

24104614D

SENATE BILL NO. 578

Offered January 10, 2024

Prefiled January 10, 2024

A BILL to amend and reenact §§ 56-585.1:11 and 56-585.5 of the Code of Virginia, relating to electric utilities; offshore wind generation facilities; competitive procurement process; Department of Energy.

Patron—Deeds

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That §§ 56-585.1:11 and 56-585.5 of the Code of Virginia are amended and reenacted as follows:

§ 56-585.1:11. Development of offshore wind capacity.

A. As used in this section:

"Advanced clean energy buyer" means a commercial or industrial customer of a Phase II Utility, irrespective of generation supplier, (i) with an aggregate load over 100 megawatts; (ii) with an aggregate amount of at least 200 megawatts of solar or wind energy supply under contract with a term of 10 years or more from facilities located within the Commonwealth by January 1, 2024; and (iii) that directly procures from the utility the electric supply and environmental attributes of the offshore wind facility associated with the lesser of 50 megawatts of nameplate capacity or 15 percent of the commercial or industrial customer's annual peak demand for a contract period of 15 years.

"Aggregate load" means the combined electrical load associated with selected accounts of an advanced clean energy buyer with the same legal entity name as, or in the names of affiliated entities that control, are controlled by, or are under common control of, such legal entity or are the names of affiliated entities under a common parent.

"BOEM lease sale" means the lease sale of wind energy areas in the Central Atlantic by the U.S. Bureau of Ocean Energy Management.

"Control" means the legal right, directly or indirectly, to direct or cause the direction of the management, actions, or policies of an affiliated entity, whether through the ability to exercise voting power, by contract, or otherwise. "Control" does not include control of an entity through a franchise or similar contractual agreement.

"Department" means the Department of Energy.

"Offshore wind affiliate" means a regulated affiliate company of a Phase II Utility subject to the Commission's jurisdiction established by such utility in connection with any project constructed pursuant to subdivision C 1 for the purpose of securing a noncontrolling equity financing partner for the project.

"Qualifying large general service customer" means a customer of a Phase II Utility, irrespective of general supplier, (i) whose peak demand during the most recent calendar year exceeded five megawatts and (ii) that contracts with the utility to directly procure electric supply and environmental attributes associated with the offshore wind facility in amounts commensurate with the customer's electric usage for a contract period of 15 years or more.

"Wind turbine generator" means a structure composed of a tower, a rotor with blades connected at the hub, and nacelle and ancillary electrical and other equipment that is affixed to a foundation of which multiple structures comprise a generating facility.

B. In order to meet the Commonwealth's clean energy goals, prior to December 31, 2032, (i) the construction or purchase by a public utility of one or more offshore wind generation facilities located off the Commonwealth's Atlantic shoreline or in federal waters and interconnected directly into the Commonwealth, with an aggregate capacity of up to 5,200 megawatts, or (ii) the purchase by a public utility of energy, capacity, and environmental attributes from offshore wind generation facilities described in clause (i) that are owned by persons other than a public utility is in the public interest and the Commission shall so find, provided that no customers of the utility shall be responsible for costs of any such facility in a proportion greater than the utility's ownership share of the facility, including any ownership share held by an offshore wind affiliate.

C. 1. Pursuant to subsection B, construction by a Phase II Utility of one or more new utility-owned and utility-operated generating facilities utilizing energy derived from offshore wind and located off the Commonwealth's Atlantic shoreline, with an aggregate rated capacity of not less than 2,500 megawatts and not more than 3,000 megawatts, along with electrical transmission or distribution facilities associated therewith for interconnection is in the public interest. In acting upon any request for cost recovery by a Phase II Utility or its offshore wind affiliate for costs associated with such a facility, the Commission shall determine the reasonableness and prudence of any such costs, provided that such costs shall be presumed to

