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**HOUSE BILL NO. 862**

Offered January 10, 2024

Prefiled January 9, 2024

*A BILL to amend and reenact §§ 56-46.1, 56-597, and 56-599 of the Code of Virginia, relating to electric utilities; integrated resource plans; grid-enhancing technologies and advanced conductors.*

Patrons—Hernandez and Anthony

Referred to Committee on Labor and Commerce

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 56-46.1, 56-597, and 56-599 of the Code of Virginia are amended and reenacted as follows:**

**§ 56-46.1. Commission to consider environmental, economic and improvements in service reliability factors in approving construction of electrical utility facilities; approval required for construction of certain electrical transmission lines; notice and hearings.**

A. Whenever the Commission is required to approve the construction of any electrical utility facility, it shall give consideration to the effect of that facility on the environment and establish such conditions as may be desirable or necessary to minimize adverse environmental impact. In order to avoid duplication of governmental activities, any valid permit or approval required for an electric generating plant and associated facilities issued or granted by a federal, state or local governmental entity charged by law with responsibility for issuing permits or approvals regulating environmental impact and mitigation of adverse environmental impact or for other specific public interest issues such as building codes, transportation plans, and public safety, whether such permit or approval is granted prior to or after the Commission's decision, shall be deemed to satisfy the requirements of this section with respect to all matters that (i) are governed by the permit or approval or (ii) are within the authority of, and were considered by, the governmental entity in issuing such permit or approval, and the Commission shall impose no additional conditions with respect to such matters. Nothing in this section shall affect the ability of the Commission to keep the record of a case open. Nothing in this section shall affect any right to appeal such permits or approvals in accordance with applicable law. In the case of a proposed facility located in a region that was designated as of July 1, 2001, as serious nonattainment for the one-hour ozone standard as set forth in the federal Clean Air Act, the Commission shall not issue a decision approving such proposed facility that is conditioned upon issuance of any environmental permit or approval. In every proceeding under this subsection, the Commission shall receive and give consideration to all reports that relate to the proposed facility by state agencies concerned with environmental protection; and if requested by any county or municipality in which the facility is proposed to be built, to local comprehensive plans that have been adopted pursuant to Article 3 (§ 15.2-2223 et seq.) of Chapter 22 of Title 15.2. Additionally, the Commission (a) shall consider the effect of the proposed facility on economic development within the Commonwealth, including but not limited to furtherance of the economic and job creation objectives of the Commonwealth Clean Energy Policy set forth in § 45.2-1706.1, and (b) shall consider any improvements in service reliability that may result from the construction of such facility.

B. Subject to the provisions of subsection J, no electrical transmission line of 138 kilovolts or more shall be constructed unless the State Corporation Commission shall, after at least 30 days' advance notice by (i) publication in a newspaper or newspapers of general circulation in the counties and municipalities through which the line is proposed to be built, (ii) written notice to the governing body of each such county and municipality, and (iii) causing to be sent a copy of the notice by first class mail to all owners of property within the route of the proposed line, as indicated on the map or sketch of the route filed with the Commission, which requirement shall be satisfied by mailing the notice to such persons at such addresses as are indicated in the land books maintained by the commissioner of revenue, director of finance or treasurer of the county or municipality, approve such line. Such notices shall include a written description of the proposed route the line is to follow, as well as a map or sketch of the route including a digital geographic information system (GIS) map provided by the public utility showing the location of the proposed route. The Commission shall make GIS maps provided under this subsection available to the public on the Commission's website. Such notices shall be in addition to the advance notice to the chief administrative officer of the county or municipality required pursuant to § 15.2-2202.

As a condition to approval the Commission shall determine that the line is needed and that the corridor or route chosen for the line will avoid or reasonably minimize adverse impact to the greatest

