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SENATE BILL NO. 688

Offered January 26, 1998

A *BILL to amend the Code of Virginia by adding in Title 56 a chapter numbered 23, containing articles numbered 1 through 4, consisting of sections numbered 56-576 through 56-594, relating to the Electric Industry Restructuring Act; civil penalties.*

 Patron—Reasor

Referred to the Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 56 a chapter numbered 23, containing articles numbered 1 through 4, consisting of sections numbered 56-576 through 56-594, as follows:

CHAPTER 23.**ELECTRIC INDUSTRY RESTRUCTURING ACT.****Article 1.****General Provisions.**

§ 56-576. *Short title.*

This chapter may be cited as the "Electric Industry Restructuring Act."

§ 56-577. *Definitions.*

As used in this chapter:

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

"Aggregator" means a person licensed by the Commission that purchases or arranges for the purchase of electric energy as an agent or intermediary for sale to, or on behalf of, two or more retail customers.

"Broker" means a person licensed by the Commission that acts as an agent or intermediary in the sale and purchase of electric energy for use by one or more retail customers but that does not take title to electric energy.

"Commission" means the State Corporation Commission.

"Cooperative electric utility" means a utility formed under or subject to Chapter 9 (§ 56-209 et seq.) of this title.

"Customer choice" means the opportunity for a retail customer in the Commonwealth to purchase electric energy from any supplier licensed and seeking to sell electric energy to that customer.

"Distribute," "distributing" or "distribution of" electric energy means the transfer of electric energy through a retail distribution system to a retail customer.

"Distributor" means a person owning, controlling, or operating a retail distribution system to provide electric energy directly to retail customers.

"Electric utility" means any person that generates, transmits, or distributes electric energy for use by retail customers in the Commonwealth, including any investor-owned electric utility, cooperative electric utility, or electric utility owned or operated by a municipality.

"Generate," "generating," or "generation of" electric energy means the production of electric energy.

"Generator" means a person owning, controlling, or operating a facility that produces electric energy for sale.

"Incumbent electric utility" means each electric utility in the Commonwealth that, prior to July 1, 1999, supplied electric energy to retail customers located in an exclusive service territory established by the Commission.

"Large retail customer" means a retail customer (i) that has had an individual peak measured demand for electric energy of five megawatts or greater during at least three billing months out of the most recent previous twelve billing months for which such data are available, and (ii) that has installed, at its own or a supplier's expense, an interval data recorder or other similar technology approved by the independent system operator serving that retail customer to measure that customer's consumption of electric energy on an interval basis.

"Marketer" means a person licensed by the Commission that acts as an agent or intermediary in the sale and purchase of electric energy for use by one or more retail customers and that takes title to electric energy it purchases for resale to retail customers.

"Municipality" means a city, county, town, authority or other political subdivision of the Commonwealth.

"Nonbypassable wires charge" means a charge that is to be paid by a retail customer located in the

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60 geographic area that was the service territory of the incumbent electric utility and that represents that
61 customer's share of the transition costs, public purpose program costs, or other costs recoverable by an
62 electric utility as provided in this chapter.

63 "Nonregulated electric utility" means an electric utility located in the Commonwealth that is not
64 regulated by the Commission as of July 1, 1999.

65 "Period of transition to customer choice" means the period beginning on July 1, 1999, and ending
66 on December 31, 2003, unless otherwise extended by the Commission pursuant to this chapter, during
67 which the Commission and all electric utilities authorized to do business in the Commonwealth shall
68 implement customer choice for retail customers in the Commonwealth.

69 "Person" means any individual, corporation, partnership, association, company, business, trust, joint
70 venture, or other private legal entity, and the Commonwealth or any municipality.

71 "Regulated electric utility" means an electric utility that is regulated by the Commission as of July 1,
72 1999.

73 "Regulatory assets" means previously deferred, generation-related costs incurred by a regulated
74 electric utility in providing electric energy. "Regulatory assets" represent the effect of actions of a
75 regulator, regardless of their classification in financial statements, and therefore include items such as
76 (i) the cumulative difference between recorded depreciation and generally accepted methods of
77 depreciation, and (ii) the asset or obligation associated with the prior service cost component of
78 pensions and other post-employment benefits costs.

79 "Related distribution service" means any billing, metering, collections, remittance, outage call, new
80 connection, or other service or equipment that is necessary to provide retail electric energy directly to a
81 retail customer.

82 "Retail customer" means any person that purchases retail electric energy at a single metering point
83 or non-metered point of delivery located in the Commonwealth.

