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## HOUSE BILL NO. 1683

Offered January 9, 2019

Prefiled December 6, 2018

A BILL to amend and reenact § 56-585.3 of the Code of Virginia, relating to electric cooperatives; rates.

\_\_\_\_\_  
Patron—Ware

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Referred to Committee on Commerce and Labor

**Be it enacted by the General Assembly of Virginia:****1. That § 56-585.3 of the Code of Virginia is amended and reenacted as follows:****§ 56-585.3. Regulation of cooperative rates after rate caps.**

A. After the expiration or termination of capped rates, the rates, terms and conditions of distribution electric cooperatives subject to Article 1 (§ 56-231.15 et seq.) of Chapter 9.1 of this title shall be regulated in accordance with the provisions of Chapters 9.1 (§ 56-231.15 et seq.) and 10 (§ 56-232 et seq.) of this title, as modified by the following provisions:

1. Except for energy related cost (fuel cost), the Commission shall not require any cooperative to adjust, modify, or revise its rates, by means of riders or otherwise, to reflect changes in wholesale power cost which occurred during the capped rate period, other than in a general rate proceeding;

2. Each cooperative may, without Commission approval or the requirement of any filing other than as provided in this subdivision, upon an affirmative resolution of its board of directors, increase or decrease all classes of its rates for ~~distribution~~ services at any time, provided, however, that such adjustments will not effect a cumulative net increase or decrease in excess of 5 percent in such rates in any three year period. Such adjustments will not affect or be limited by any existing fuel or wholesale power cost adjustment provisions. The cooperative will promptly file any such revised rates with the Commission for informational purposes;

3. Each cooperative may, without Commission approval, upon an affirmative resolution of its board of directors, make any adjustment to its terms and conditions that does not affect the cooperative's revenues from the distribution or supply of electric energy. In addition, a cooperative may make such adjustments to any pass-through of third-party service charges and fees, and to any fees, charges and deposits set out in Schedule F of such cooperative's Terms and Conditions filed as of January 1, 2007. The cooperative will promptly file any such amended terms and conditions with the Commission for informational purposes;

4. Each cooperative may, without Commission approval or the requirement of any filing other than as provided in this subdivision, upon an affirmative resolution of its board of directors, make any adjustment to its rates reasonably calculated to collect any or all of the fixed costs of owning and operating its electric distribution system, including without limitation, such costs as are identified as customer-related costs in a cost of service study, through a new or modified fixed monthly charge, rather than through volumetric charges associated with the use of electric energy; however, such adjustments shall be revenue neutral based on the cooperative's determination of the proper intra-class allocation of the revenues produced by its then current rates. The cooperative may elect, but is not required, to implement such adjustments through incremental changes over the course of up to three years. The cooperative shall file promptly revised tariffs reflecting any such adjustments with the Commission for informational purposes; and

5. A cooperative may, at any time after the expiration or termination of capped rates, petition the Commission for approval of one or more rate adjustment clauses for the timely and current recovery from customers of the costs described in subdivisions A 5 b and e or clauses (i) through (v) of subdivision A 6 of § 56-585.1. *In the case of a petition pursuant to clauses (i) through (v) of subdivision A 6 of § 56-585.1:*

a. *The Commission may approve the petition if, in addition to other applicable requirements, (i) the cooperative is a cooperative that does not hold a membership interest in a utility aggregation cooperative and (ii) the facility that is the subject of the petition is either owned by the cooperative or has achieved commercial operation; and*

b. *The Commission shall set the cost of capital, in its discretion, either as the cooperative's long-term cost of debt or the cooperative's rate of return most recently authorized by the Commission.*

6. *A cooperative may, without Commission approval or the requirement of any filing other than as provided in this subdivision, upon an affirmative resolution of its board of directors and upon a finding by the board that such action is not contrary to the interests of the membership, adjust the total system*

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59 *cap described in subsection E of § 56-594 applicable to the maximum available rated generating*  
60 *capacity for net energy metering, agricultural net energy metering, and small agricultural generators to*  
61 *up to five percent of the cooperative's highest total coincident system peak within the past five years*  
62 *listed in Part O, Line 20 of Form 7 filed with the Rural Utilities Service or its equivalent. The*  
63 *cooperative shall promptly file any such system cap adjustment with the Commission for informational*  
64 *purposes.*

65 *7. A cooperative may, without Commission approval or the requirement of any filing other than as*  
66 *provided in this subdivision, upon an affirmative resolution of its board of directors and upon a finding*  
67 *by the board that such action will not result in either an intra-class or inter-class change in cost*  
68 *recovery, adopt and adapt for its own use any rate, rate component, program, tariff, or terms or*  
69 *conditions of service that the Commission has previously approved for any other cooperative. The*  
70 *cooperative shall promptly file any such amendment with the Commission for informational purposes.*

71 *B. None of the adjustments described in subdivisions A 2 through A 5 will apply to the rates paid*  
72 *by any customer that takes service by means of dedicated distribution facilities and had noncoincident*  
73 *peak demand in excess of 90 megawatts in calendar year 2006.*

74 *C. Nothing in this section shall be deemed to grant to a cooperative any authority to amend or adjust*  
75 *any terms and conditions of service or agreements regarding pole attachments or the use of the*  
76 *cooperative's poles or conduits.*

77 *D. Nothing in this section shall be deemed to limit the Commission's authority to investigate the*  
78 *rates of any cooperative.*