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SENATE BILL NO. 754

Offered January 8, 2020

Prefiled January 8, 2020

A *BILL to amend the Code of Virginia by adding sections numbered 56-585.5, 56-585.6, and 56-585.7 relating to electric utilities; on-bill tariff programs; established.*

Patron—Marsden

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding sections numbered 56-585.5, 56-585.6, and 56-585.7 as follows:

§ 56-585.5. On-bill tariff program; investor-owned utilities.

A. As used in this section:

"Electric utility" means an investor-owned utility.

"Eligible customer" means a current retail customer receiving service from an electric utility that (i) has asked to participate in the utility's on-bill tariff program, (ii) has been determined by the utility to be eligible to participate in its on-bill tariff program on the basis of the customer's payment history and other factors, (iii) is not participating in an energy efficiency program approved by the Commission under § 56-596.2, and (iv) for residential customers, has an adjusted gross household income of less than \$100,000.

"Energy efficiency measures" means any energy conservation measure constructed or installed to increase the energy efficiency of a premises and reduce its consumption of energy that is a part of a Commission-approved energy efficiency program under § 56-596.2, including new heating and air conditioning systems, water heaters, weatherization, insulation, window and door modifications, appliances, and automatic or Internet-connected control systems. "Energy efficiency measures" does not include energy conservation measures to improve the energy efficiency of (i) premises constructed within five years prior to an eligible customer's request to participate in an on-bill tariff program or (ii) premises that are under initial construction.

"Energy savings charge" means a charge placed by the electric utility on the monthly billing statement of an eligible customer or subsequent customers in order to recover the costs of the energy efficiency measures installed at the eligible customer's premises.

"On-bill tariff agreement" means an agreement between an eligible customer and an electric utility that provides for the terms, conditions, payments, and costs, including financing or capital costs, of the installation of energy efficiency measures at a premises to be paid by or through the electric utility and repaid by the eligible customer or subsequent customer at the same premises by means of an energy savings charge.

"On-bill tariff program" means a Commission-approved voluntary tariff program that allows eligible customers (i) to arrange through the electric utility for its provision and installation, including by preapproved vendors, of energy efficiency measures at the customer's premises without an upfront payment and (ii) to pay back the cost of the energy efficiency measures through an energy savings charge.

"Program costs" means a participating electric utility's (i) identified, projected, and actual costs to design, implement, and operate its on-bill tariff program, including costs to request and evaluate vendor proposals and manage the vendors; (ii) administrative, labor, and marketing costs; (iii) write-offs for unpaid energy savings charges after reasonable collection efforts; and (iv) reasonable margin on capital expenditures and operating expenses, which margin shall be equal to the margin or any incentive approved by the Commission for the utility's otherwise-approved demand-side management programs.

B. On or after January 1, 2021, an electric utility may file an on-bill tariff program with the Commission for approval. The program may include criteria for selecting eligible customers; limits on the individual and aggregate amounts of energy efficiency measures for each eligible customer; limits on the overall amount available under the on-bill tariff program; repayment terms; and qualifications of potential vendors that will market or install energy efficiency measures. After the Commission has accepted a filing and, notwithstanding any requirements of § 56-234, the Commission shall review and approve the program if it determines, after notice and an opportunity for a public hearing, that the program (i) will not result in unjust or unreasonable rates and (ii) meets the requirements in subsection D.

C. The Commission shall, after the acceptance of a filing of a program pursuant to subsection B,

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59 approve or disapprove the program within 120 days. The 120-day period may be extended by
60 Commission order for an additional period not to exceed 60 days. The program shall be deemed
61 approved if the Commission fails to act within 120 days or any extended period ordered by the
62 Commission. The Commission may modify a program filed by an electric utility to ensure that it
63 conforms to the provisions of this section. No approved program shall commence prior to January 1,
64 2022.

65 D. An on-bill tariff agreement shall:

66 1. Specify that the eligible customer or subsequent customers at the premises shall only be
67 responsible for the payment of the energy savings charge upon satisfactory installation of the energy
68 efficiency measures as set forth in their on-bill tariff agreement;

69 2. Specify that the electric utility may recover the costs, including financing or capital costs, of
70 installing the energy efficiency measures at an eligible customer's premises through the energy savings
71 charge;

72 3. Provide for the inclusion of an energy savings charge that is stated as a separate line item on the
73 eligible customer's utility bill;

74 4. Provide that an eligible customer shall enter into such on-bill tariff agreement to participate in
75 the on-bill tariff program;