84 "Retail distribution system" means the electric energy facilities and related distribution services
85 required for the distribution of electric energy to retail customers.

86 "Retail electric energy" means electric energy sold for ultimate consumption to a retail customer.

87 "Supplier" means any generator, distributor, aggregator, broker, marketer, or other person who
88 offers to sell or sells electric energy to retail customers and is licensed by the Commission to do so, but
89 it does not mean a generator that produces electric energy exclusively for its own consumption or the
90 consumption of an affiliate.

91 "Supply" or "supplying" electric energy means the sale of or the offer to sell electric energy to a
92 retail customer.

93 "Transition benefits" means gains in the economic value of an incumbent electric utility's investments
94 and commitments in generation assets that result from either (i) the implementation by the
95 Commonwealth of customer choice in the sale of electric energy to retail customers in the
96 Commonwealth or (ii) a federal statute or regulation requiring the implementation of customer choice or
97 some other form of competition in the supply of electric energy to retail customers in the
98 Commonwealth.

99 "Transition costs" means losses in the economic value of an incumbent electric utility's investments
100 and commitments in generation assets that would result from either (i) the implementation by the
101 Commonwealth of customer choice in the sale of electric energy to retail customers in the
102 Commonwealth or (ii) a federal statute or regulation requiring the implementation of customer choice or
103 some other form of competition in the supply of electric energy to retail customers in the
104 Commonwealth.

105 "Transmission of," "transmit," or "transmitting" electric energy means the transfer of electric energy
106 through the Commonwealth's interconnected transmission grid from a generator to either a distributor
107 or a retail customer.

108 "Transmission system" means those facilities and equipment that are required to provide for the
109 transmission of electric energy.

110 "Transmitter" means a person owning, controlling, or operating an electric energy transmission
111 system, other than an independent system operator as provided in § 59-581.

112 § 56-578. Applicability; municipalities.

113 A. This chapter shall apply to all electric utilities authorized to conduct business in the
114 Commonwealth.

115 B. Notwithstanding subsection A of this section, this chapter shall not apply to an electric utility
116 owned or operated by a municipality unless (i) that municipality elects to have this chapter apply to that
117 utility or (ii) that utility sells, offers to sell or seeks to sell electric energy through a regional power
118 exchange or to a supplier or distributor of electric energy. Any electric utility owned or operated by a
119 municipality, whether or not subject to this chapter, may purchase electric energy through a regional
120 power exchange or through a contract with a generator or supplier, subject to the rules and procedures
121 adopted by the independent system operator serving that electric utility and the relevant regional power

exchange, as provided in §§ 56-581 and 56-582.

Article 2.

Phased Transition to Retail Competition.

§ 56-579. Schedule for transition to retail competition; Commission authority.

A. The transition to retail competition for the purchase and sale of electric energy shall be implemented as follows:

1. On or before January 1, 2000, each electric utility subject to this chapter shall submit to the Commission (i) a transition plan relating to the phased transition to retail competition for the purchase and sale of electric energy, as provided in this chapter, and (ii) an application for a change of rates or an alternative rate plan for rates to be in effect through June 30, 2001, as provided in § 56-584.

2. On or before July 1, 2000, one or more independent system operators and one or more regional power exchanges shall be established, as provided in §§ 56-581 and 56-582, to facilitate a competitive market for the wholesale purchase and sale of electric energy in the Commonwealth.

3. a. Beginning on July 1, 2001, enhanced wholesale competition shall be implemented within the Commonwealth in which (i) each distributor subject to the jurisdiction of the Commission shall purchase electric energy for its retail customers either through a regional power exchange or through a contract with a generator or other supplier, (ii) large retail customers within the Commonwealth may, in lieu of purchasing from an incumbent utility, elect to purchase electric energy for their own use either through a regional power exchange or through a contract with a generator or other supplier, and (iii) the Commission may coordinate customer-diverse, geographically-dispersed retail competition pilot programs to be implemented by electric and gas utilities in preparation for full retail competition.

b. Large retail customers purchasing electric energy from a supplier other than their incumbent utility during the period July 1, 2001, through December 31, 2003, shall remit to such incumbent utility its net revenue loss, calculated on a per-kilowatt or per-kilowatt-hour basis, resulting therefrom, which shall be equal to the customer's regulated rate prior to July 1, 2001, less an average, market-based rate as may be determined by the Commission, and less transmission and distribution charges assessed the customer pursuant to rates established by the Commission under § 56-584.

4. Beginning on January 1, 2004, each retail electricity customer within the Commonwealth, regardless of customer class, shall have the opportunity to purchase electric energy from any supplier of electric energy seeking to sell electric energy to that customer.

