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HOUSE BILL NO. 1590

Offered January 19, 2018

A BILL to amend and reenact §§ 56-235.8, 56-577, and 56-589 of the Code of Virginia, relating to electric and natural gas utility regulation; municipal aggregation.

Patron—Lopez

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That §§ 56-235.8, 56-577, and 56-589 of the Code of Virginia are amended and reenacted as follows:

§ 56-235.8. Retail supply choice for natural gas customers.

A. Notwithstanding any provision of law to the contrary, each public utility authorized to furnish natural gas service in Virginia (gas utility) is authorized to offer to all of the gas utility's customers not eligible for transportation service under tariffs in effect on the effective date of this section, direct access to gas suppliers (retail supply choice) by filing a plan for implementing retail supply choice with the State Corporation Commission for approval. The provisions of this section shall not apply to any retail supply choice pilot program in effect on July 1, 1999. The Commission shall accept such a plan for filing within thirty days of filing if it contains, at a minimum:

1. A schedule for implementing retail supply choice for all of its customers;

2. Tariff revisions, including proposed unbundled rates for firm and interruptible service (which may utilize a cost allocation and rate design formulated to recover the gas utility's nongas fixed costs on a nonvolumetric basis) and terms and conditions of service designed to provide nondiscriminatory open access over its transportation system, comparable to the transportation service provided by the gas utility to itself, to allow competitive suppliers to sell natural gas directly to the gas utility's customers. Any proposed unbundling rates shall include an explanation of the methodology used to develop the rates and a calculation of revenues, by customer class, thereby produced;

3. Nonbypassable, competitively neutral annual surcharges for the gas utility to properly allocate and recover from its firm service customers not eligible for nonpilot transportation service under tariffs in effect on the effective date of this section, its nonmitigable costs associated with the provision of retail supply choice, including prudently incurred contract obligation costs and transition costs. For the purposes of this section, contract obligation costs are costs associated with acquiring, maintaining or terminating interstate and intrastate pipeline and storage capacity contracts, less revenues generated by mitigating such contract obligations, whether by off-system sales, capacity release, pipeline supplier refunds or otherwise; and transition costs are costs incurred by the gas utility associated with educating the public on retail supply choice and redesigning its facilities, operations and systems to permit retail supply choice;

4. Tariff provisions to balance the receipts and deliveries of gas supplies to retail supply choice customers and allocate the gas utility's gas costs so that one class of customers is not subsidized by another class of customers;

5. Tariff provisions requiring the gas utility, at a minimum, to offer gas suppliers or retail supply choice customers the right to acquire the gas utility's upstream transmission and/or storage capacity in a manner that assures that one class of customers is not subsidized by another class of customers, provided that nothing contained herein shall deny the gas utility the right to request Commission approval of such tariff provisions as are designed to ensure the safe and reliable delivery of natural gas to firm service customers on its system, including provisions requiring gas suppliers to accept assignment of upstream transportation and storage capacity, and/or allowing the gas utility to retain a portion of its upstream transportation and storage capacity to ensure safe and reliable natural gas service to its customers;

6. A code of conduct governing the activities and relationships between the gas utility and gas suppliers to prevent anticompetitive or discriminatory conduct and the unlawful exercise of market power. Such codes of conduct shall incorporate or be consistent with any rule or guideline established by the Commission; and

7. Any other requirement established by Commission rule or regulation.

The Commission may, by rule or regulation, impose such additional filing requirements as it deems necessary in the public interest. The Commission may also require a gas utility to continue to serve as a gas supplier to its customers after the gas utility's plan becomes effective and under such terms and conditions as are necessary to protect the public interest.