76 5. Provide that the utility may apply the energy savings charge to the meter or bill of subsequent
77 customers at the premises and that the then-current eligible customer is required to notify the
78 subsequent customer of the on-bill tariff agreement and the energy savings charge;

79 6. Deem amounts due under the tariff to be amounts owed for regulated electric service and for
80 which a customer is subject to disconnection of service pursuant to the electric utility's existing policies
81 for disconnection;

82 7. Provide that any loan or financing interest rate or cost of capital, or their equivalent, that is
83 provided to the eligible customer pursuant to an on-bill tariff agreement shall be less than prevailing
84 market rates; and

85 8. Provide that payments for energy-saving charges made by eligible and subsequent customers shall
86 be retained by the electric utility and amounts credited against the appropriate category of program
87 costs.

88 E. An electric utility may recover the program costs, including a return on capital expenditures for
89 one or more on-bill tariff programs pursuant to subdivision A 5 c of § 56-585.1. Except as set forth in
90 subdivision C of § 56-596.2, the Commission shall approve the recovery of such program costs without
91 regard to any of the requirements or considerations set forth in § 56-596.2 or in subdivision A 5 c of
92 § 56-585.1.

93 F. On-bill tariff agreements entered into pursuant to this section shall be exempt from the provisions
94 of the Virginia Consumer Protection Act (§ 59.1-196 et seq.).

95 G. Participation by retail customers in an on-bill tariff program for energy efficiency measures is in
96 the public interest.

97 H. Any on-bill tariff program that a Phase I or Phase II utility elects to undertake pursuant to this
98 section shall be deemed a part of the \$140 million and \$870 million of energy efficiency programs to be
99 developed under § 56-596.2. A utility may continue its on-bill tariff program after these amounts for
100 energy efficiency programs are expended or obligated.

101 **§ 56-585.6. On-bill tariff program; electric cooperatives.**

102 A. As used in this section:

103 "Electric utility" means a utility consumer services cooperative.

104 "Eligible customer" means a member-consumer receiving service from an electric utility that (i) has
105 asked to participate in the utility's on-bill tariff program and (ii) has been determined by the utility to
106 be eligible to participate in its on-bill tariff program.

107 "Energy efficiency measures" means any installation, improvement, addition, or equipment approved
108 by the cooperative for purpose of its on-bill tariff program that has the primary purpose of improving
109 the energy efficiency of the premises and reducing its consumption of energy, including heating and air
110 conditioning systems, water heaters, weatherization, insulation, window and door modifications,
111 appliances, and automatic or Internet-connected control systems. "Energy efficiency measures" does not
112 include energy conservation measures to improve the energy efficiency of (i) premises constructed within
113 five years prior to an eligible customer's request to participate in an on-bill tariff program or (ii)
114 premises that are under initial construction.

115 "Energy savings charge" means a charge placed by the electric utility on the monthly billing
116 statement of an eligible customer or subsequent customers in order to recover the costs of the energy
117 efficiency measures installed at the eligible customer's premises.

118 "On-bill tariff agreement" means an agreement between an eligible customer and an electric utility
119 that provides for the terms, conditions, payments, and costs, including financing or capital costs, of the
120 installation of energy efficiency measures at a premises to be paid by or through the electric utility and

repaid by the eligible customer or subsequent customer at the same premises by means of an energy savings charge.

"On-bill tariff program" means a Commission-approved voluntary tariff program that allows eligible customers (i) to arrange through the electric utility for its provision and installation, including by its chosen vendors, of energy efficiency measures at the customer's premises without an upfront payment and (ii) to pay back the cost of the energy efficiency measures through an energy savings charge.

"Program costs" means a participating electric utility's (i) identified, projected, and actual costs to design, implement, and operate its on-bill tariff program, including costs to request and evaluate vendor proposals and manage the vendors; (ii) administrative, labor, and marketing costs; (iii) costs for obtaining funds used by the electric utility to pay for the energy efficiency measures; (iv) write-offs for unpaid energy savings charges after reasonable collection efforts; and (v) reasonable margin.

B. On or after January 1, 2021, an electric utility may, without Commission approval, upon an affirmative resolution of its board of directors and without the requirement of any filing other than as required by this subsection, propose, establish, and implement an on-bill tariff program for energy efficiency measures, provided that such program adheres to the provisions of this section. This regulated, tariffed program shall be reviewable by the Commission at the electric utility's next general rate proceeding. An electric utility shall recover the program costs through a new rate schedule or otherwise through its rates and shall file a copy of any new rate schedule with the Commission for informational purposes.

