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HOUSE BILL NO. 2692

Offered January 14, 2019

A BILL to amend and reenact § 56-1.2 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 56-585.1:8, relating to electric utility regulation; exempt sales of renewable energy.

Patrons—Sullivan and Kory

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That § 56-1.2 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 56-585.1:8 as follows:

§ 56-1.2. Persons, localities, and school boards not designated as public utility, public service corporation, etc.

The terms public utility, public service corporation, or public service company, as used in Chapters 1 (§ 56-1 et seq.), 10 (§ 56-232 et seq.), 10.1 (§ 56-265.1 et seq.), and 10.2:1 (§ 56-265.13:1 et seq.) of this title, shall not refer to:

1. Any person who owns or operates property and provides electricity, natural gas, water, or sewer service to residents or tenants on the property, provided that (i) the electricity, natural gas, water or sewer service provided to the residents or tenants is purchased by the person from a public utility, public service corporation, public service company, or person licensed by the Commission as a competitive provider of energy services, or a county, city or town, or other publicly regulated political subdivision or public body, (ii) the person or his agent charges to the resident or tenant on the property only that portion of the person's utility charges for the electricity, natural gas, water, or sewer service which is attributable to usage by the resident or tenant on the property, and additional service charges permitted by § 55-226.2, and (iii) the person maintains three years' billing records for such charges; or

2. Any (i) person who is not a public service corporation and who provides electric vehicle charging service at retail, (ii) school board that operates retail fee-based electric vehicle charging stations on school property pursuant to § 22.1-131, (iii) locality that operates a retail fee-based electric vehicle charging station on property owned or leased by the locality pursuant to § 15.2-967.2, or (iv) board of visitors of any baccalaureate public institution of higher education that operates a retail fee-based electric vehicle charging station on the grounds of such institution pursuant to § 23.1-1301.1. The ownership or operation of a facility at which electric vehicle charging service is sold, and the selling of electric vehicle charging service from that facility, does not render such person, school board, locality, or board of visitors a public utility, public service corporation, or public service company as used in Chapters 1 (§ 56-1 et seq.), 10 (§ 56-232 et seq.), 10.1 (§ 56-265.1 et seq.), and 10.2:1 (§ 56-265.13:1 et seq.) solely because of that sale, ownership, or operation;

3. The Department of Conservation and Recreation when operating a retail fee-based electric vehicle charging station on property of any existing state park or similar recreational facility the Department controls pursuant to § 10.1-104.01. The ownership or operation of a facility at which electric vehicle charging service is sold, or the selling of electric vehicle charging service from that facility, does not render the Department of Conservation and Recreation a public utility, public service corporation, or public service company as used in Chapters 1 (§ 56-1 et seq.), 10 (§ 56-232 et seq.), 10.1 (§ 56-265.1 et seq.), and 10.2:1 (§ 56-265.13:1 et seq.) solely because of that sale, ownership, or operation;

4. The Chancellor of the Virginia Community College System when operating a retail fee-based electric vehicle charging station on the grounds of any comprehensive community college pursuant to § 23.1-2908.1. The ownership or operation of a facility at which electric vehicle charging service is sold, or the selling of electric vehicle charging service from that facility, does not render the Chancellor of the Virginia Community College System a public utility, public service corporation, or public service company as used in Chapters 1 (§ 56-1 et seq.), 10 (§ 56-232 et seq.), 10.1 (§ 56-265.1 et seq.), and 10.2:1 (§ 56-265.13:1 et seq.) solely because of that sale, ownership, or operation; or

5. Any eligible owner that sells or offers to sell electric power to an eligible customer pursuant to § 56-585.1:8. The ownership or operation of a renewable energy facility at which electricity is generated for the purpose of sale to eligible purchasers, and the selling of electric power from that facility, pursuant to § 56-585.1:8 does not render such person a public utility, public service corporation, or public service company as used in Chapter 1 (§ 56-1 et seq.), 10 (§ 56-232 et seq.), 10.1 (§ 56-265.1 et seq.), 10.2:1 (§ 56-265.13:1 et seq.), or 23 (§ 56-576 et seq.) solely because of that sale, ownership, or operation.

INTRODUCED

HB2692

§ 56-585.1:8. Exempt sales of renewable energy.

A. As used in this section:

"Eligible owner" means (i) the fee simple owner of the eligible property if it is a multifamily residential building consisting of rental units or an undeveloped lot or parcel adjacent to such a building; (ii) the condominium unit owners' association with control over the portion of the multifamily residential building where the renewable energy facility is located, if such portion of the building is common area of a condominium development, or if the eligible property is an undeveloped lot or parcel adjacent to such a building and is common area of a condominium development; or (iii) the property owners' association with control over the portion of the multifamily residential building where the renewable energy facility is located, or if the eligible property is an undeveloped lot or parcel adjacent to such a building and is common area under control of the property owners' association.

"Eligible property" means real estate located in the Commonwealth that is (i) a multifamily residential building comprising rental units or condominium units or (ii) an undeveloped lot or parcel adjacent to such a building which lot or parcel is owned (a) by the owner of the building or (b) as common area by the property owners' association or condominium unit owners' association for a development of which such building is a part.

"Eligible purchaser" means:

1. The tenant occupying a rental unit, or the owner or owner's tenant occupying a condominium unit, in the multifamily residential building (i) that is the eligible property pursuant to clause (i) of the definition of eligible property or (ii) to which the eligible property is adjacent if the eligible property is described in clause (ii) of the definition of eligible property; or

2. The property owners' association or condominium unit owners' association, if any, for a development of which the multifamily residential building is a part.

"Power purchase agreement" means an agreement under which an eligible owner sells electricity generated from a renewable energy facility to an eligible purchaser.

"Renewable energy facility" means an electric generation facility or energy storage facility that (i) has as its sole source of power renewable energy, (ii) is installed on eligible property, and (iii) is owned and operated by an eligible owner or by a person who has contracted with the eligible owner to own or operate the facility.

"Utility" means the investor-owned electric utility or cooperative electric utility that is the certificated service provider for the eligible property.

B. Notwithstanding any provision of this title to the contrary, an eligible owner shall be permitted to sell the electricity generated from a renewable energy facility exclusively to eligible purchasers under power purchase agreements, subject to the following:

1. The power purchase agreement provides only for the sale of electric power to meet the needs of an eligible purchaser, whether in common areas or individual units.

2. All rates, charges, and other terms of the sale and delivery of electric power by an eligible owner to an eligible purchaser shall be determined by the terms of the power purchase agreement and shall not be subject to regulation by the Commission.

3. An eligible owner may cooperate with any property owners' association, condominium owners' association, or owner or occupant of any unit in the multifamily residential building to provide electric energy to eligible purchasers.

4. The eligible owner's renewable energy facility shall meet all applicable safety and performance standards established by the National Electrical Code, the Institute of Electrical and Electronics Engineers, and accredited testing laboratories such as Underwriters Laboratories.

5. A utility shall not charge eligible purchasers rates and charges for service provided to them in order to supplement purchases under a power purchase agreement that exceed its generally applicable rates and charges for electricity and related services provided by the utility to customers of the same class.

C. Nothing in this section shall be construed as rendering an eligible owner, by virtue of its selling electric power to an eligible purchaser under a power purchase agreement entered into pursuant to this section, a public utility, public service company, public service corporation, or competitive service provider that is subject to the provisions of this title.