59 be reasonably and prudently incurred if the Commission determines that (i) the utility has complied with the
60 competitive solicitation and procurement requirements pursuant to subsection E; (ii) the project's projected
61 total levelized cost of energy, including any tax credit, on a cost per megawatt hour basis, inclusive of the
62 costs of transmission and distribution facilities associated with the facility's interconnection, does not exceed
63 1.4 times the comparable cost, on an unweighted average basis, of a conventional simple cycle combustion
64 turbine generating facility as estimated by the U.S. Energy Information Administration in its Annual Energy
65 Outlook 2019; and (iii) the utility has commenced construction of such facilities for U.S. income taxation
66 purposes prior to January 1, 2024, or has a plan for such facility or facilities to be in service prior to January
67 1, 2028. The Commission shall disallow costs, or any portion thereof, only if they are otherwise unreasonably
68 and imprudently incurred. In its review, the Commission shall give due consideration to (a) the
69 Commonwealth's renewable portfolio standards and carbon reduction requirements, (b) the promotion of new
70 renewable generation resources, and (c) the economic development benefits of the project for the
71 Commonwealth, including capital investments and job creation, arising from project construction and
72 operation and the manufacture of wind turbine generator components and subcomponents.

73 2. Notwithstanding the provisions of § 56-585.1, the Commission shall not grant an enhanced rate of
74 return to a Phase II Utility for the construction of one or more new utility-owned and utility-operated
75 generating facilities utilizing energy derived from offshore wind and located off the Commonwealth's
76 Atlantic shoreline pursuant to this section.

77 3. Any such costs proposed for recovery through a rate adjustment clause pursuant to subdivision A 6 of §
78 56-585.1 shall be allocated to all customers of the utility in the Commonwealth as a non-bypassable charge,
79 regardless of the generation supplier of any such customer, other than (i) PIPP eligible utility customers, (ii)
80 advanced clean energy buyers, and (iii) qualifying large general service customers. No electric cooperative
81 customer of the utility shall be assigned, nor shall the utility collect from any such cooperative, any of the
82 costs of such facilities, including electrical transmission or distribution facilities associated therewith for
83 interconnection. The Commission may promulgate such rules, regulations, or other directives necessary to
84 administer the eligibility for these exemptions.

85 4. The Commission shall permit a portion of the nameplate capacity of any such facility, in the aggregate,
86 to be allocated to (i) advanced clean energy buyers or (ii) qualifying large general service customers,
87 provided that no more than 10 percent of the offshore wind facility's capacity is allocated to qualifying large
88 general service customers. A Phase II Utility or its offshore wind affiliate shall petition the Commission for
89 approval of a special contract with any advanced clean energy buyer, or any special rate applicable to
90 qualifying large general service customers, pursuant to § 56-235.2, no later than 15 months prior to the
91 projected commercial operation date of the facility, and all customer enrollments associated with such special
92 contracts or rates shall be completed prior to commercial operation of the facility. Any such special contract
93 or rate may include provisions for levelized rates of service over the duration of the customer's contracted
94 agreement with the utility, and the Commission shall determine that such special contract or rate is designed
95 to hold nonparticipating customers harmless over its term in connection with any petition for approval by the
96 utility. The utility may petition for approval of such special contracts or rates in connection with any petition
97 for approval of a rate adjustment clause pursuant to subdivision A 6 of § 56-585.1 to recover the costs of the
98 facility, and the Commission shall rule upon any such petitions in its final order in such proceeding within
99 nine months from the date of filing.

100 D. In constructing any such facility contemplated in subsection B, the utility shall develop and submit a
101 plan to the Commission for review that includes the following considerations: (i) options for utilizing local
102 workers; (ii) the economic development benefits of the project for the Commonwealth, including capital
103 investments and job creation; (iii) consultation with the Commonwealth's Chief Workforce Development
104 Officer, the Chief Diversity, Equity, and Inclusion Officer, and the Virginia Economic Development
105 Partnership on opportunities to advance the Commonwealth's workforce and economic development goals,
106 including furtherance of apprenticeship and other workforce training programs; (iv) giving priority to the
107 hiring, apprenticeship, and training of veterans, as that term is defined in § 2.2-2000.1, local workers, and
108 workers from historically economically disadvantaged communities; and (v) procurement of equipment from
109 Virginia-based or United States-based manufacturers using materials or product components made in
110 Virginia or the United States, if reasonably available and competitively priced.