B. After the Commission has accepted a filing as provided in subsection A, the Commission shall review and approve a plan filed by a gas utility unless it determines, after notice and an opportunity for public hearing, that the plan would:

1. Adversely affect the quality, safety, or reliability of natural gas service by the gas utility or the provision of adequate service to the gas utility's customers;

2. Result in rates charged by the gas utility that are not just and reasonable rates within the contemplation of § 56-235.2 or that are in excess of levels approved by the Commission under § 56-235.6, as the case may be;

3. Adversely affect the gas utility's customers not participating in the retail supply choice plan;

4. Unreasonably discriminate against one class of the gas utility's customers in favor of another class (provided, however, that a gas utility's recovery of nongas fixed costs on a nonvolumetric basis shall not necessarily constitute unreasonable discrimination); or

5. Not be in the public interest.

The Commission shall, after the acceptance of a filing of a retail supply choice plan, approve or disapprove the plan within 120 days. The 120-day period may be extended by Commission order for an additional period not to exceed sixty days. The retail supply choice plan shall be deemed approved if the Commission fails to act within 120 days or any extended period ordered by the Commission. The Commission shall approve a retail supply choice plan filed by a gas utility pursuant to this subsection regardless of whether it has promulgated rules and regulations pursuant to subsection A. The Commission may also modify a plan filed by a gas utility to ensure that it conforms to the provisions of this subsection and is otherwise in the public interest. Plans approved pursuant to this section shall not be placed into effect before July 1, 2000.

C. The Commission may, on its own motion, direct a gas utility to file a retail supply choice plan, which shall comply with subsection A, shall include such other details in the plan as the Commission may require, and does not cause the effects set forth in subsection B, or the Commission may, on its own motion, propose a plan for a gas utility for retail supply choice that complies with the requirements of subsection A and does not cause the effects set forth in subsection B. The Commission may approve any plans under this subsection after notice to all affected parties and an opportunity for hearing.

D. Once a plan becomes effective pursuant to this section, if the Commission determines, after notice and opportunity for hearing, that the plan is causing, or is reasonably likely to cause, the effects set forth in subsection B, it may order revisions to the plan to remove such effects. Any such revisions to the plan will operate prospectively only.

E. If, upon application of at least twenty-five percent of retail supply choice customers or of 500 retail choice customers, whichever number is lesser, or by the gas utility, it is alleged that the marketplace for retail supply choice customer is not reasonably competitive or results in rates unreasonably in excess of what would otherwise be charged by the gas utility, or if the Commission renders such a determination upon its own motion, then the Commission may, after notice, and opportunity for hearing, terminate the gas utility's retail supply choice program and provide for an orderly return of the retail choice customers to the gas utility's traditional retail natural gas sales service. In such event, the gas utility shall be given the opportunity to acquire, under reasonable and competitive terms and conditions and within a reasonable time period, such upstream transportation and storage capacity as is necessary for it to provide traditional retail natural gas sales service to former retail supply choice customers.

F. Licensure of gas suppliers.

1. No person, other than a gas utility, shall engage in the business of selling natural gas to the residential and small commercial customers of a gas utility that has an approved plan implementing retail supply choice unless such person (for the purpose of this section, gas supplier) holds a license issued by the Commission. An application for a gas supplier license must be made to the Commission in writing, be verified by oath or affirmation and be in such form and contain such information as the Commission may, by rule or regulation, require. For purposes of this subsection, the Commission shall require a gas supplier to demonstrate that it has the means to provide natural gas to essential human needs customers. A gas supplier license shall be issued to any qualified applicant within forty-five days of the date of filing such application, authorizing in whole or in part the service covered by the application, unless the Commission determines otherwise for good cause shown. A person holding such a license shall not be considered a "public service corporation," "public service company" or a "public utility" and shall not be subject to regulation as such; however, nothing contained herein shall be construed to affect the liability of such a person for any license tax levied pursuant to Article 2 (§ 58.1-2620 et seq.) of Chapter 26 of Title 58.1. No license issued under this chapter shall be transferred without prior Commission approval finding that such transfer is not inconsistent with the public interest. If the Commission determines, after notice and opportunity for public hearing, that a gas supplier has failed to comply with the provisions of this subsection or the Commission's rules, regulations or orders, the Commission may enjoin, fine, or punish any such failure pursuant to the

Commission's authority under this statute and under Title 12.1 of the Code of Virginia. The Commission may also suspend or revoke the gas supplier's license or take such other action as is necessary to protect the public interest.

