timely manner at a rate to be established by the Commission.

110 F. Any residential eligible customer-generator or *eligible agricultural customer-generator* who owns
111 and operates, or contracts with other persons to own, operate, or both, an electrical generating facility
112 with a capacity that exceeds 10 kilowatts shall pay to its supplier, in addition to any other charges
113 authorized by law, a monthly standby charge. The amount of the standby charge and the terms and
114 conditions under which it is assessed shall be in accordance with a methodology developed by the
115 supplier and approved by the Commission. The Commission shall approve a supplier's proposed standby
116 charge methodology if it finds that the standby charges collected from all such eligible
117 customer-generators and *eligible agricultural customer-generators* allow the supplier to recover only the
118 portion of the supplier's infrastructure costs that are properly associated with serving such eligible
119 customer-generators or *eligible agricultural customer-generators*. Such an eligible customer-generator or
120 *eligible agricultural customer-generator* shall not be liable for a standby charge until the date specified
121 in an order of the Commission approving its supplier's methodology.