111 E. ~~Any project constructed or purchased~~ *The construction or purchase by a public utility of one or more*
112 *offshore wind generation facilities* pursuant to subsection B shall (i) be subject to competitive procurement or
113 solicitation for a substantial majority of the services and equipment, exclusive of interconnection costs,
114 associated with the facility's construction; (ii) involve at least one experienced developer; and (iii)
115 demonstrate the economic development benefits within the Commonwealth, including capital investments
116 and job creation. A utility may give appropriate consideration to suppliers and developers that have
117 demonstrated successful experience in offshore wind.

118 F. 1. *Except for the Coastal Virginia Offshore Wind Project approved in 2022 by the Commission for a*
119 *Phase II Utility, the purchase or construction of offshore wind facilities or the purchase by a public utility of*

120 energy, capacity, and environmental attributes from such facilities pursuant to subsection B shall include a
 121 competitive procurement process administered by the Department. By the earlier of (i) August 1, 2024, or (ii)
 122 the date on which the BOEM lease sale is completed, the Department shall, through a request for proposals,
 123 select an independent third-party evaluator to provide recommendations, analysis, and administrative
 124 support in the execution of such competitive procurement process. Such third-party evaluator shall not have
 125 a financial relationship with a Phase II Utility, either directly or through an affiliate or subsidiary. The
 126 Department shall defray the costs of such third-party evaluator through an application fee on bids in
 127 response to such competitive procurement process.

128 2. The Department, in consultation with such third-party evaluator, shall:

129 a. Within three months after the date on which the BOEM lease sale is completed, issue a set of draft
 130 guidelines for the competitive procurement of 2,600 megawatts of offshore wind capacity. Such draft
 131 guidelines shall be subject to a 45-day public comment period;

132 b. Within six months after the date on which the BOEM lease sale is completed, issue the final competitive
 133 procurement for 2,600 megawatts of offshore wind capacity;

134 c. Require that bids in response to such competitive procurement process are due within 18 months after
 135 the date on which the BOEM lease sale is completed; and

136 d. Within 24 months after the date on which the BOEM lease sale is completed, select a winning bid or
 137 bids with a total combined capacity of 2,600 megawatts in response to such competitive procurement process.

138 3. In evaluating bids in response to the competitive procurement process described in this subsection, the
 139 Department shall consider:

140 a. The total construction cost for such offshore wind generation facilities located off the Commonwealth's
 141 Atlantic shoreline or in federal waters and interconnected directly into the Commonwealth, including
 142 interconnection costs;

143 b. The economic development benefits within the Commonwealth, including capital investment, job
 144 creation, and benefits to ports in the Commonwealth;

145 c. The benefits arising from project construction and operation and the manufacture of components and
 146 subcomponents utilized in the operation of offshore wind projects in the Commonwealth;

147 d. The extent to which a bid provides for financial and technical assistance to support monitoring and
 148 mitigation of wildlife and habitat impacts associated with the proposed offshore wind project in the
 149 Commonwealth, and other economic development benefits;

150 e. The extent to which the bid includes mechanisms for inflation adjustment, interconnection cost-sharing,
 151 and other cost containment measures; and

152 f. Other bid selection criteria identified by the Department. All such bids shall meet the prevailing wage
 153 and apprenticeship requirements necessary to qualify for bonus credits available pursuant to § 13101,
 154 13701, or 13702 of the federal Inflation Reduction Act (P.L. 117-169).

155 4. A Phase II Utility is authorized to submit a bid pursuant to such competitive procurement process. The
 156 third-party evaluator selected pursuant to this subsection shall examine any bid submitted by a Phase II
 157 Utility to ensure that such bid includes all costs that would be reasonably incurred if such bid were not
 158 submitted by a public utility and that the public utility does not subsidize such bid through its rate-regulated
 159 assets. Such Phase II Utility shall not participate in evaluating bids or making selections in such competitive
 160 procurement process. If the Department selects a bid submitted by such Phase II Utility, such Phase II Utility
 161 may petition the Commission for recovery of the costs associated with preparing and submitting a bid in
 162 response to such competitive procurement process.