2. The Commission shall establish rules and regulations for the implementation of this subsection, provided that:

a. The Commission's rules and regulations shall not govern the rates charged by licensed gas suppliers, except that the Commission's rules and regulations may govern the terms and conditions of service of licensed gas suppliers to protect the gas utility's customers from commercially unreasonable terms and conditions; and

b. The Commission's rules and regulations shall permit an affiliate of the gas utility to be licensed as a gas supplier and to participate in the gas utility's retail supply choice program under the same terms and conditions as gas suppliers not affiliated with the gas utility.

3. The Commission shall also have the authority to issue rules and regulations governing the marketing practices of gas suppliers.

G. Retail customers' private right of action; marketing practices.

1. No gas supplier shall use any deception, fraud, false pretense, misrepresentation, or any deceptive or unfair practices in providing or marketing gas service.

2. Any person who suffers loss (i) as the result of fraudulent marketing practices, including telemarketing practices, engaged in by any gas supplier providing any service made competitive under this section, or of any violation of rules and regulations issued by the Commission pursuant to subdivision F 3, or (ii) as the result of any violation of subdivision 1 of this subsection, shall be entitled to initiate an action to recover actual damages, or $500, whichever is greater. If the trier of fact finds that the violation was willful, it may increase damages to an amount not exceeding three times the actual damages sustained, or $1,000, whichever is greater. Notwithstanding any other provisions of law to the contrary, in addition to any damages awarded, such person also may be awarded reasonable attorney's fees and court costs.

3. The Attorney General, the attorney for the Commonwealth or the attorney for the city, county or town may cause an action to be brought in the appropriate circuit court for relief of violations referenced in subdivision 2 of this subsection.

4. Notwithstanding any other provision of law to the contrary, in addition to any damages awarded, such person or governmental agency initiating an action pursuant to this section may be awarded reasonable attorney's fees and court costs.

5. Any action pursuant to this subsection shall be commenced by persons other than the Commission within two years after its accrual. The cause of action shall accrue as provided in § 8.01-230. However, if the Commission initiates proceedings, or any other governmental agency files suit for violations under this section, the time during which such proceeding or governmental suit and all appeals therefrom are pending shall not be counted as any part of the period within which an action under this section shall be brought.

6. The circuit court may make such additional orders or decrees as may be necessary to restore to any identifiable person any money or property, real, personal, or mixed, tangible or intangible, which may have been acquired from such person by means of any act or practice violative of this subsection, provided that such person shall be identified by order of the court within 180 days from the date of any order permanently enjoining the unlawful act or practice.

7. In any case arising under this subsection, no liability shall be imposed upon any gas supplier who shows by a preponderance of the evidence that (i) the act or practice alleged to be in violation of subdivision 1 of this subsection was an act or practice over which the same had no control or (ii) the alleged violation resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adopted to avoid a violation. However, nothing in this section shall prevent the court from ordering restitution and payment of reasonable attorney's fees and court costs pursuant to subdivision 4 of this subsection to individuals aggrieved as a result of an unintentional violation of this subsection.

H. Authorized public utilities shall file with the Commission tariff revisions reflecting the net effect of the elimination of taxes pursuant to subsection B of § 58.1-2904 and the addition of state income taxes pursuant to § 58.1-400. Such tariffs shall be effective for service rendered on and after January 1, 2001, and shall be filed at least forty-five days prior to the effective date. Such filing shall not constitute a rate increase for the purposes of § 56-235.4.

I. Consumer education.

1. The Commission shall develop a consumer education program designed to provide the following information to retail customers concerning retail supply choice for natural gas customers:

a. Opportunities and options in choosing natural gas suppliers;

b. Marketing and billing information gas suppliers will be required to furnish retail customers;

c. Retail customers' rights and obligations concerning the purchase of natural gas and related

services; and

d. Such other information as the Commission may deem necessary and appropriate and in the public interest.

2. The consumer education program authorized herein may be conducted in conjunction with the program provided for in § 56-592.

3. The Commission shall establish or maintain a complaint bureau for the purpose of receiving, reviewing and investigating complaints by retail customers against gas utilities, public service companies, licensed suppliers and other providers of any services affected by this section. Upon the request of any interested person or the Attorney General, or upon its own motion, the Commission shall be authorized to inquire into possible violations of § 56-235.8 and to enjoin or punish any violations thereof pursuant to its authority under § 56-235.8, this title, or Title 12.1. The Attorney General shall have a right to participate in such proceedings consistent with the Commission's Rules of Practice and Procedure.

