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SENATE BILL NO. 754

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Senate Committee on Commerce and Labor
on February 3, 2020)

(Patron Prior to Substitute—Senator Marsden)

A BILL to amend the Code of Virginia by adding a section numbered 56-585.5, relating to electric cooperatives; on-bill tariff programs; established.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 56-585.5 as follows:

§ 56-585.5. *On-bill tariff program; electric cooperatives.*

A. As used in this section:

"Cooperative" means a utility consumer services cooperative.

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

"Energy efficiency measures" means any installation, improvement, addition, or equipment approved by the cooperative for purpose of its on-bill tariff program that has the primary purpose of improving the energy efficiency of the premises and reducing its consumption of energy, including heating and air conditioning systems, water heaters, weatherization, insulation, window and door modifications, appliances, and automatic or Internet-connected energy 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 the charge placed by the cooperative 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 a cooperative 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 cooperative 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 voluntary tariff program that allows eligible customers (i) to arrange through the cooperative 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 over time the cost of the energy efficiency measures through an energy savings charge.

"Program costs" means a participating cooperative'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 charges; (iii) costs of obtaining funds used by the cooperative 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, notwithstanding any other provision of law, a cooperative may, without Commission approval, upon an affirmative resolution of its board of directors and without the requirement of any filing other than as required in 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 cooperative's next general rate proceeding. A cooperative shall recover the program costs through a new rate schedule established by this section or otherwise through its rates. A cooperative shall file a copy of any such new rate schedule with the Commission for informational purposes.

C. At least 120 days prior to making an informational filing as described in subsection B, a cooperative shall conduct a stakeholder process to design the on-bill tariff program collaboratively with interested parties. Such stakeholder process shall be open to the cooperative's membership and invited guests and shall include an opportunity to participate for low-income and middle-income advocates, energy efficiency advocates, affordable housing advocates, and the staff of the Commission. The stakeholder process shall examine and recommend, among other things, appropriate additional consumer safeguards for potential adoption by the cooperative, including oversight of third-party vendors and appropriate methods for notifying customers that vendors are subject to the Virginia Consumer Protection Act (§ 59.1-196 et seq.). The stakeholder process shall allow for remote or electronic participation and may include multiple cooperatives or be coordinated, convened, and facilitated by a group or association of cooperatives. The meetings of the stakeholders may be held

60 anywhere in the Commonwealth. The cooperative shall include documentation concerning the
61 stakeholder process in its informational filing to the Commission.

62 D. A cooperative's on-bill tariff program shall include criteria for selecting eligible customers; limits
63 on the individual and aggregate amounts of energy efficiency measures for each eligible customer; limits
64 on the overall amount available under the on-bill tariff program; generally applicable repayment terms;
65 and qualifications of potential vendors that will market or install energy efficiency measures. Multiple
66 cooperatives may collaborate to create a similar structure for on-bill tariff programs.

67 E. An on-bill tariff agreement shall:

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

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

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

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

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

81 6. Deem amounts due under the tariff to be amounts owed for regulated electric service and for
82 which an eligible customer is subject to disconnection of service pursuant to the cooperative's existing
83 policies for disconnection;

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

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

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

94 F. Customers having a grievance or complaints against an on-bill tariff program shall have recourse
95 to the informal and formal procedures of the Commission.