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59 extent reasonably practicable on the scenic assets, historic resources recorded with the Department of  
60 Historic Resources, and environment of the area concerned. To assist the Commission in this  
61 determination, as part of the application for Commission approval of the line, the applicant shall  
62 summarize its efforts to avoid or reasonably minimize adverse impact to the greatest extent reasonably  
63 practicable on the scenic assets, historic resources recorded with the Department of Historic Resources,  
64 and environment of the area concerned. In making the determinations about need, corridor or route, and  
65 method of installation, the Commission shall verify the applicant's load flow modeling, contingency  
66 analyses, and reliability needs presented to justify the new line and its proposed method of installation.  
67 *In determining whether the line is needed and will avoid or reasonably minimize adverse impact*  
68 *pursuant to this subsection, the Commission shall require the applicant to provide a comprehensive*  
69 *assessment of the application of grid-enhancing technologies and advanced conductors and shall*  
70 *evaluate whether such technologies and conductors can enhance, augment, or replace the proposed line*  
71 *in a cost-effective manner.* If the local comprehensive plan of an affected county or municipality  
72 designates corridors or routes for electric transmission lines and the line is proposed to be constructed  
73 outside such corridors or routes, in any hearing the county or municipality may provide adequate  
74 evidence that the existing planned corridors or routes designated in the plan can adequately serve the  
75 needs of the company. Additionally, the Commission shall consider, upon the request of the governing  
76 body of any county or municipality in which the line is proposed to be constructed, (a) the costs and  
77 economic benefits likely to result from requiring the underground placement of the line and (b) any  
78 potential impediments to timely construction of the line.

79 C. If, prior to such approval, any interested party shall request a public hearing, the Commission  
80 shall, as soon as reasonably practicable after such request, hold such hearing or hearings at such place as  
81 may be designated by the Commission. In any hearing the public service company shall provide  
82 adequate evidence that existing rights-of-way cannot adequately serve the needs of the company.

83 If, prior to such approval, written requests therefor are received from the governing body of any  
84 county or municipality through which the line is proposed to be built or from 20 or more interested  
85 parties, the Commission shall hold at least one hearing in the area that would be affected by  
86 construction of the line, for the purpose of receiving public comment on the proposal. If any hearing is  
87 to be held in the area affected, the Commission shall direct that a copy of the transcripts of any  
88 previous hearings held in the case be made available for public inspection at a convenient location in the  
89 area for a reasonable time before such local hearing.

90 D. As used in this section, unless the context requires a different meaning:

91 *"Advanced conductors" has the same meaning as provided in § 56-597.*

92 "Environment" or "environmental" shall be deemed to include in meaning "historic," as well as a  
93 consideration of the probable effects of the line on the health and safety of the persons in the area  
94 concerned.

95 *"Grid-enhancing technologies" has the same meaning as provided in § 56-597.*

96 "Interested parties" shall include the governing bodies of any counties or municipalities through  
97 which the line is proposed to be built, and persons residing or owning property in each such county or  
98 municipality.

99 "Public utility" means a public utility as defined in § 56-265.1.

100 "Qualifying facilities" means a cogeneration or small power production facility which meets the  
101 criteria of 18 C.F.R. Part 292.

102 "Reasonably accommodate requests to wheel or transmit power" means:

103 1. That the applicant will make available to new electric generation facilities constructed after  
104 January 9, 1991, qualifying facilities and other nonutilities, a minimum of one-fourth of the total  
105 megawatts of the additional transmission capacity created by the proposed line, for the purpose of  
106 wheeling to public utility purchasers the power generated by such qualifying facilities and other  
107 nonutility facilities which are awarded a power purchase contract by a public utility purchaser in  
108 compliance with applicable state law or regulations governing bidding or capacity acquisition programs  
109 for the purchase of electric capacity from nonutility sources, provided that the obligation of the applicant  
110 will extend only to those requests for wheeling service made within the 12 months following  
111 certification by the State Corporation Commission of the transmission line and with effective dates for  
112 commencement of such service within the 12 months following completion of the transmission line; and

113 2. That the wheeling service offered by the applicant, pursuant to subdivision D 1, will reasonably  
114 further the purposes of the Public Utilities Regulatory Policies Act of 1978 (P. L. 95-617), as  
115 demonstrated by submitting to the Commission, with its application for approval of the line, the cost  
116 methodologies, terms, conditions, and dispatch and interconnection requirements the applicant intends,  
117 subject to any applicable requirements of the Federal Energy Regulatory Commission, to include in its  
118 agreements for such wheeling service.

119 E. In the event that, at any time after the giving of the notice required in subsection B, it appears to  
120 the Commission that consideration of a route or routes significantly different from the route described in

the notice is desirable, the Commission shall cause notice of the new route or routes to be published and mailed in accordance with subsection B. The Commission shall thereafter comply with the provisions of this section with respect to the new route or routes to the full extent necessary to give affected localities and interested parties in the newly affected areas the same protection afforded to affected localities and interested parties affected by the route described in the original notice.