B. The Commission may delay the implementation of enhanced wholesale competition for the purchase and sale of electric energy under this section if it finds that such delay is necessitated by any action or inaction of the Federal Energy Regulatory Commission or any proceeding pending before the Supreme Court of Virginia relating to or arising out of this chapter.

C. The Commission shall have the authority, and shall promulgate such rules and regulations as are necessary, to implement the provisions of this section.

§ 56-580. Nondiscriminatory access to transmission and distribution systems.

A. All distributors subject to this chapter shall provide for reasonable and nondiscriminatory access to their retail distribution systems consistent with the transition schedule prescribed by this chapter, and to the extent permitted or required by federal law, all transmitters subject to this chapter shall provide for reasonable and nondiscriminatory access to their transmission systems, including generators and suppliers that seek to serve retail customers in that class and retail customers in that class that seek to purchase electric energy through those systems.

B. The access to the transmission and distribution systems required by this section shall be provided to generators, suppliers and retail customers at rates and under terms and conditions that are just, reasonable and not unduly discriminatory. To the extent permitted or required by federal law, the costs to a transmitter of providing reasonable and nondiscriminatory access to its transmission system shall be determined by and included in the transmission rates established by the Federal Energy Regulatory Commission. All costs to a distributor of providing reasonable and nondiscriminatory access to its distribution system, including the cost of money and the opportunity to earn a reasonable return, shall be recovered in the rates established by the Commission for the distribution of electric energy as provided in § 56-584.

C. The transmission and distribution services provided to each supplier and retail customer shall be at least equal in quality to those provided by the transmitter or distributor to itself or to any affiliate of that transmitter or distributor.

D. The Commission shall have the authority, and shall promulgate such rules and regulations as are necessary, to implement reasonable and nondiscriminatory access as provided in this section.

§ 56-581. Independent system operator.

A. By July 1, 2000, all incumbent electric utilities shall establish, subject to approval by the Federal Energy Regulatory Commission and, to the extent not prohibited by federal law, by the Commission, one or more independent system operators to coordinate and control the operation of the interconnected

183 electric energy transmission grid system throughout, or in specified portions of, the Commonwealth,
184 provided that all of the Commonwealth shall be served by an independent system operator.

185 B. It shall be the duty and responsibility of each independent system operator to:

186 1. Manage and control the transmission of electric energy throughout the Commonwealth, or in a
187 specified portion of, the Commonwealth;

188 2. Provide reasonable and nondiscriminatory access to the transmission system under its
189 management and control to all suppliers who seek to sell electric energy through, or transmitters who
190 seek to transmit electric energy to, distributors served by such transmission system;

191 3. Coordinate the scheduling and balancing of the transmission of electric energy and such other
192 services as may be required in connection with the transmission of electric energy in the
193 Commonwealth, including coordinating with all other independent system operators serving portions of
194 the Commonwealth;

195 4. Preserve the reliability and integrity of the transmission system under its management and control;

196 5. Adopt rules and procedures, subject to approval, to the extent required by federal law, by the
197 Federal Energy Regulatory Commission and, to the extent not prohibited by federal law, by the
198 Commission, for fulfilling the duties and responsibilities prescribed under this section, including
199 establishing a managing board on which each incumbent electric utility has one representative and no
200 generator, supplier, transmitter, or distributor of electric energy has more than one representative;

201 6. Procure all services that are required to fulfill such duties and responsibilities; and

202 7. Secure any approval from state and federal authorities that may be required to fulfill such duties
203 and responsibilities.

204 C. The establishment and operation of an independent system operator shall be subject to approval,
205 to the extent required by federal law, by the Federal Energy Regulatory Commission and, to the extent
206 not prohibited by federal law, by the Commission.

207 D. No generator, supplier, transmitter or distributor of electric energy shall have an ownership
208 interest in any independent system operator established under or authorized by this section.

209 E. To the extent that the cost to any incumbent electric utility of establishing and operating an
210 independent system operator is not included in the rates for the transmission of electric energy
211 established by the Federal Energy Regulatory Commission, that cost shall be recovered by that electric
212 utility through a nonbypassable wires charge to retail customers, as provided in § 56-592.

213 F. Subject to (i) approval, to the extent required by federal law, by the Federal Energy Regulatory
214 Commission and, to the extent not prohibited by federal law, by the Commission, and (ii) unanimous
215 approval by its managing board, an independent system operator may:

216 1. Merge with, join, or cede its authority to a similar entity if one should be established to manage
217 and control the transmission of electric energy on a regional, statewide, or multi-state basis; and

218 2. Merge or combine with a regional power exchange established under § 56-582.

