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HOUSE BILL NO. 879

Offered January 8, 2014

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A BILL to amend and reenact §§ 56-589 and 56-594 of the Code of Virginia, relating to electric utility regulation; renewable energy incentives through net energy metering programs; multifamily net metering and municipal net metering.

Patrons—Yost, Simon and Torian

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:**1. That §§ 56-589 and 56-594 of the Code of Virginia are amended and reenacted as follows:****§ 56-589. Municipal and state aggregation.**

A. Subject to the provisions of subdivision A 3 of § 56-577, counties, cities, and towns (hereafter municipalities) and other political subdivisions of the Commonwealth may, at their election and upon authorization by majority votes of their governing bodies, aggregate electrical energy and demand requirements for the purpose of negotiating the purchase of electrical energy requirements from any licensed supplier within this Commonwealth, as follows:

1. Any municipality or other political subdivision of the Commonwealth may aggregate the electric energy load of residential, commercial, and industrial retail customers within its boundaries on an opt-in or opt-out basis.

2. Any municipality or other political subdivision of the Commonwealth may aggregate the electric energy load of its governmental buildings, facilities, and any other governmental operations requiring the consumption of electric energy. Aggregation pursuant to this subdivision shall not require licensure pursuant to § 56-588.

3. Two or more municipalities or other political subdivisions within the Commonwealth may aggregate the electric energy load of their governmental buildings, facilities, and any other governmental operations requiring the consumption of electric energy. Aggregation pursuant to this subdivision shall not require licensure pursuant to § 56-588 when such municipalities or other political subdivisions are acting jointly to negotiate or arrange for themselves agreements for their energy needs directly with licensed suppliers or aggregators.

Nothing in this subsection shall prohibit the Commission's development and implementation of pilot programs for opt-in, opt-out, or any other type of municipal aggregation, as provided in § 56-577.

B. The Commonwealth, at its election, may aggregate the electric energy load of its governmental buildings, facilities, and any other government operations requiring the consumption of electric energy for the purpose of negotiating the purchase of electricity from any licensed supplier within the Commonwealth. Aggregation pursuant to this subsection shall not require licensure pursuant to § 56-588.

C. Nothing in this section shall preclude municipalities from aggregating the electric energy load of their governmental buildings, facilities, and any other governmental operations requiring the consumption of electric energy for the purpose of negotiating rates and terms, and conditions of service from the electric utility certificated by the Commission to serve the territory in which such buildings, facilities, and operations are located, provided, however, that no such electric energy load shall be aggregated for this purpose unless all such buildings, facilities, and operations to be aggregated are served by the same electric utility.

D. Nothing in this section shall preclude municipalities from aggregating the electric energy load of their governmental buildings, facilities, and any other governmental operations requiring the consumption of electric energy for the purpose of net energy metering from a renewable energy generating facility that (i) uses as its sole energy source solar power, wind power, or aerobic or anaerobic digester gas and landfill gas; (ii) does not have an aggregate generation capacity of more than five megawatts unless a utility elects a higher capacity limit for such a facility; (iii) is located on land owned or controlled by the municipality; (iv) is interconnected and operated in parallel with an electric utility's transmission and distribution facilities; and (v) is used primarily to provide energy to metered accounts of the municipality. The aggregated municipal net metered accounts may be served by multiple meters that are located at separate contiguous or non-contiguous sites, such that the eligible municipality may aggregate in a single account the electricity consumption and generation measured by the meters, provided that the same electric utility serves all such meters. The electricity generated by the eligible municipal customer-generator's renewable electrical generation facility shall be allocated to each of the municipal net-metered accounts in proportion to the electrical load served by those meters

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59 *and credited to kilowatt hours purchased. The aggregated load shall be served under the appropriate*
60 *rate schedules. The terms of municipal net metering service shall be included in rates, terms, and*
61 *conditions of service as provided in subsection C.*

62 **§ 56-594. Net energy metering provisions.**

63 A. The Commission shall establish by regulation a program that affords eligible customer-generators
64 the opportunity to participate in net energy metering, ~~and a program, to begin no later than July 1, 2014,~~
65 for customers of investor-owned utilities and no later than July 1, 2015, for customers of electric
66 cooperatives, to afford eligible agricultural customer-generators the opportunity to participate in net
67 energy metering, ~~and a program, to begin no later than July 1, 2015, to afford eligible multifamily net~~
68 ~~metering customer-generators the opportunity to participate in net energy metering.~~ The regulations may
69 include, but need not be limited to, requirements for (i) retail sellers; (ii) owners or operators of
70 distribution or transmission facilities; (iii) providers of default service; (iv) eligible
71 customer-generators; (v) eligible agricultural customer-generators; ~~or, (vi) eligible multifamily net~~
72 ~~metering customer-generators, or (vii) any combination of the foregoing, as the Commission determines~~
73 will facilitate the provision of net energy metering, provided that the Commission determines that such
74 requirements do not adversely affect the public interest.