163 5. If the Department selects a bid or bids other than by a Phase II Utility through the competitive
 164 procurement process described in this subsection, such Phase II Utility shall timely petition the Commission
 165 to purchase energy, capacity, and environmental attributes from facilities as provided in subsection B for a
 166 duration of no less than 35 years from the facility or facilities representing such selected bid. If the
 167 Department selects a bid submitted by such Phase II Utility, such Phase II Utility shall petition the
 168 Commission to construct or purchase a facility or facilities pursuant to subsection B and as detailed in such
 169 bid. In such petition, a Phase II Utility shall include information (i) demonstrating compliance with the
 170 considerations provided in this subsection; (ii) describing the economic development benefits of such
 171 purchase or construction in the Commonwealth and otherwise, including capital investments, job creation,
 172 and the local manufacture of components and subcomponents utilized in the operation of offshore wind
 173 projects; and (iii) outlining an environmental and fisheries mitigation plan pursuant to subsection G. The
 174 Commission shall approve such petition and may approve reasonable remuneration of the annual total value
 175 of a Phase II Utility's purchase of energy, capacity, and environmental attributes from offshore wind facilities
 176 through such competitive procurement process, to be distributed annually. The Department and the
 177 Commission are authorized to promulgate regulations governing competitive procurement processes
 178 consistent with the provisions of this subsection. The provisions of this subsection shall be exempt from the
 179 provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

180 G. Any project constructed or purchased pursuant to subsection B shall include an environmental and

181 fisheries mitigation plan submitted to the Commission for the construction and operation of such offshore
 182 wind facilities, provided that such plan includes an explicit description of the best management practices the
 183 bidder will employ that considers the latest science at the time the proposal is made to mitigate adverse
 184 impacts to wildlife, natural resources, ecosystems, and traditional or existing water-dependent uses. The plan
 185 shall include a summary of pre-construction assessment activities, consistent with federal requirements, to
 186 determine the spatial and temporal presence and abundance of marine mammals, sea turtles, birds, and bats in
 187 the offshore wind lease area.

188 ~~G. H.~~ In connection with any project constructed by a Phase II Utility pursuant to subdivision C 1, such
 189 utility may, subject to Commission approval pursuant to Chapter 4 (§ 56-76 et seq.), establish an offshore
 190 wind affiliate for the purpose of securing a noncontrolling equity financing partner for the project, and such
 191 offshore wind affiliate may be permitted to construct, own, or operate such project pursuant to subdivision C
 192 1, or a portion thereof. Notwithstanding the provisions of the Utility Facilities Act (§ 56-265.1 et seq.), an
 193 offshore wind affiliate shall be permitted to operate as a public utility in association with the Phase II Utility
 194 and shall be entitled to all rights and privileges of a public utility solely in connection with the project.
 195 Nothing in this subsection shall prevent the Phase II Utility or its offshore wind affiliate from recovering the
 196 prudently incurred costs of constructing or operating the project pursuant to this section or subdivision A 6 of
 197 § 56-585.1, regardless of whether such costs are incurred by the utility or its offshore wind affiliate. In acting
 198 upon any such request for cost recovery by the Phase II Utility, the Commission shall utilize the capital
 199 structure and cost of capital of the utility, consistent with subdivision A 10 of § 56-585.1, and the capital
 200 structure and cost of capital of any noncontrolling entity's interest in the offshore wind affiliate shall be
 201 disregarded. If any ownership interest in the offshore wind affiliate is transferred to such a noncontrolling
 202 entity, the Commission shall ensure, in granting any approval for such transfer pursuant to the Utility
 203 Transfers Act (§ 56-88 et seq.), or for cost recovery under this section or subdivision A 6 of § 56-585.1, that
 204 any gain on the utility's basis for the project is credited to the utility's customers through a rate adjustment
 205 clause credit mechanism and amortized over such period as the Commission determines to be appropriate.

206 **§ 56-585.5. Generation of electricity from renewable and zero carbon sources.**

207 A. As used in this section:

208 "Accelerated renewable energy buyer" means a commercial or industrial customer of a Phase I or Phase II
 209 Utility, irrespective of generation supplier, with an aggregate load over 25 megawatts in the prior calendar
 210 year; that enters into arrangements pursuant to subsection G, as certified by the Commission.

211 "Aggregate load" means the combined electrical load associated with selected accounts of an accelerated
 212 renewable energy buyer with the same legal entity name as, or in the names of affiliated entities that control,
 213 are controlled by, or are under common control of, such legal entity or are the names of affiliated entities
 214 under a common parent.

