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HOUSE BILL NO. 1451

Offered January 17, 2018

A *BILL to amend and reenact § 56-594 of the Code of Virginia, relating to net energy metering by schools.*

Patrons—Sullivan, Lopez, Tran, Keam, Murphy and Reid

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 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. On and after July 1, 2017, small agricultural generators or eligible agricultural customer-generators may elect to interconnect pursuant to the provisions of this section or as small agricultural generators pursuant to § 56-594.2, but not both. Existing eligible agricultural customer-generators may elect to become small agricultural generators, but may not revert to being eligible agricultural customer-generators after such election. On and after July 1, 2019, interconnection of eligible agricultural customer-generators shall cease for electric cooperatives only, and such facilities shall interconnect solely as small agricultural generators. For electric cooperatives, eligible agricultural customer-generators whose renewable energy generating facilities were interconnected before July 1, 2019, may continue to participate in net energy metering pursuant to this section for a period not to exceed 25 years from the date of their renewable energy generating facility's original interconnection.

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 not more than one megawatt for nonresidential customers 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

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59 customer-generator or eligible agricultural customer-generator.

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

63 "Small agricultural generator" has the same meaning that is ascribed to that term in § 56-594.2.

64 C. The Commission's regulations shall ensure that (i) the metering equipment installed for net
65 metering shall be capable of measuring the flow of electricity in two directions and (ii) any eligible
66 customer-generator seeking to participate in net energy metering shall notify its supplier and receive
67 approval to interconnect prior to installation of an electrical generating facility. The electric distribution
68 company shall have 30 days from the date of notification for residential facilities, and 60 days from the
69 date of notification for nonresidential facilities, to determine whether the interconnection requirements
70 have been met. Such regulations shall allocate fairly the cost of such equipment and any necessary
71 interconnection. An eligible customer-generator's electrical generating system, and each electrical
72 generating system of an eligible agricultural customer-generator, shall meet all applicable safety and
73 performance standards established by the National Electrical Code, the Institute of Electrical and
74 Electronics Engineers, and accredited testing laboratories such as Underwriters Laboratories. Beyond the
75 requirements set forth in this section and to ensure public safety, power quality, and reliability of the
76 supplier's electric distribution system, an eligible customer-generator or eligible agricultural
77 customer-generator whose electrical generating system meets those standards and rules shall bear all
78 reasonable costs of equipment required for the interconnection to the supplier's electric distribution
79 system, including costs, if any, to (a) install additional controls, (b) perform or pay for additional tests,
80 and (c) purchase additional liability insurance.

81 D. The Commission shall establish minimum requirements for contracts to be entered into by the
82 parties to net metering arrangements. Such requirements shall protect the eligible customer-generator or
83 eligible agricultural customer-generator against discrimination by virtue of its status as an eligible
84 customer-generator or eligible agricultural customer-generator, and permit customers that are served on
85 time-of-use tariffs that have electricity supply demand charges contained within the electricity supply
86 portion of the time-of-use tariffs to participate as an eligible customer-generator or eligible agricultural
87 customer-generator. Notwithstanding the cost allocation provisions of subsection C, eligible
88 customer-generators or eligible agricultural customer-generators served on demand charge-based
89 time-of-use tariffs shall bear the incremental metering costs required to net meter such customers.

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

for the purchase of excess electricity and renewable energy certificates and any administrative costs incurred to manage the eligible customer-generator's or eligible agricultural customer-generator's power purchase arrangements. The net metering standard contract or tariff shall be available to eligible customer-generators or eligible agricultural customer-generators on a first-come, first-served basis in each electric distribution company's Virginia service area until the rated generating capacity owned and operated by eligible customer-generators, eligible agricultural customer-generators, and small agricultural generators in the state reaches one percent of each electric distribution company's adjusted Virginia peak-load forecast for the previous year, and shall require the supplier to pay the eligible customer-generator or eligible agricultural customer-generator for such excess electricity in a timely manner at a rate to be established by the Commission.

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

G. If an eligible customer-generator is a school in a public school division in the Commonwealth, then notwithstanding any provision of subsection E to the contrary, upon the request of the school board for the public school division, any electricity generated by such eligible customer-generator over the net metering period that is in excess of the amount of electricity consumed by such eligible customer-generator shall be credited to the metered accounts of one or more other schools in the same public school division, as directed by the school board, in a manner that reduces the amount of electricity for which the other school or schools are billed and provides the other school or schools with a credit against the amount billed to the other school or schools. The amount of the credit shall be calculated at the same rate that the school or schools would otherwise be charged for such amount of electricity, without the assessment by the supplier of any service charges or fees in connection with or arising out of such crediting. Such an eligible customer-generator shall not receive any other compensation from the supplier for the amount of excess electricity credited to any other school as provided in this subsection. This subsection shall not affect any agreement between such eligible customer-generator and the supplier with regard to ownership of renewable energy certificates associated with the electrical generating facility.