75 B. For the purpose of this section:

76 "Eligible agricultural customer-generator" means a customer that operates a renewable energy
77 generating facility as part of an agricultural business, which generating facility (i) uses as its sole energy
78 source solar power, wind power, or aerobic or anaerobic digester gas; (ii) does not have an aggregate
79 generation capacity of more than 500 kilowatts; (iii) is located on land owned or controlled by the
80 agricultural business; (iv) is connected to the customer's wiring on the customer's side of its
81 interconnection with the distributor; (v) is interconnected and operated in parallel with an electric
82 ~~company's utility's~~ transmission and distribution facilities; and (vi) is used primarily to provide energy
83 to metered accounts of the agricultural business. An eligible agricultural customer-generator may be
84 served by multiple meters that are located at separate but contiguous sites, such that the eligible
85 agricultural customer-generator may aggregate in a single account the electricity consumption and
86 generation measured by the meters, provided that the same *electric* utility serves all such meters. The
87 aggregated load shall be served under the appropriate tariff.

88 "Eligible multifamily net metering customer-generator" means a customer or customers that operate
89 a renewable energy generating facility in a condominium, apartment complex, neighborhood, or
90 homeowners association served by a common distribution circuit, which generating facility (i) uses as its
91 total source of fuel renewable energy; (ii) does not have an aggregate generation capacity of more than
92 500 kilowatts; (iii) is located on land owned or controlled by the eligible condominium, apartment
93 complex, neighborhood, or homeowners association or on customers' property within the condominium,
94 apartment complex, neighborhood, or homeowners association; (iv) is interconnected and operated in
95 parallel with an electric utility's transmission and distribution facilities; and (v) is used primarily to
96 provide energy to metered accounts of the eligible multifamily net metering customer-generator. An
97 eligible multifamily net metering customer-generator may be served by multiple meters that are located
98 at separate sites within the site of the condominium, apartment complex, neighborhood, or homeowners
99 association, such that the eligible multifamily net metering customer-generator may aggregate the
100 electricity consumption and generation measured by the meters, provided that the same electric utility
101 serves all such meters. The aggregated load shall be served under the appropriate tariff.

102 "Eligible customer-generator" means a customer that owns and operates, or contracts with other
103 persons to own, operate, or both, an electrical generating facility that (i) has a capacity of not more than
104 20 kilowatts for residential customers and 500 kilowatts for nonresidential customers unless a utility
105 elects a higher capacity limit for such a facility; (ii) uses as its total source of fuel renewable energy, as
106 defined in § 56-576; (iii) is located on the customer's premises and is connected to the customer's wiring
107 on the customer's side of its interconnection with the distributor; (iv) is interconnected and operated in
108 parallel with an electric ~~company's utility's~~ transmission and distribution facilities; and (v) is intended
109 primarily to offset all or part of the customer's own electricity requirements.

110 "Net energy metering" means measuring the difference, over the net metering period, between (i)
111 electricity supplied to an eligible customer-generator, *eligible multifamily net metering*
112 *customer-generator*, or eligible agricultural customer-generator from the electric grid and (ii) the
113 electricity generated and fed back to the electric grid by the eligible customer-generator, *eligible*
114 *multifamily net metering customer-generator*, or eligible agricultural customer-generator.

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

119 C. The Commission's regulations shall ensure that the metering equipment installed for net metering
120 shall be capable of measuring the flow of electricity in two directions. 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 multifamily net metering customer-generator* or 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, *eligible multifamily net metering 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 (a) (i) install additional controls, (b) (ii) perform or pay for additional tests, (c) and (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 eligible customer-generator, *eligible multifamily net metering customer-generator*, or eligible agricultural customer-generator against discrimination by virtue of its status as an eligible customer-generator, *eligible multifamily net metering customer-generator*, or eligible agricultural customer-generator, and permit customers that are served on time-of-use tariffs that have electricity supply demand charges contained within the electricity supply portion of the time-of-use tariffs to participate as an eligible customer-generator, *eligible multifamily net metering customer-generator*, or eligible agricultural customer-generator. Notwithstanding the cost allocation provisions of subsection C, eligible customer-generators, *eligible multifamily net metering customer-generators*, or eligible agricultural customer-generators served on demand charge-based time-of-use tariffs shall bear the incremental metering costs required to net meter such customers.

