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SENATE BILL NO. 191

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Senate Committee on Commerce and Labor
on February 5, 2018)

(Patron Prior to Substitute—Senator Favola)

*A BILL to amend and reenact § 56-594 of the Code of Virginia, relating to net energy metering.***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 2018, shall not exceed (a) for an investor-owned utility 125 percent or (b) for an electric cooperative 100 percent, of 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 or (b) the projected energy consumption based on annual energy consumption at similar buildings if the building to be served by the generating facility is newly constructed.

"Excess generation" means the amount of electrical energy generated in excess of the electrical energy consumed by the eligible agricultural customer-generator or eligible customer-generator over the course of the net metering period. For time-of-use eligible agricultural customer generators or eligible

60 *customer-generators, excess generation is determined separately for each time-of-use tier.*

61 "Net energy metering" means measuring the difference, over the net metering period, between (i)
62 electricity supplied to an eligible customer-generator or eligible agricultural customer-generator from the
63 electric grid and (ii) the electricity generated and fed back to the electric grid by the eligible
64 customer-generator or eligible agricultural customer-generator.

65 "Net metering period" means the 12-month period ~~following the date of final interconnection of the~~
66 *beginning June 1 of each year and ending May 31 of the next year. Notwithstanding the foregoing, for*
67 *the first year an eligible customer-generator's customer-generator or eligible agricultural*
68 *customer-generator's system with an electric service provider, and each 12-month period thereafter*
69 *customer-generator is interconnected, the net metering period shall consist of at least one full 12-month*
70 *period and shall end on the May 31 following that period and begin anew on June 1.*

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

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

89 D. ~~The~~ *Except as otherwise required by this section, the* Commission shall establish minimum
90 requirements for contracts to be entered into by the parties to net metering arrangements. Such
91 requirements shall protect the eligible customer-generator or eligible agricultural customer-generator
92 against discrimination by virtue of its status as an eligible customer-generator or eligible agricultural
93 customer-generator, and permit customers that are served on time-of-use tariffs that have electricity
94 supply demand charges contained within the electricity supply portion of the time-of-use tariffs to
95 participate as an eligible customer-generator or eligible agricultural customer-generator. Notwithstanding
96 the cost allocation provisions of subsection C, eligible customer-generators or eligible agricultural
97 customer-generators served on demand charge-based time-of-use tariffs shall bear the incremental
98 metering costs required to net meter such customers.

99 E. If electricity generated by an eligible customer-generator or eligible agricultural customer-generator
100 over the net metering period exceeds the electricity consumed by the eligible customer-generator or
101 eligible agricultural customer-generator, the customer-generator or eligible agricultural
102 customer-generator shall be compensated for the excess ~~electricity generation at the end of the net~~
103 *metering period* if the entity contracting to receive such electric energy and the eligible
104 customer-generator or eligible agricultural customer-generator enter into a power purchase agreement for
105 such excess ~~electricity generation~~. *For investor-owned electric utilities only, excess generation for which*
106 *compensation has been received shall not be carried forward into the next net metering period. If the*
107 *eligible customer-generator or eligible agricultural customer-generator does not enter into a power*
108 *purchase agreement for such excess generation, then any excess generation remaining at the end of the*
109 *net metering period is forfeited by eligible customer-generator or eligible agricultural*
110 *customer-generator and surrendered to the supplier.* Upon the written request of the eligible
111 customer-generator or eligible agricultural customer-generator, the supplier that serves the eligible
112 customer-generator or eligible agricultural customer-generator shall enter into a power purchase
113 agreement with the requesting eligible customer-generator or eligible agricultural customer-generator that
114 is consistent with the minimum requirements for contracts established by the Commission pursuant to
115 subsection D. The power purchase agreement shall obligate the supplier to purchase such excess
116 ~~electricity generation at the rate that is provided for such purchases in a net metering standard contract~~
117 *or tariff approved by the Commission, unless the parties agree to a higher rate price determined by the*
118 *method set forth in 20VAC5-315-50 as of July 1, 2018.* The eligible customer-generator or eligible
119 agricultural customer-generator owns any renewable energy certificates associated with its electrical
120 generating facility; however, at the time that the eligible customer-generator or eligible agricultural
121 customer-generator enters into a power purchase agreement with its supplier, the eligible

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 or eligible agricultural customer-generator and the supplier from voluntarily entering into an agreement for the sale and purchase of excess ~~electricity~~ *generation* or renewable energy certificates at mutually-agreed upon prices if the eligible 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 or eligible agricultural customer-generator enters into a power purchase agreement with its supplier. All costs incurred by the supplier to purchase excess ~~electricity~~ *generation* and renewable energy certificates from eligible 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~~ *prices* paid to the eligible customer-generator or eligible agricultural customer-generator for the purchase of excess ~~electricity~~ *generation* 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~~ *generation* in a timely manner at a ~~rate to be established by the Commission~~ *the price determined by the method set forth in 20VAC5-315-50 as of July 1, 2018.*

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.