219 G. Each generator producing electric energy, and each supplier selling electric energy pursuant to a
220 bilateral contract for use by a retail customer, in any geographic area of the Commonwealth shall
221 register with the independent system operator serving that area and comply with all rules, protocols and
222 procedures that the independent system operator may adopt.

223 § 56-582. Regional power exchange.

224 A. By July 1, 2000, all incumbent electric utilities and all suppliers of electric energy licensed by the
225 Commission shall establish, subject to approval, to the extent not prohibited by federal law, by the
226 Commission and, to the extent required by federal law, by the Federal Energy Regulatory Commission,
227 one or more independent regional power exchanges to conduct statewide or regional competitive
228 auctions, open on a reasonable and nondiscriminatory basis to all suppliers of electric energy.

229 B. Each generator and supplier that seeks to sell electric energy through a regional power exchange
230 in the Commonwealth shall register with that regional power exchange and comply with all rules,
231 protocols, and procedures that the regional power exchange may adopt.

232 C. Except as otherwise provided in this subsection, each generator that seeks to sell electric energy
233 to a supplier for resale to a retail customer may sell to that supplier, and each supplier that seeks to
234 sell electric energy to a retail customer may sell to that customer, only electric energy that has been
235 accepted for sale by a regional power exchange, unless the retail customer or supplier enters into a
236 bilateral contract with the generator. Except as may be further limited by any rule or procedure adopted
237 by the independent system operator serving that regional power exchange, in accordance with
238 subdivision B 5 of § 56-581, bilateral contracts shall be permitted (i) on and after July 1, 2001, between
239 a generator or supplier and a large retail customer to serve the full requirements of that retail
240 customer, and (ii) on and after January 1, 2004, between a generator or supplier and any retail
241 customer to serve the full requirements of that retail customer.

242 D. It shall be the duty and responsibility of each regional power exchange to:

243 1. Serve as a clearinghouse for supplying electric energy to retail customers throughout the
244 Commonwealth or in a specified area thereof, provided all areas of the Commonwealth shall be served

by a regional power exchange;

2. Match, through a regular auction process and in coordination with the relevant independent system operator or operators, electric energy offered for sale through the regional power exchange with the demand for electric energy by retail customers served by that regional power exchange and determine the market clearing price at which that electric energy is accepted for sale and sold through that regional power exchange;

3. Afford reasonable and nondiscriminatory access to such auction process to all generators and suppliers of electric energy authorized to conduct business in the Commonwealth, except that in conducting its auction process to meet projected required loads, the regional power exchange shall, before accepting for sale any other electric energy;

4. Adopt rules and procedures, subject to approval, to the extent not prohibited by federal law, by the Commission and, to the extent required by federal law, by the Federal Energy Regulatory Commission, to fulfill the duties and responsibilities required by this section, including establishing a managing board on which each incumbent electric utility has one representative and no generator or supplier of electric energy has more than one representative;

5. Procure all services that are required to fulfill such duties and responsibilities; and

6. Secure any approval from state and federal authorities that may be required to fulfill such duties and responsibilities.

E. The establishment and operation of a regional power exchange shall be subject to approval, to the extent not prohibited by federal law, by the Commission and, to the extent required by federal law, by the Federal Energy Regulatory Commission.

F. No generator, supplier, transmitter or distributor of electric energy shall have an ownership interest in any regional power exchange established under or authorized by this section.

G. To the extent that the cost to any incumbent electric utility of establishing and operating a regional power exchange is not included in the rates for the transmission of electric energy established by the Federal Energy Regulatory Commission, that cost shall be recovered by that electric utility through a nonbypassable wires charge to retail customers, as provided in § 56-592.

H. Subject to approval, to the extent not prohibited by federal law, by the Commission and, to the extent required by federal law, by the Federal Energy Regulatory Commission, a regional power exchange may:

1. Coordinate its operation with, merge with, join, or cede its authority to a similar entity if one should be established to provide an electric energy auction to serve the loads of retail electric energy customers on a regional, statewide or multi-state basis; and

2. Coordinate its operation, merge, or combine with an independent system operator established under § 56-581.

Article 3.

Regulation of Electricity Generation, Transmission and Distribution.

§ 56-583. Transmission and distribution of electric energy.

A. The Commission shall continue to regulate pursuant to this title the distribution of electric energy to retail customers in the Commonwealth and, to the extent not prohibited by federal law, the transmission of electric energy in the Commonwealth. The Commission also shall continue to regulate, to the extent not prohibited by federal law, the siting of facilities for the transmission of electric energy and the reliability, quality, and maintenance by transmitters and distributors of their transmission and retail distribution systems. Persons that own transmission and retail distribution systems may continue to own those systems.

