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SENATE BILL NO. 1395

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Senate Committee on Commerce and Labor
on February 2, 2015)

(Patrons Prior to Substitute—Senators Dance and Edwards [SB 764])

A BILL to amend and reenact § 56-594 of the Code of Virginia, relating to electric utilities; net energy 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 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 or operators of distribution or transmission facilities; (iii) providers of default service; (iv) eligible customer-generators; (v) eligible agricultural customer-generators; 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 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~~ *not more than one megawatt* for nonresidential customers ~~unless a utility elects a higher capacity limit for such a facility~~ *on an electrical generating facility placed in service after July 1, 2015;* (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. *In addition to the electrical generating facility size limitations in clause (i), the capacity of any generating facility installed under this section after July 1, 2015, shall not exceed the expected annual energy consumption based on the previous 12 months of billing history or an annualized calculation of billing history if 12 months of billing history is not available.*

"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 (i) the metering equipment installed for net metering shall be capable of measuring the flow of electricity in two directions and (ii) *any eligible customer-generator seeking to participate in net energy metering shall notify its supplier and receive approval to interconnect prior to installation of an electrical generating facility.* 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

60 agricultural customer-generator, shall meet all applicable safety and performance standards established by
61 the National Electrical Code, the Institute of Electrical and Electronics Engineers, and accredited testing
62 laboratories such as Underwriters Laboratories. Beyond the requirements set forth in this section *and to*
63 *ensure public safety, power quality, and reliability of the supplier's electric distribution system*, an
64 eligible customer-generator or eligible agricultural customer-generator whose electrical generating system
65 meets those standards and rules shall bear ~~the~~ *all reasonable cost costs of equipment required for the*
66 *interconnection to the supplier's electric distribution system, including costs*, if any, as ~~determined by the~~
67 ~~Commission~~, to (a) install additional controls, (b) perform or pay for additional tests, and (c) purchase
68 additional liability insurance.

69 D. The Commission shall establish minimum requirements for contracts to be entered into by the
70 parties to net metering arrangements. Such requirements shall protect the eligible customer-generator or
71 eligible agricultural customer-generator against discrimination by virtue of its status as an eligible
72 customer-generator or eligible agricultural customer-generator, and permit customers that are served on
73 time-of-use tariffs that have electricity supply demand charges contained within the electricity supply
74 portion of the time-of-use tariffs to participate as an eligible customer-generator or eligible agricultural
75 customer-generator. Notwithstanding the cost allocation provisions of subsection C, eligible
76 customer-generators or eligible agricultural customer-generators served on demand charge-based
77 time-of-use tariffs shall bear the incremental metering costs required to net meter such customers.

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

119 F. Any residential eligible customer-generator or eligible agricultural customer-generator who owns
120 and operates, or contracts with other persons to own, operate, or both, an electrical generating facility
121 with a capacity that exceeds 10 kilowatts shall pay to its supplier, in addition to any other charges

122 authorized by law, a monthly standby charge. The amount of the standby charge and the terms and
123 conditions under which it is assessed shall be in accordance with a methodology developed by the
124 supplier and approved by the Commission. The Commission shall approve a supplier's proposed standby
125 charge methodology if it finds that the standby charges collected from all such eligible
126 customer-generators and eligible agricultural customer-generators allow the supplier to recover only the
127 portion of the supplier's infrastructure costs that are properly associated with serving such eligible
128 customer-generators or eligible agricultural customer-generators. Such an eligible customer-generator or
129 eligible agricultural customer-generator shall not be liable for a standby charge until the date specified in
130 an order of the Commission approving its supplier's methodology.