4. For all billing statements sent on and after August 1, 2000, all gas utilities, as defined in subsection A, shall enclose the following information in all billing statements for retail natural gas service:

a. Gas utilities shall separately state an approximate amount of the tax imposed under §§ 58.1-2626, 58.1-2660 and 58.1-3731 which is included in the customer's bill until such tax is no longer imposed; and

b. For all such billing statements, a statement which reads as follows shall be included: "Beginning January 1, 2001, the current state and local gross receipts taxes on sales of natural gas will be replaced by a tax based on the consumption of natural gas by consumers. In the past, the current gross receipts tax has always been included in the rate charged for natural gas. Now, this tax is being separately stated. The total gross receipts tax imposed by Virginia and the localities is approximately two percent of the amount charged to consumers. The new state and local consumption tax will be charged at an approximate rate of $0.02 per 100 cubic feet (CCF) of natural gas consumed. While this rate was designed to be less than, or equal to, the effect of the current gross receipts tax which is being replaced, the tax you pay may actually be higher in your locality. This statement is being provided for your information."

J. Any county, city, and town (hereafter a municipality) of the Commonwealth may, at its election and upon authorization by majority votes of its governing body, aggregate the natural gas requirements of residential, commercial, and industrial retail customers within its boundaries on an opt-in or opt-out basis for the purpose of negotiating the purchase of natural gas requirements from any licensed supplier. Individual retail customers of natural gas within the Commonwealth, regardless of customer class, shall be permitted to purchase natural gas from a municipality that has aggregated the natural gas requirements of retail customers, provided that the customer receives natural gas service within the boundaries of such municipality.

§ 56-577. Schedule for transition to retail competition; Commission authority; exemptions; pilot programs.

A. Retail competition for the purchase and sale of electric energy shall be subject to the following provisions:

1. Each incumbent electric utility owning, operating, controlling, or having an entitlement to transmission capacity shall join or establish a regional transmission entity, which entity may be an independent system operator, to which such utility shall transfer the management and control of its transmission system, subject to the provisions of § 56-579.

2. The generation of electric energy shall be subject to regulation as specified in this chapter.

3. From January 1, 2004, until the expiration or termination of capped rates, all retail customers of electric energy within the Commonwealth, regardless of customer class, shall be permitted to purchase electric energy from any supplier of electric energy licensed to sell retail electric energy within the Commonwealth. After the expiration or termination of capped rates, and subject to the provisions of subdivisions 4 and 5, only individual retail customers of electric energy within the Commonwealth, regardless of customer class, whose demand during the most recent calendar year exceeded five megawatts but did not exceed one percent of the customer's incumbent electric utility's peak load during the most recent calendar year unless such customer had noncoincident peak demand in excess of 90 megawatts in calendar year 2006 or any year thereafter, shall be permitted to purchase electric energy from any supplier of electric energy licensed to sell retail electric energy within the Commonwealth, except for any incumbent electric utility other than the incumbent electric utility serving the exclusive service territory in which such a customer is located, subject to the following conditions:

a. If such customer does not purchase electric energy from licensed suppliers after that date, such customer shall purchase electric energy from its incumbent electric utility.

b. Except as provided in subdivision 4, the demands of individual retail customers may not be aggregated or combined for the purpose of meeting the demand limitations of this provision, any other

provision of this chapter to the contrary notwithstanding. For the purposes of this section, each noncontiguous site will nevertheless constitute an individual retail customer even though one or more such sites may be under common ownership of a single person.