B. Any electric utility authorized to sell electric energy to retail customers in an exclusive service territory in the Commonwealth as of July 1, 1998, and any successor distributor or distributors of such an electric utility, shall be authorized to continue to distribute electric energy to retail customers in that same exclusive service territory. The Commission shall consider a request by a distributor or distributors to modify the exclusive service territory of such distributor or distributors and shall approve any such request unless the Commission finds the requested modification to be contrary to the public interest.

§ 56-584. Regulation of rates subject to the Commission's jurisdiction.

A. Except as provided in the remaining subsections of this section, after July 1, 1999, the Commission shall continue to regulate an electric utility's rates still subject to the Commission's jurisdiction as provided in this title.

B. Rates for the generation, transmission and distribution of electric energy for all classes of retail customers shall continue to be regulated by the Commission on a bundled basis until the commencement of enhanced wholesale competition on June 30, 2001. After that date:

1. The Commission shall regulate the rates for the transmission of electric energy, to the extent not prohibited by federal law, and for the distribution of electric energy to such retail customers on an

unbundled basis, but the Commission no longer shall regulate rates for the generation component of retail electric energy sold to that class of retail customers, or require any person to file a schedule of charges, cost or revenue projections, or any other information for supplying retail electric energy to any class of retail customers.

2. For retail customers for which electric energy is purchased through a regional power exchange or from the wholesale market during the period July 1, 2001, through June 30, 2004, the Commission shall regulate the rates for the transmission of electric energy, to the extent not prohibited by federal law, and for the distribution of electric energy to such retail customers on an unbundled basis, and shall permit the distributor to recover in full its costs of supplying that electric energy to such customers, including the cost of purchasing that energy, any associated operating costs, and such additional compensation as determined by the Commission.

3. For retail customers for which customer choice has not yet been implemented and for which electric energy is not being purchased through a regional power exchange or from the wholesale market, the Commission shall continue to regulate rates for the generation, transmission and distribution of electric energy on a bundled basis pursuant to this title.

C. Notwithstanding the provisions of any other subsection of this section, if after December 31, 1997, the Commission approves an application for a change in base rates or an alternative rate plan for a regulated electric utility, the bundled base rates approved by the Commission for that electric utility shall remain in effect until June 30, 2001, for those retail customers for which customer choice has not yet been implemented and electric energy is not being purchased through a regional power exchange or from the wholesale market. Any such rates shall include an authorized range for a return on equity sufficient to permit that utility to recover in full by December 31, 2003, any regulatory assets that are associated with any non-nuclear generating facility owned or operated by that utility and that (i) were being recovered in rates that were being charged by that utility prior to January 1, 1998, whether or not the application for a change in rates or the alternative rate plan that proposed those rates has been finally approved by the Commission, or (ii) are costs, as determined by the Commission, that were incurred since January 1, 1998. The recovery of fuel costs shall continue pursuant to § 56-249.6 until December 31, 2000. The Commission shall determine the appropriate methodology for the recovery of fuel costs for the period of July 1, 2001, through December 31, 2003, from retail customers for which customer choice has not yet been implemented.

§ 56-585. Licensure of suppliers of retail electric energy; license suspension or revocation; penalties.

A. As a condition of doing business in the Commonwealth, each person seeking to sell, offering to sell, or selling electric energy to (i) large retail customers after July 1, 2001, and (ii) any class of retail customer in the Commonwealth after January 1, shall obtain a license from the Commission to do so. The license shall authorize that person to act as a supplier until the license is otherwise terminated, suspended or revoked. Upon request, each incumbent electric utility authorized to conduct business in the Commonwealth as of the date of that request shall be issued an initial license under this section without the need for any further showing. Unless renewed by the Commission, a supplier's license shall expire after a period of five years from the date on which it was issued. A person that generates electric energy exclusively for its own consumption or the consumption of an affiliate shall not be required to obtain a license.

B. As a condition of obtaining, retaining and renewing any license issued pursuant to this section, a person shall (i) satisfy such reasonable and nondiscriminatory requirements as may be specified by the Commission, including requirements that such person shall demonstrate, in a manner satisfactory to the Commission, financial responsibility, (ii) post a bond as deemed adequate by the Commission to ensure that financial responsibility, (iii) pay an annual license fee to be determined by the Commission, (iv) pay all taxes and fees lawfully imposed by the Commonwealth or by any municipality or other political subdivision of the Commonwealth, and (v) pay its share of the costs imposed pursuant to § 56-586 to provide a supplier to a retail customer for which customer choice has been implemented if no supplier offers to sell electric energy to that customer.

