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SENATE BILL NO. 998

Offered January 16, 2020

A BILL to amend and reenact § 56-585.1:4 of the Code of Virginia, relating to the development of offshore wind generation capacity in the Commonwealth.

Patrons—Lucas and Morrissey

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That § 56-585.1:4 of the Code of Virginia is amended and reenacted as follows:

§ 56-585.1:4. Development of solar and wind generation capacity in the Commonwealth.

A. Prior to January 1, 2024, (i) the construction or purchase by a public utility of one or more solar or wind generation facilities located in the Commonwealth or off the Commonwealth's Atlantic shoreline, each having a rated capacity of at least one megawatt and having in the aggregate a rated capacity that does not exceed 5,000 megawatts, or (ii) the purchase by a public utility of energy, capacity, and environmental attributes from solar facilities described in clause (i) owned by persons other than a public utility is in the public interest, and the Commission shall so find if required to make a finding regarding whether such construction or purchase is in the public interest.

B. Prior to January 1, 2024, (i) the construction or purchase by a public utility of one or more solar or wind generation facilities located in the Commonwealth or off the Commonwealth's Atlantic shoreline, each having a rated capacity of less than one megawatt, including rooftop solar installations with a capacity of not less than 50 kilowatts, and having in the aggregate a rated capacity that does not exceed 500 megawatts, or (ii) the purchase by a public utility of energy, capacity, and environmental attributes from solar facilities described in clause (i) owned by persons other than a public utility is in the public interest, and the Commission shall so find if required to make a finding regarding whether such construction or purchase is in the public interest.

C. The aggregate cap of 5,000 megawatts of rated capacity described in clause (i) of subsection A and the aggregate cap of 500 megawatts of rated capacity described in clause (i) of subsection B are separate and independent from each other. The capacity of facilities in subsection B shall not be counted in determining the capacity of facilities in subsection A, and the capacity of facilities in subsection A shall not be counted in determining the capacity of facilities in subsection B.

D. Twenty-five percent of the solar generation capacity placed in service on or after July 1, 2018, located in the Commonwealth, and found to be in the public interest pursuant to subsection A or B shall be from the purchase by a public utility of energy, capacity, and environmental attributes from solar facilities owned by persons other than a public utility. The remainder shall be construction or purchase by a public utility of one or more solar generation facilities located in the Commonwealth. All of the solar generation capacity located in the Commonwealth and found to be in the public interest pursuant to subsection A or B shall be subject to competitive procurement, provided that a public utility may select solar generation capacity without regard to whether such selection satisfies price criteria if the selection of the solar generating capacity materially advances non-price criteria, including favoring geographic distribution of generating capacity, areas of higher employment, or regional economic development, if such non-price solar generating capacity selected does not exceed 25 percent of the utility's solar generating capacity.

E. Construction, purchasing, or leasing activities for a test or demonstration project for a new utility-owned and utility-operated generating facility or facilities utilizing energy derived from offshore wind with an aggregate capacity of not more than 16 megawatts are in the public interest. *Construction by a Phase II Utility, as defined in subdivision A 1 of § 56-585.1, of one or more new utility-owned and utility-operated generating facilities utilizing energy derived from offshore wind and located off the Commonwealth's Atlantic shoreline, with an aggregate rated capacity of not less than 2,500 megawatts and not more than 3,000 megawatts, along with electrical transmission or distribution facilities associated therewith, is deemed needed in order to meet the Commonwealth's clean energy and carbon reduction goals. The costs of any such facilities, including the costs of electrical transmission or distribution facilities associated therewith, are deemed to be reasonably and prudently incurred and, notwithstanding any other provision of this title, including subsections C and D of § 56-585.1, shall be approved for recovery by the Commission, provided that the utility (i) has commenced construction of such facilities for U.S. income taxation purposes prior to January 1, 2024, or has a plan for such facility or facilities to be in service prior to January 1, 2028, and (ii) demonstrates to the Commission that it has utilized reasonable efforts to competitively solicit the majority of services and equipment*

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associated with any such facility's construction, giving appropriate consideration to suppliers that have demonstrated successful experience on an offshore wind test or demonstration project off the Commonwealth's Atlantic shoreline. Any such costs shall be allocated to all customers of the utility in the Commonwealth as a non-bypassable charge, irrespective of the generation supplier of any such customer. In constructing any such facility, the utility shall (a) identify options for utilizing local workers; (b) consult with the Commonwealth's Chief Workforce Development Officer on opportunities to advance the Commonwealth's workforce goals, including furtherance of apprenticeship and other workforce training programs to develop the local workforce; and (c) give priority to the hiring of local workers.

F. A utility may elect to petition the Commission, outside of a triennial review proceeding conducted pursuant to § 56-585.1, at any time for a prudency determination with respect to the construction or purchase by the utility of one or more solar or wind generation facilities located in the Commonwealth or off the Commonwealth's Atlantic Shoreline or the purchase by the utility of energy, capacity, and environmental attributes from solar or wind facilities owned by persons other than the utility. The Commission's final order regarding any such petition shall be entered by the Commission not more than three months after the date of the filing of such petition.