c. If such customer does purchase electric energy from licensed suppliers after the expiration or termination of capped rates, it shall not thereafter be entitled to purchase electric energy from the incumbent electric utility without giving five years' advance written notice of such intention to such utility, except where such customer demonstrates to the Commission, after notice and opportunity for hearing, through clear and convincing evidence that its supplier has failed to perform, or has anticipatorily breached its duty to perform, or otherwise is about to fail to perform, through no fault of the customer, and that such customer is unable to obtain service at reasonable rates from an alternative supplier. If, as a result of such proceeding, the Commission finds it in the public interest to grant an exemption from the five-year notice requirement, such customer may thereafter purchase electric energy at the costs of such utility, as determined by the Commission pursuant to subdivision 3 d hereof, for the remainder of the five-year notice period, after which point the customer may purchase electric energy from the utility under rates, terms and conditions determined pursuant to § 56-585.1. However, such customer shall be allowed to individually purchase electric energy from the utility under rates, terms, and conditions determined pursuant to § 56-585.1 if, upon application by such customer, the Commission finds that neither such customer's incumbent electric utility nor retail customers of such utility that do not choose to obtain electric energy from alternate suppliers will be adversely affected in a manner contrary to the public interest by granting such petition. In making such determination, the Commission shall take into consideration, without limitation, the impact and effect of any and all other previously approved petitions of like type with respect to such incumbent electric utility. Any customer that returns to purchase electric energy from its incumbent electric utility, before or after expiration of the five-year notice period, shall be subject to minimum stay periods equal to those prescribed by the Commission pursuant to subdivision C 1.

d. The costs of serving a customer that has received an exemption from the five-year notice requirement under subdivision 3 c hereof shall be the market-based costs of the utility, including (i) the actual expenses of procuring such electric energy from the market, (ii) additional administrative and transaction costs associated with procuring such energy, including, but not limited to, costs of transmission, transmission line losses, and ancillary services, and (iii) a reasonable margin as determined pursuant to the provisions of subdivision A 2 of § 56-585.1. The methodology established by the Commission for determining such costs shall ensure that neither utilities nor other retail customers are adversely affected in a manner contrary to the public interest.

4. After the expiration or termination of capped rates, two or more individual nonresidential retail customers of electric energy within the Commonwealth, whose individual demand during the most recent calendar year did not exceed five megawatts, may petition the Commission for permission to aggregate or combine their demands, for the purpose of meeting the demand limitations of subdivision 3, so as to become qualified to purchase electric energy from any supplier of electric energy licensed to sell retail electric energy within the Commonwealth under the conditions specified in subdivision 3. The Commission may, after notice and opportunity for hearing, approve such petition if it finds that:

a. Neither such customers' incumbent electric utility nor retail customers of such utility that do not choose to obtain electric energy from alternate suppliers will be adversely affected in a manner contrary to the public interest by granting such petition. In making such determination, the Commission shall take into consideration, without limitation, the impact and effect of any and all other previously approved petitions of like type with respect to such incumbent electric utility; and

b. Approval of such petition is consistent with the public interest.

If such petition is approved, all customers whose load has been aggregated or combined shall thereafter be subject in all respects to the provisions of subdivision 3 and shall be treated as a single, individual customer for the purposes of said subdivision. In addition, the Commission shall impose reasonable periodic monitoring and reporting obligations on such customers to demonstrate that they continue, as a group, to meet the demand limitations of subdivision 3. If the Commission finds, after notice and opportunity for hearing, that such group of customers no longer meets the above demand limitations, the Commission may revoke its previous approval of the petition, or take such other actions as may be consistent with the public interest.

5. After the expiration or termination of capped rates, individual retail customers of electric energy within the Commonwealth, regardless of customer class, shall be permitted:

a. To purchase electric energy provided 100 percent from renewable energy from any supplier of electric energy licensed to sell retail electric energy within the Commonwealth, other than any incumbent electric utility that is not the incumbent electric utility serving the exclusive service territory in which such a customer is located, if the incumbent electric utility serving the exclusive service territory does not offer an approved tariff for electric energy provided 100 percent from renewable

energy; ~~and~~

b. To continue purchasing renewable energy pursuant to the terms of a power purchase agreement in effect on the date there is filed with the Commission a tariff for the incumbent electric utility that serves the exclusive service territory in which the customer is located to offer electric energy provided 100 percent from renewable energy, for the duration of such agreement*; and*

c. To purchase electric energy from a municipality that has aggregated the electric energy load of residential, commercial, and industrial retail customers pursuant to subdivision A 1 of § 56-589, provided that the customer receives service within the boundaries of such municipality.