C. The Commission may adopt reasonable rules and regulations governing the requirements for obtaining, retaining, and renewing a license to supply electric energy to retail customers, and may, as appropriate, refuse to issue a license to, or suspend, revoke, or refuse to renew the license of, any person that does not meet those requirements. In addition to being subject to any other applicable sanctions provided in Titles 12.1 and 13.1 or elsewhere in this title, any person that supplies electric energy to retail customers without a license to do so, or while its license to do so is suspended or revoked, shall be guilty of a Class 1 misdemeanor. Each day during which a person violates this section shall constitute a separate violation.

§ 56-586. Suppliers of last resort.

If, after July 1, 2004, a retail customer does not choose a supplier of electric energy, that retail customer shall be deemed to have selected as its supplier (i) the incumbent electric utility, which may supply electric energy to such retail customer through an affiliate that is a generator or supplier, or (ii)

if neither that incumbent electric utility nor any of its affiliates is a generator or supplier of electric energy, the distributor serving the area in which that retail customer is located.

§ 56-587. Voluntary aggregation permitted.

Members of any customer class may, on and after July 1, 2001, voluntarily aggregate their electrical energy demand for the purpose of negotiating the purchase of electric energy from any supplier thereof.

§ 56-588. Metering, billing and other related distribution services.

A. Each distributor shall be responsible for all related distribution services for all retail customers in its service territory.

B. Subject to the right of a retail customer to elect to receive a separate bill from its supplier of electric energy, each distributor, on and after July 1, 2004, shall be responsible for billing retail customers for all services related to the supply, transmission and distribution of electric energy.

1. Bills to retail customers shall contain unbundled charges for the supply, transmission, and distribution of electric energy, and for all nonbypassable wires charges imposed under § 56-592, in sufficient detail to enable the customer to identify those charges.

2. To enable distributors to bill retail customers on behalf of suppliers, each supplier shall furnish to each distributor serving each of the supplier's retail customers the charge for supplying electric energy to that retail customer for the distributor's billing period.

3. A distributor shall not be required to forward payment to a supplier for which the distributor is billing a retail customer until the distributor has received payment from that customer.

C. Each distributor shall provide to each supplier metering data related to that supplier's retail customers served by that distributor. Each distributor also shall provide to the independent system operator and the regional power exchange or exchanges serving that distributor's retail customers all load profiling, customer usage and related metering data required for the allocation and settlement of electric energy costs among the independent system operator, regional power exchange, generator and supplier for each retail customer served by that distributor.

D. All costs to a distributor to provide related distribution services required by this section shall be included in the rates established by the Commission for the distribution of electric energy and shall be paid by all retail customers served by that distributor. Provided, however, the recovery of the costs to a distributor to provide related distribution services required by this section that are specific to a particular retail customer, such as the costs associated with a retail customer selecting a new supplier or with the installation of special metering equipment, shall be approved by the Commission and charged to the affected retail customer.

§ 56-589. Consumer protections and customer services; penalties.

A. After the implementation of full retail customer choice on and after January 1, 2004, each distributor shall continue to provide customer service functions consistent with the regulations of the Commission, including related distribution services as specified in § 56-588, and complaint resolution, at the same or higher level of quality as prior to the implementation of customer choice.

B. The Commission shall promulgate reasonable rules and regulations to:

1. Ensure that no distributor changes a retail customer's supplier of electric energy without written authorization from the customer to do so;

2. Prohibit any supplier from misrepresenting the quality, reliability and quantity of electric energy it agrees to supply to retail customers in the Commonwealth;

3. Require each supplier of electric energy to provide adequate and accurate information to enable retail customers to make informed choices and comparisons relating to the purchase of the electric energy services offered by that supplier;

4. Allow for cancellation by residential customers a contract for the supply and purchase of electric energy within three days of executing that contract;

5. Regulate distributor disconnection practices;

6. Establish minimum standards for information to be included in the bills and electric energy supply and purchase contracts provided to residential retail customers;

7. In conjunction with each distributor subject to this chapter, develop and implement prior to the implementation of customer choice, and continue after that date, a consumer education program informing retail customers of the changes in the retail sale and purchase of electric energy implemented by the provisions of this chapter and providing those retail customers with certain standardized information necessary to assist them in making an informed choice regarding their selection of a supplier of electric energy.

C. Each distributor shall recover its costs associated with the consumer education program specified in subdivision B 7 of this section through a nonbypassable wires charge as provided in § 56-592.

