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SENATE BILL NO. 454

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Governor
on April 8, 2024)

(Patron Prior to Substitute—Senator Marsden)

A BILL to amend the Code of Virginia by adding a section numbered 56-585.1:14, relating to electric utilities; recovery of development costs associated with small modular reactor.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 56-585.1:14 as follows:

§ 56-585.1:14. Recovery of development costs associated with small modular reactor.

A. As used in this section:

"Small modular reactor" or "SMR" means a nuclear reactor that produces nuclear power and has a nameplate capacity that does not exceed 500 megawatts of generating capacity per reactor.

"SMR facility" means an SMR or multiple SMRs that generate electricity at a single site.

"SMR project development costs" or "project costs" means all costs associated with the development of one or more SMRs, including costs of evaluation, design, engineering, federal approvals and licensing, environmental analysis and permitting, early site permitting, equipment procurement, and authorized rate of return.

"Utility" means a Phase II Utility, as that term is defined in subdivision A 1 of § 56-585.1.

B. Notwithstanding any limitation under subdivision A 6 of § 56-585.1, the utility may petition the Commission at any time for approval of a rate adjustment clause pursuant to subdivision A 6 of § 56-585.1 for the recovery of SMR project development costs. The utility may petition the Commission for up to one SMR facility pursuant to this section. Such utilities may petition the Commission for SMR project development cost recovery along separate development phases and, if the Commission determines such projected or actual project costs to be reasonable and prudent, such project costs may be recovered by such utility on a timely and current basis from customers prior to any approval pursuant to subsection D of § 56-580 or the commercial operation date of any such SMR facility. Any SMR project development costs incurred prior to July 1, 2024, and 20 percent of SMR project development costs incurred after July 1, 2024, shall not be eligible for accelerated cost recovery pursuant to this section and may be recovered through the utility's rates for generation and distribution services pursuant to subdivision A 1 of § 56-585.1. The utility that petitions the Commission for recovery of SMR project development costs shall demonstrate that such utility has evaluated funding opportunities from the U.S. Department of Energy. Nothing in this section shall limit the Commission's discretion to determine whether the proposed SMR project development costs are reasonable and prudent. As part of a final order approving such cost recovery, the Commission may impose a deadline by which the relevant utility shall either (i) place an SMR into commercial operation or (ii) sell the permitted site, unless it is at a previously existing nuclear site, and return the proceeds of the sale to customers. The length of such deadline shall be at the Commission's discretion; however, it shall provide the utility a reasonable timeframe in which to obtain all necessary permits and approvals, including allowing for approval by federal agencies such as the Nuclear Regulatory Commission, and completing construction of an SMR.

C. Nothing in this section shall limit the Commission's authority to approve or deny a petition for recovery of SMR project development costs or to require a utility to demonstrate that such utility made reasonable good-faith efforts to secure appropriate funding opportunities from the U.S. Department of Energy. The annual revenue requirement for any rate adjustment clause authorized pursuant to this section shall not exceed an amount that would increase the monthly bill of the utility's typical Virginia residential customer, utilizing 1,000 kilowatt hours of electricity monthly, by more than \$1.40.

2. That the provisions of this act shall expire on December 31, 2029.