

VIRGINIA ACTS OF ASSEMBLY -- 2023 RECONVENED SESSION

CHAPTER 753

An Act to amend and reenact §§ 30-202 through 30-206, 30-209, 45.2-1712, 45.2-1713, and 56-599 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 30-205.1, relating to energy planning and electric utility oversight; Commission on Electric Utility Regulation; membership, meetings, powers and duties, staffing, and ratepayer impact statements; Virginia Energy Plan; electric utilities; integrated resource plans.

[S 1166]

Approved April 12, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 30-202 through 30-206, 30-209, 45.2-1712, 45.2-1713, and 56-599 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 30-205.1 as follows:

§ 30-202. (Expires July 1, 2024) Membership; terms.

The Commission shall have a total membership of 14 members that shall consist of 10 legislative members, three nonlegislative citizen members, and one ex officio member. Members shall be appointed as follows: four members of the Senate to be appointed by the Senate Committee on Rules and that consist of three members from the majority party and one member from the minority party or an equal number from each in the event the chamber is evenly divided; six members of the House of Delegates to be appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates; one nonlegislative citizen member with expertise in economic development and ratepayer advocacy to be appointed by the Senate Committee on Rules; one nonlegislative citizen member with expertise in energy affordability and ratepayer advocacy to be appointed by the Speaker of the House of Delegates; and one nonlegislative citizen member with expertise in public utility regulation and ratepayer advocacy to be appointed by the Governor. The Attorney General or his designee shall serve ex officio. Any such designee shall be an attorney employed within the Department of Law's Division of Consumer Counsel. Nonlegislative citizen members of the Commission shall be citizens of the Commonwealth. Each member of the Commission shall annually complete an orientation on electric utility regulation provided by the State Corporation Commission.

~~Members~~ *Legislative members of the Commission and the ex officio member shall serve terms coincident with their terms of office. Nonlegislative citizen members shall be appointed for a term of two years. All members may be reappointed. Appointments to fill vacancies, other than by expiration of a term, shall be made for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments.*

The Commission shall annually elect a chairman and vice-chairman from among its membership, who shall be members of the General Assembly. The chairman of the Commission shall be authorized to designate one or more members of the Commission to observe and participate in the discussions of any work group convened by the State Corporation Commission in furtherance of its duties under the Virginia Electric Utility Regulation Act (§ 56-576 et seq.) and this chapter. Members participating in such discussions shall be entitled to compensation and reimbursement provided in § 30-204, if approved by the Joint Rules Committee or its Budget Oversight Subcommittee.

§ 30-203. (Expires July 1, 2024) Quorum; meetings; voting on recommendations.

A majority of the members shall constitute a quorum. The Commission shall meet at least twice per year; meetings of the Commission shall be held at the call of the chairman or whenever the majority of the members so request.

No recommendation of the Commission shall be adopted if a majority of the Senate members or a majority of the House members appointed to the Commission (i) vote against the recommendation and (ii) vote for the recommendation to fail notwithstanding the majority vote of the Commission.

§ 30-204. (Expires July 1, 2024) Compensation; expenses.

~~Members~~ *Legislative members of the Commission shall receive such compensation as provided in § 30-19.12 and shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Unless otherwise approved in writing by the chairman of the Commission and the executive director of the Commission, nonlegislative citizen members shall only be reimbursed for travel originating and ending within the Commonwealth for the purpose of attending meetings. However, all such compensation and expenses shall be paid from existing appropriations to the Commission or, if unfunded, shall be approved by the Joint Rules Committee.*

§ 30-205. (Expires July 1, 2024) Powers and duties of the Commission.