D. In addition to being subject to any other applicable sanctions provided in Titles 12.1 and 13.1 or elsewhere in this title, any person who knowingly or willfully violates subsection A of this section or any rule or regulation promulgated pursuant to subdivisions 1 through 6 of subsection B of this section shall

be punished for each such violation by a civil penalty of not more than \$5,000. Each day for which any such person is found to be in violation of subsection A of this section or any such rule or regulation shall constitute a separate violation. The Commission also may suspend, revoke, or refuse to renew the license of any supplier who violates this section or any such rule or regulation.

§ 56-590. Public purpose programs.

A. The Commission may, pursuant to the provisions of this title, approve and impose requirements on all generators, suppliers, transmitters and distributors doing business in the Commonwealth to implement any electric energy program that is intended to benefit the public health, safety and welfare, including any program the purpose of which is to:

1. Ensure that each distributor in the Commonwealth provides access to its retail distribution system to each retail customer in its service territory;

2. Promote electric energy efficiency and conservation, protection of the environment, and research and development; or

3. Educate and retrain employees of electric utilities whose employment will be directly affected by the implementation of customer choice pursuant to this chapter.

B. The Commission shall determine the cost to each generator, supplier, transmitter and distributor affected by each such program of implementing that program, shall impose a nonbypassable wires charge on all retail customers to pay for those costs as provided in § 56-592, to be collected by all distributors authorized to do business in the Commonwealth, and shall determine how the amounts collected by that nonbypassable wires charge shall be disbursed to each affected generator, supplier, transmitter and distributor.

Article 4.

Additional Provisions.

§ 56-591. Transition costs and benefits.

A. Commencing July 1, 2001, and concluding on December 31, 2003, each incumbent electric utility in this Commonwealth that has incurred or will continue to incur net transition costs, or has derived or will continue to derive net transition benefits, associated with the implementation of customer choice, or the purchase of electric energy through a regional power exchange or from the wholesale market, for retail customers as provided in § 56-579 shall, pursuant to the provisions of this section, be (i) entitled to recover its net transition costs or (ii) required to credit its net transition benefits, through a nonbypassable wires charge or credit to be determined by the Commission, calculated on a per-kilowatt or per-kilowatt-hour basis, and to be paid by or credited to the retail customers in the geographic area that was the service territory of the incumbent electric utility, as provided in § 56-592.

B. The Commission shall estimate annually the revenues all generating facilities are expected to receive that year from the sale of electric energy produced by such facilities and, in accordance with the regulated ratemaking methodology last approved by the Commission for the incumbent electric utility that is or was the owner of the facility, shall estimate the annual revenues all facilities must receive that year to ensure recovery of their cost to produce that electric energy, the cost of fuel, and all other operation and maintenance costs related to such facilities, and the opportunity to earn a fair and reasonable rate of return

C. If the Commission estimates that the amount such generating facilities will receive from the sale of electric energy produced will be less than the amount it estimates such facilities need to receive to recover costs to produce that electric energy, the Commission shall order that the difference be paid by retail customers located in the geographic area that was the service territory of the incumbent electric utility.

D. If the Commission estimates that the amount such generating facilities will receive from the sale of electric energy produced will be more than the amount it estimates the facilities need to receive to recover costs to produce that electric energy, the Commission shall order that a credit in the amount of the difference be given to the retail customers specified in subsection C of this subsection.

E. The Commission shall determine on an annual basis whether the amount it estimated that such facilities would receive from the sale of electric energy produced and the amounts it estimated such facilities would need to receive to recover costs were more or less than the amount such facilities in fact received from the sale of electric energy produced and the amount the facilities actually needed to receive to recover costs, and shall adjust the nonbypassable wires charge or credit ordered pursuant to subsections B and C accordingly.

§ 56-592. Nonbypassable wires charges.

A. The nonbypassable wires charges or credits authorized by this section shall be determined by the Commission for those retail customers subject to its jurisdiction and shall be paid by or credited to the retail customers specified in this section. The Commission shall determine the total amount to be paid by, or the total credit due to, retail customers subject to its jurisdiction based on the cost allocation methodology last approved by it prior to January 1, 2004, and shall determine a fair and reasonable methodology for allocating any such amount to be paid or credit due among such customers. Retail

customers for which customer choice has been implemented pursuant to § 56-579, and retail customers for which electric energy is purchased through a regional power exchange or from the wholesale market pursuant to § 56-579, shall pay their portion of the total amount that is to be paid as a nonbypassable wires charge, or shall receive their portion of the total amount due as a credit. The portion of the total amount to be paid or due as a credit that is allocable to retail customers for which customer choice has not yet been implemented, and for which electric energy is not purchased through a regional power exchange or from the wholesale market, shall be deemed to be included in the rates paid by those customers and no additional nonbypassable wires charge or credit for that amount shall be imposed on or given to those customers.