C. An on-bill tariff program may include criteria for selecting eligible customers; limits on the individual and aggregate amounts of energy efficiency measures for each eligible customer; limits on the overall amount available under the on-bill tariff program; repayment terms; and qualifications of potential vendors that will market or install energy efficiency measures. Multiple electric utilities may collaborate to create a similar structure for on-bill tariff programs.

D. An on-bill tariff agreement shall:

1. Specify that the eligible customer or subsequent customers at the premises shall only be responsible for the payment of the energy savings charge upon satisfactory installation of the energy efficiency measures as set forth in their on-bill tariff agreement;

2. Specify that the electric utility may recover the costs, including financing or capital costs, of installing the energy efficiency measures at an eligible customer's premises through the energy savings charge;

3. Provide for the inclusion of an energy savings charge that is stated as a separate line item on the eligible customer's utility bill;

4. Provide that an eligible customer shall enter into such on-bill tariff agreement to participate in the on-bill tariff program;

5. Provide that the utility may apply the energy savings charge to the meter or bill of subsequent customers at the premises and that the then-current eligible customer is required to notify the subsequent customer of the on-bill tariff agreement and the energy savings charge;

6. Deem amounts due under the tariff to be amounts owed for regulated electric service and for which a customer is subject to disconnection of service pursuant to the electric utility's existing policies for disconnection;

7. Provide that any loan or financing interest rate or cost of capital, or their equivalent, that is provided to the eligible customer pursuant to an on-bill tariff agreement shall be less than prevailing market rates;

8. Provide that payments for energy-saving charges made by eligible and subsequent customers shall be retained by the electric utility and amounts credited against the appropriate category of program costs; and

9. Result in deemed savings that are reasonably projected, based on the customer's electricity utilization and rates at the beginning of the term, to result in lower electric bills for the customer, and that allocate a portion of the gross net savings resulting from the energy efficiency measures to the eligible customer and the remaining portion to the electric utility to recover the program costs.

E. On-bill tariff agreements entered into pursuant to this section shall be exempt from the provisions of the Virginia Consumer Protection Act (§ 59.1-196 et seq.).

F. Participation by retail customers in an on-bill tariff program for energy efficiency measures is in the public interest.

§ 56-585.7. On-bill tariff program; electrification and renewable facilities.

A. As used in this section:

"Electric utility" means an investor-owned utility.

"Eligible customer" means any current customer receiving service from an electric utility that is determined by the utility to be eligible to participate in its on-bill tariff program.

"Electrification and renewable facilities" includes equipment, facilities, Internet connectivity, and

182 services related to electric vehicles, electric vehicle charging, backup generators, fuel cells,
183 non-utility-owned storage, including batteries, non-utility-owned renewable energy generation, power
184 quality, micro or nano grids, on-site energy savings performance contracting, or any of combination of
185 the foregoing that are installed at the customer's premises on the customer's side of the utility's
186 interconnection.

187 "Facilities charge" means a charge that is an amount reasonably determined by the electric utility to
188 pay for the provision of electrification and renewable facilities.

189 "On-bill electrification and renewable facilities tariff program" or "on-bill tariff program" means a
190 program that allows eligible customers to enter into agreements with the electric utility for the provision
191 of electrification and renewable facilities and to place a facilities charge on the customer's retail bill.

192 B. Each electric utility may file one or more on-bill electrification and renewable facilities tariff
193 programs with the Commission for approval. Any on-bill tariff program that includes renewable energy
194 or storage components shall be subject to competitive procurement.

195 C. On-bill electrification and renewable facilities tariff programs are in the public interest.
196 Notwithstanding any requirements in § 56-234, the Commission shall find reasonable and approve an
197 on-bill tariff program if it determines that the on-bill tariff program is structured to pass the costs of
198 eligible customer-requested electrification and renewable facilities onto participating eligible customers
199 through facilities charges and not onto non-participating customers. The Commission shall, after
200 acceptance of a filing of a program pursuant to this section, approve or disapprove the program within
201 six months.

202 D. Notwithstanding any other provision in this title, a utility consumer services cooperative may,
203 without Commission approval, upon an affirmative resolution of its board of directors and without the
204 requirement of any filing other than as required by this subsection, propose, establish, and implement an
205 on-bill tariff program, provided that such program adheres to the provisions of this section. This
206 regulated, tariffed program shall be reviewable by the Commission at the cooperative's next general rate
207 proceeding. An electric utility shall recover the program costs through a new rate schedule or otherwise
208 through its rates and shall file a copy of any new rate schedule with the Commission for informational
209 purposes.