The Commission shall have the following powers and duties:

1. Monitor the work of the State Corporation Commission in implementing Chapter 23 (§ 56-576 et seq.) of Title 56; ~~receiving. The Commission shall receive an annual report from the State Corporation Commission by November 1 regarding such implementation and shall receive such other reports as the Commission may be required to make pursuant thereto,~~ including reviews, analyses, and impact on consumers of electric utility regulation in other states;

2. Examine generation, transmission and distribution systems reliability concerns;

3. Establish one or more subcommittees, composed of its membership, persons with expertise in the matters under consideration by the Commission, or both, to meet at the direction of the chairman of the Commission, for any purpose within the scope of the duties prescribed to the Commission by this section, provided that such persons who are not members of the Commission shall serve without compensation but shall be entitled to be reimbursed from funds appropriated or otherwise available to the Commission for reasonable and necessary expenses incurred in the performance of their duties; ~~and~~

4. *Monitor applications by the Commonwealth for grants and awards for energy projects from the federal government;*

5. *Consider legislation referred to it during any session of the General Assembly or other requests by members of the General Assembly;*

6. *Conduct studies and gather information and data in order to accomplish its purposes set forth in § 30-201 and in connection with the faithful execution of the laws of the Commonwealth;*

7. *Issue ratepayer impact statements pursuant to § 30-205.1; and*

8. Report annually to the General Assembly and the Governor with such recommendations as may be appropriate for legislative and administrative consideration in order to maintain reliable service in the Commonwealth while preserving the Commonwealth's position as a low-cost electricity market.

§ 30-205.1. Ratepayer impact statements for electric utility regulation.

A. As used in this section:

"Ratepayer" means a residential, commercial, or industrial customer who is billed for the consumption of electricity by an electric utility in the Commonwealth.

"Ratepayer impact statement" means a statement prepared using data or other relevant information to estimate the potential impact on ratepayers' electric bills of proposed legislation related to electric utilities.

B. *Upon the request by the Chairman for the House Committee on Commerce and Energy or the Senate Committee on Commerce and Labor, the Commission shall prepare a ratepayer impact statement for any proposed legislation related to electric utility regulation specified by such Chairman. Each such Chairman may request up to five ratepayer impact statements in any given regular or special session of the General Assembly. Additionally, upon the request of any other member of the General Assembly, the Commission, at the Commission's discretion, may prepare a ratepayer impact statement for any proposed legislation related to electric utility regulation specified by such member.*

C. *The Commission shall provide any such ratepayer impact statement to the requesting Chairman or member, the patron of the legislation, and the members of any committee considering the legislation.*

D. *Upon request of the Commission, the State Corporation Commission, the Office of the Attorney General, and all agencies of the Commonwealth shall expeditiously provide the Commission with assistance in the preparation of any ratepayer impact statement including providing the Commission with any necessary data or other relevant information.*

E. *The Commission shall ensure that any ratepayer impact statement provides a neutral and accurate analysis of the potential impact on ratepayers' electric bills of the proposed legislation. Any ratepayer impact statement shall include the methodology used by the Commission to prepare such ratepayer impact statement.*

§ 30-206. (Expires July 1, 2024) Staffing.

~~Administrative staff support shall be provided by the Office of the Clerk of the Senate or the Office of Clerk of the House of Delegates as may be appropriate for the house in which the chairman of the Commission serves. The Division of Legislative Services shall provide legal, research, policy analysis and other services as requested by the Commission. The Commission may appoint, employ, and remove an executive director and such other persons as it deems necessary, subject to funding in the appropriation act, and shall determine the duties and fix the salaries or compensation of such executive director and other persons, within the amounts appropriated for such purpose. The Commission may also employ experts who have knowledge of the issues before it. All agencies of the Commonwealth shall provide assistance to the Commission, upon request, subject to funding in the appropriation act.~~

§ 30-209. (Expires July 1, 2024) Sunset.

This chapter shall expire on July 1, 2024 2029.

§ 45.2-1712. Annual reporting by investor-owned public utilities.

Each investor-owned public utility providing electric service in the Commonwealth shall prepare an annual report disclosing its efforts to conserve energy, including (i) its implementation of customer demand-side management programs and (ii) efforts by the utility to improve efficiency and conserve energy in its internal operations pursuant to § 56-235.1. The utility shall submit each annual report to

the Division *and the Commission on Electric Utility Regulation* by November 1 of each year, and the Division shall compile the reports of the utilities and submit the compilation to the Governor and the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents.

§ 45.2-1713. Submission of the Plan.