B. To the extent that the costs of establishing and operating an independent system operator as provided in § 56-581, including the cost of money, are not included in the rates for the transmission of electric energy established by the Federal Energy Regulatory Commission, those costs shall be recovered through a nonbypassable wires charge to be paid by retail customers located in the service territory of each distributor served by that independent system operator. The establishment costs shall be recovered over the period of the useful life of the equipment and other assets required to establish the independent system operator.

C. To the extent that the costs of establishing and operating a regional power exchange as provided in § 56-582, including the cost of money, are not included in the rates established by the Federal Energy Regulatory Commission for services provided by the regional power exchange, those costs shall be recovered through a nonbypassable wires charge to be paid by retail customers located in the service territory of each distributor served by that regional power exchange. The establishment costs shall be recovered over the period of the useful life of the equipment and other assets required to establish the regional power exchange.

D. The nonbypassable wires charge or credit related to net transition costs or benefits to an incumbent electric utility as provided in § 56-591, resulting from the implementation of customer choice, or the purchase of electric energy through a regional power exchange or from the wholesale market, pursuant to § 56-579, shall be calculated so that those costs are recovered from retail customers located in the geographic area that was the service territory of the incumbent electric utility, or those benefits are credited to those customers.

E. The nonbypassable wires charge related to the consumer education program specified in subdivision B 7 of § 56-589 shall be calculated so that those costs are recovered from retail customers of each distributor in the Commonwealth over the duration of the program or until those costs are recovered in full.

F. The Commission shall determine the appropriate nonbypassable wires charge to be paid by retail customers located in the geographic area that was the service territory of the incumbent electric utility for:

1. The cost of any public purpose program specified in § 56-590, to be recovered over the duration of that program; and

2. Any other cost associated with the implementation of customer choice, or the purchase of electric energy through a regional power exchange or from the wholesale market, for retail customers that the Commission determines is both necessary and reasonable for such retail customers to pay, to be recovered over a period to be determined by the Commission not to exceed twenty years.

G. The nonbypassable wires charges authorized by this section shall be collected by the distributor serving each affected retail customer and remitted by that distributor to the electric utility, generator, transmitter, distributor or supplier on behalf of which the charge is collected. The credits authorized by this section shall be processed by the distributor and, where appropriate, shall be charged to the electric utility, generator, transmitter, distributor or supplier on behalf of which the credit was processed. The distributor may charge the electric utility, generator, transmitter, distributor or supplier a reasonable administrative fee, as determined by the Commission, for the collection and remittance of such charges or the processing of such credits.

§ 56-593. Divestiture not required; functional separation.

A. The Commission shall not order a regulated electric utility, nor shall it require a nonregulated electric utility to divest itself of any generation, transmission or distribution assets pursuant to any provision of this chapter.

B. 1. The Commission shall, however, direct the functional separation of generation, retail transmission and distribution of all regulated and nonregulated electric utilities in connection with the provisions of this chapter to be completed by December 31, 2003.

2. By July 1, 2001, each regulated electric utility shall submit to the Commission a plan for such functional separation which may be accomplished through the creation of affiliates or through such other means as may be acceptable to the Commission to ensure a competitive market for generation, retail transmission and distribution of electric energy within the Commonwealth.

552 § 56-594. *Legislative transition task force established.*

553 A. *A legislative transition task force is hereby established to work collaboratively with the*
554 *Commission in conjunction with the phase-in of retail competition within the Commonwealth.*

555 B. *The transition task force shall consist of ten members, with six members from the House of*
556 *Delegates and four members from the Senate. Appointments shall be made and vacancies filled by the*
557 *Speaker of the House of Delegates and the Senate Committee on Privileges and Elections, as*
558 *appropriate.*

559 C. *The task force members shall be appointed to begin service on and after July 1, 1999, and shall*
560 *continue to serve until July 1, 2005. They shall (i) monitor the work of the Virginia State Corporation*
561 *Commission in implementing this chapter and (ii) annually report to the Governor and each session of*
562 *the General Assembly during their tenure concerning the progress of each stage of the phase-in of retail*
563 *competition, offering such recommendations as may be appropriate for legislative and administrative*
564 *consideration.*

565 **2. That the provisions of this act shall become effective on July 1, 1999.**