F. Approval of a transmission line pursuant to this section shall be deemed to satisfy the requirements of § 15.2-2232 and local zoning ordinances with respect to such transmission line.

G. The Commission shall enter into a memorandum of agreement with the Department of Environmental Quality regarding the coordination of their reviews of the environmental impact of electric generating plants and associated facilities.

H. An applicant that is required to obtain (i) a certificate of public convenience and necessity from the Commission for any electric generating facility, electric transmission line, natural or manufactured gas transmission line as defined in 49 Code of Federal Regulations § 192.3, or natural or manufactured gas storage facility (hereafter, an energy facility) and (ii) an environmental permit for the energy facility that is subject to issuance by any agency or board within the Secretariat of Natural and Historic Resources, may request a pre-application planning and review process. In any such request to the Commission or the Secretariat of Natural and Historic Resources, the applicant shall identify the proposed energy facility for which it requests the pre-application planning and review process. The Commission, the Department of Environmental Quality, the Marine Resources Commission, the Department of Wildlife Resources, the Department of Historic Resources, the Department of Conservation and Recreation, and other appropriate agencies of the Commonwealth shall participate in the pre-application planning and review process. Participation in such process shall not limit the authority otherwise provided by law to the Commission or other agencies or boards of the Commonwealth. The Commission and other participating agencies of the Commonwealth may invite federal and local governmental entities charged by law with responsibility for issuing permits or approvals to participate in the pre-application planning and review process. Through the pre-application planning and review process, the applicant, the Commission, and other agencies and boards shall identify the potential impacts and approvals that may be required and shall develop a plan that will provide for an efficient and coordinated review of the proposed energy facility. The plan shall include (a) a list of the permits or other approvals likely to be required based on the information available, (b) a specific plan and preliminary schedule for the different reviews, (c) a plan for coordinating those reviews and the related public comment process, and (d) designation of points of contact, either within each agency or for the Commonwealth as a whole, to facilitate this coordination. The plan shall be made readily available to the public and shall be maintained on a dedicated website to provide current information on the status of each component of the plan and each approval process including opportunities for public comment.

I. The provisions of this section shall not apply to the construction and operation of a small renewable energy project, as defined in § 10.1-1197.5, by a utility regulated pursuant to this title for which the Department of Environmental Quality has issued a permit by rule pursuant to Article 5 (§ 10.1-1197.5 et seq.) of Chapter 11.1 of Title 10.1.

J. Approval under this section shall not be required for any transmission line for which a certificate of public convenience and necessity is not required pursuant to subdivision A of § 56-265.2, *except that if a utility performing work on any such line does not employ grid-enhancing technologies or advanced conductors as the preferred solution to the identified need, such utility shall file with the Commission a comprehensive analysis of why such technologies or conductors were not selected as the preferred transmission solution.*

#### **§ 56-597. Definitions.**

As used in this chapter:

"Advanced conductors" means hardware technology that can conduct electricity across transmission lines and that demonstrates enhanced performance over traditional conductor products.

"Affiliate" means a person that controls, is controlled by, or is under common control with an electric utility.

"Electric utility" means any investor-owned public utility that provides electric energy for use by retail customers, except investor-owned utilities subject to the provisions of § 56-585.8.

"Grid-enhancing technologies" means a set of technologies that maximize the transmission of electricity across the electric distribution grid, including storage as a transmission asset, dynamic line rating, power flow control, topology optimization.

"Integrated resource plan" or "IRP" means a document developed by an electric utility that provides a forecast of its load obligations and a plan to meet those obligations by supply side and demand side resources over the ensuing 15 years to promote reasonable prices, reliable service, energy independence, and environmental responsibility.

"Retail customer" means any person that purchases retail electric energy for its own consumption at one or more metering points or non-metered points of delivery located in the Commonwealth.

**§ 56-599. Integrated resource plan required.**

A. Each electric utility shall file an updated integrated resource plan by October 15, in each year immediately preceding the year the utility is subject to a biennial 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 Commerce and Energy, the Chairman of the Senate Committee on Commerce and Labor, and 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, *including a comprehensive assessment of the application of grid-enhancing technologies and advanced conductors. An electric utility that does not include grid-enhancing technologies or advanced conductors in an integrated resource plan shall include a detailed explanation of why such technologies or conductors are not included in such plan;*
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

244 meetings that have occurred prior to the filing date.

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

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