6. A tariff for one or more classes of residential customers filed with the Commission for approval by a cooperative on or after July 1, 2010, shall be deemed to offer a tariff for electric energy provided 100 percent from renewable energy if it provides undifferentiated electric energy and the cooperative retires a quantity of renewable energy certificates equal to 100 percent of the electric energy provided pursuant to such tariff. A tariff for one or more classes of nonresidential customers filed with the Commission for approval by a cooperative on or after July 1, 2012, shall be deemed to offer a tariff for electric energy provided 100 percent from renewable energy if it provides undifferentiated electric energy and the cooperative retires a quantity of renewable energy certificates equal to 100 percent of the electric energy provided pursuant to such tariff. For purposes of this section, "renewable energy certificate" means, with respect to cooperatives, a tradable commodity or instrument issued by a regional transmission entity or affiliate or successor thereof in the United States that validates the generation of electricity from renewable energy sources or that is certified under a generally recognized renewable energy certificate standard. One renewable energy certificate equals 1,000 kWh or one MWh of electricity generated from renewable energy. A cooperative offering electric energy provided 100 percent from renewable energy pursuant to this subdivision that involves the retirement of renewable energy certificates shall disclose to its retail customers who express an interest in purchasing energy pursuant to such tariff (i) that the renewable energy is comprised of the retirement of renewable energy certificates, (ii) the identity of the entity providing the renewable energy certificates, and (iii) the sources of renewable energy being offered.

B. The Commission shall promulgate such rules and regulations as may be necessary to implement the provisions of this section.

C. 1. By January 1, 2002, the Commission shall promulgate regulations establishing whether and, if so, for what minimum periods, customers who request service from an incumbent electric utility pursuant to subsection D of § 56-582 or a default service provider, after a period of receiving service from other suppliers of electric energy, shall be required to use such service from such incumbent electric utility or default service provider, as determined to be in the public interest by the Commission.

2. Subject to (i) the availability of capped rate service under § 56-582, and (ii) the transfer of the management and control of an incumbent electric utility's transmission assets to a regional transmission entity after approval of such transfer by the Commission under § 56-579, retail customers of such utility (a) purchasing such energy from licensed suppliers and (b) otherwise subject to minimum stay periods prescribed by the Commission pursuant to subdivision 1, shall nevertheless be exempt from any such minimum stay obligations by agreeing to purchase electric energy at the market-based costs of such utility or default providers after a period of obtaining electric energy from another supplier. Such costs shall include (i) the actual expenses of procuring such electric energy from the market, (ii) additional administrative and transaction costs associated with procuring such energy, including, but not limited to, costs of transmission, transmission line losses, and ancillary services, and (iii) a reasonable margin. The methodology of ascertaining such costs shall be determined and approved by the Commission after notice and opportunity for hearing and after review of any plan filed by such utility to procure electric energy to serve such customers. The methodology established by the Commission for determining such costs shall be consistent with the goals of (a) promoting the development of effective competition and economic development within the Commonwealth as provided in subsection A of § 56-596, and (b) ensuring that neither incumbent utilities nor retail customers that do not choose to obtain electric energy from alternate suppliers are adversely affected.

3. Notwithstanding the provisions of subsection D of § 56-582 and subsection C of § 56-585, however, any such customers exempted from any applicable minimum stay periods as provided in subdivision 2 shall not be entitled to purchase retail electric energy thereafter from their incumbent electric utilities, or from any distributor required to provide default service under subsection B of § 56-585, at the capped rates established under § 56-582, unless such customers agree to satisfy any minimum stay period then applicable while obtaining retail electric energy at capped rates.

4. The Commission shall promulgate such rules and regulations as may be necessary to implement the provisions of this subsection, which rules and regulations shall include provisions specifying the commencement date of such minimum stay exemption program.

§ 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.

4. Any authorization by a governing body for the aggregation of electrical energy pursuant to subdivision 1 or 2 may specify a minimum percentage of the aggregated electrical energy required to be generated from renewable energy sources.

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. A municipality that has aggregated the electric energy load of residential, commercial, and industrial retail customers pursuant to subdivision A 1 may enroll electricity customers irrespective of size.