Upon completion, the Division shall submit the Plan, including periodic updates thereto, to the Governor, the Commissioners of the State Corporation Commission, and the General Assembly *and shall present the Plan to the Commission on Electric Utility Regulation at a public meeting*. The Plan shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents. The Plan's executive summary shall be posted on the General Assembly's website.

§ 56-599. Integrated resource plan required.

A. Each electric utility shall file an updated integrated resource plan by ~~July 1, 2015. Thereafter,~~ *each electric utility shall file an updated integrated resource plan by May 1 October 15*, in each year immediately preceding the year the utility is subject to a ~~triennial~~ *review of rates for generation and distribution services* filing. A copy of each integrated resource plan shall be provided to the Chairman of the House Committee on ~~Labor and Commerce and Energy~~, the Chairman of the Senate Committee on Commerce and Labor, and ~~to~~ the Chairman of the Commission on Electric Utility Regulation. *After January 1, 2024, each electric utility not subject to an annual review shall file an annual update to the integrated resource plan by October 15, in each year that the utility is subject to review of rates for generation and distribution services filing.* All updated integrated resource plans shall comply with the provisions of any relevant order of the Commission establishing guidelines for the format and contents of updated and revised integrated resource plans. Each integrated resource plan shall consider options for maintaining and enhancing rate stability, energy independence, economic development including retention and expansion of energy-intensive industries, and service reliability.

B. In preparing an integrated resource plan, each electric utility shall systematically evaluate and may propose:

1. Entering into short-term and long-term electric power purchase contracts;
2. Owning and operating electric power generation facilities;
3. Building new generation facilities;
4. Relying on purchases from the short term or spot markets;
5. Making investments in demand-side resources, including energy efficiency and demand-side management services;
6. Taking such other actions, as the Commission may approve, to diversify its generation supply portfolio and ensure that the electric utility is able to implement an approved plan;
7. The methods by which the electric utility proposes to acquire the supply and demand resources identified in its proposed integrated resource plan;
8. The effect of current and pending state and federal environmental regulations upon the continued operation of existing electric generation facilities or options for construction of new electric generation facilities;
9. The most cost effective means of complying with current and pending state and federal environmental regulations, including compliance options to minimize effects on customer rates of such regulations;
10. Long-term electric distribution grid planning and proposed electric distribution grid transformation projects;
11. Developing a long-term plan for energy efficiency measures to accomplish policy goals of reduction in customer bills, particularly for low-income, elderly, and disabled customers; reduction in emissions; and reduction in carbon intensity; and
12. Developing a long-term plan to integrate new energy storage facilities into existing generation and distribution assets to assist with grid transformation.

C. As part of preparing any integrated resource plan pursuant to this section, each utility shall conduct a facility retirement study for owned facilities located in the Commonwealth that emit carbon dioxide as a byproduct of combusting fuel and shall include the study results in its integrated resource plan. Upon filing the integrated resource plan with the Commission, the utility shall contemporaneously disclose the study results to each planning district commission, county board of supervisors, and city and town council where such electric generation unit is located, the Department of Energy, the Department of Housing and Community Development, the Virginia Employment Commission, and the Virginia Council on Environmental Justice. The disclosure shall include (i) the driving factors of the decision to retire and (ii) the anticipated retirement year of any electric generation unit included in the plan. Any electric generating facility with an anticipated retirement date that meets the criteria of § 45.2-1701.1 shall comply with the public disclosure requirements therein.

D. *As part of preparing any integrated resource plan pursuant to this section, each utility shall conduct outreach to engage the public in a stakeholder review process and provide opportunities for the public to contribute information, input, and ideas on the utility's integrated resource plan, including the*

plan's development methodology, modeling inputs, and assumptions, as well as the ability for the public to make relevant inquiries, to the utility when formulating its integrated resource plan. Each utility shall report its public outreach efforts to the Commission. The stakeholder review process shall include representatives from multiple interest groups, including residential and industrial classes of ratepayers. Each utility shall, at the time of the filing of its integrated resource plan, report on any stakeholder meetings that have occurred prior to the filing date.

E. The Commission shall analyze and review an integrated resource plan and, after giving notice and opportunity to be heard, the Commission shall make a determination within nine months after the date of filing as to whether such an integrated resource plan is reasonable and is in the public interest.