E. If electricity generated by an eligible customer-generator, *eligible multifamily net metering customer-generator*, or eligible agricultural customer-generator over the net metering period exceeds the electricity consumed by the eligible customer-generator, *eligible multifamily net metering customer-generator*, or eligible agricultural customer-generator, the *eligible customer-generator, eligible multifamily net metering customer-generator*, or eligible agricultural customer-generator shall be compensated for the excess electricity if the entity contracting to receive such electric energy and the eligible customer-generator, *eligible multifamily net metering customer-generator*, or eligible agricultural customer-generator enter into a power purchase agreement for such excess electricity. Upon the written request of the eligible customer-generator, *eligible multifamily net metering customer-generator*, or eligible agricultural customer-generator, the supplier that serves the eligible customer-generator, *eligible multifamily net metering customer-generator*, or eligible agricultural customer-generator shall enter into a power purchase agreement with the requesting eligible customer-generator, *eligible multifamily net metering customer-generator*, or eligible agricultural customer-generator that is consistent with the minimum requirements for contracts established by the Commission pursuant to subsection D. The power purchase agreement shall obligate the supplier to purchase such excess electricity at the rate that is provided for such purchases in a net metering standard contract or tariff approved by the Commission, unless the parties agree to a higher rate. The eligible customer-generator, *eligible multifamily net metering customer-generator*, or eligible agricultural customer-generator owns any renewable energy certificates associated with its electrical generating facility; however, at the time that the eligible customer-generator, *eligible multifamily net metering customer-generator*, or eligible agricultural customer-generator enters into a power purchase agreement with its supplier, the eligible customer-generator, *eligible multifamily net metering customer-generator*, or eligible agricultural customer-generator shall have a one-time option to sell the renewable energy certificates associated with such electrical generating facility to its supplier and be compensated at an amount that is established by the Commission to reflect the value of such renewable energy certificates. Nothing in this section shall prevent the eligible customer-generator, *eligible multifamily net metering customer-generator*, or eligible agricultural customer-generator and the supplier from voluntarily entering into an agreement for the sale and purchase of excess electricity or renewable energy certificates at mutually-agreed upon prices if the eligible customer-generator, *eligible multifamily net metering customer-generator*, or eligible agricultural customer-generator does not exercise its option to sell its renewable energy certificates to its supplier at Commission-approved prices at the time that the eligible customer-generator, *eligible multifamily net metering customer-generator*, or eligible agricultural customer-generator enters into a power purchase agreement with its supplier. All costs incurred by the supplier to purchase excess electricity and renewable energy certificates from eligible customer-generators, *eligible multifamily net metering customer-generators*, or eligible agricultural customer-generators shall be recoverable through its Renewable Energy Portfolio Standard (RPS) rate adjustment clause, if the supplier has a Commission-approved RPS plan. If not, then all costs shall be recoverable through the supplier's fuel adjustment clause. For purposes of this section, "all costs" shall be defined as the rates paid to the eligible customer-generator, *eligible multifamily net metering customer-generator*, or eligible agricultural customer-generator for the purchase of excess electricity and renewable energy certificates and any

182 administrative costs incurred to manage the eligible customer-generator's, *eligible multifamily net*
183 *metering customer-generator's*, or eligible agricultural customer-generator's power purchase
184 arrangements. The net metering standard contract or tariff shall be available to eligible
185 customer-generators, *eligible multifamily net metering customer-generators*, or eligible agricultural
186 customer-generators on a first-come, first-served basis in each electric distribution company's Virginia
187 service area until the rated generating capacity owned and operated by eligible customer-generators,
188 *eligible multifamily net metering customer-generators*, or eligible agricultural customer-generators in the
189 ~~state~~ *Commonwealth* reaches one percent of each electric distribution company's adjusted Virginia
190 peak-load forecast for the previous year, and shall require the supplier to pay the eligible
191 customer-generator, *eligible multifamily net metering customer-generator*, or eligible agricultural
192 customer-generator for such excess electricity in a timely manner at a rate to be established by the
193 Commission.

194 F. Any residential eligible customer-generator or eligible agricultural customer-generator ~~who~~ *that*
195 owns and operates, or contracts with other persons to own, operate, or both, an electrical generating
196 facility with a capacity that exceeds 10 kilowatts shall pay to its supplier, in addition to any other
197 charges authorized by law, a monthly standby charge. The amount of the standby charge and the terms
198 and conditions under which it is assessed shall be in accordance with a methodology developed by the
199 supplier and approved by the Commission. The Commission shall approve a supplier's proposed standby
200 charge methodology if it finds that the standby charges collected from all such eligible
201 customer-generators and eligible agricultural customer-generators allow the supplier to recover only the
202 portion of the supplier's infrastructure costs that are properly associated with serving such eligible
203 customer-generators or eligible agricultural customer-generators. Such an eligible customer-generator or
204 eligible agricultural customer-generator shall not be liable for a standby charge until the date specified in
205 an order of the Commission approving its supplier's methodology.