215 "Control" has the same meaning as provided in § 56-585.1:11.

216 "Falling water" means hydroelectric resources, including run-of-river generation from a combined
 217 pumped-storage and run-of-river facility. "Falling water" does not include electricity generated from pumped-
 218 storage facilities.

219 "Low-income qualifying projects" means a project that provides a minimum of 50 percent of the
 220 respective electric output to low-income utility customers as that term is defined in § 56-576.

221 "Phase I Utility" has the same meaning as provided in subdivision A 1 of § 56-585.1.

222 "Phase II Utility" has the same meaning as provided in subdivision A 1 of § 56-585.1.

223 "Previously developed project site" means any property, including related buffer areas, if any, that has
 224 been previously disturbed or developed for non-single-family residential, nonagricultural, or nonsilvicultural
 225 use, regardless of whether such property currently is being used for any purpose. "Previously developed
 226 project site" includes a brownfield as defined in § 10.1-1230 or any parcel that has been previously used (i)
 227 for a retail, commercial, or industrial purpose; (ii) as a parking lot; (iii) as the site of a parking lot canopy or
 228 structure; (iv) for mining, which is any lands affected by coal mining that took place before August 3, 1977,
 229 or any lands upon which extraction activities have been permitted by the Department of Energy under Title
 230 45.2; (v) for quarrying; or (vi) as a landfill.

231 "Total electric energy" means total electric energy sold to retail customers in the Commonwealth service
 232 territory of a Phase I or Phase II Utility, other than accelerated renewable energy buyers, by the incumbent
 233 electric utility or other retail supplier of electric energy in the previous calendar year, excluding an amount
 234 equivalent to the annual percentages of the electric energy that was supplied to such customer from nuclear
 235 generating plants located within the Commonwealth in the previous calendar year, provided such nuclear
 236 units were operating by July 1, 2020, or from any zero-carbon electric generating facilities not otherwise RPS
 237 eligible sources and placed into service in the Commonwealth after July 1, 2030.

238 "Zero-carbon electricity" means electricity generated by any generating unit that does not emit carbon
 239 dioxide as a by-product of combusting fuel to generate electricity.

240 B. 1. By December 31, 2024, except for any coal-fired electric generating units (i) jointly owned with a
 241 cooperative utility or (ii) owned and operated by a Phase II Utility located in the coalfield region of the

242 Commonwealth that co-fires with biomass, any Phase I and Phase II Utility shall retire all generating units
243 principally fueled by oil with a rated capacity in excess of 500 megawatts and all coal-fired electric
244 generating units operating in the Commonwealth.

245 2. By December 31, 2045, except for biomass-fired electric generating units that do not co-fire with coal,
246 each Phase I and II Utility shall retire all other electric generating units located in the Commonwealth that
247 emit carbon as a by-product of combusting fuel to generate electricity.

248 3. A Phase I or Phase II Utility may petition the Commission for relief from the requirements of this
249 subsection on the basis that the requirement would threaten the reliability or security of electric service to
250 customers. The Commission shall consider in-state and regional transmission entity resources and shall
251 evaluate the reliability of each proposed retirement on a case-by-case basis in ruling upon any such petition.

252 C. Each Phase I and Phase II Utility shall participate in a renewable energy portfolio standard program
253 (RPS Program) that establishes annual goals for the sale of renewable energy to all retail customers in the
254 utility's service territory, other than accelerated renewable energy buyers pursuant to subsection G, regardless
255 of whether such customers purchase electric supply service from the utility or from suppliers other than the
256 utility. To comply with the RPS Program, each Phase I and Phase II Utility shall procure and retire
257 Renewable Energy Certificates (RECs) originating from renewable energy standard eligible sources (RPS
258 eligible sources). For purposes of complying with the RPS Program from 2021 to 2024, a Phase I and Phase
259 II Utility may use RECs from any renewable energy facility, as defined in § 56-576, provided that such
260 facilities are located in the Commonwealth or are physically located within the PJM Interconnection, LLC
261 (PJM) region. However, at no time during this period or thereafter may any Phase I or Phase II Utility use
262 RECs from (i) renewable thermal energy, (ii) renewable thermal energy equivalent, or (iii) biomass-fired
263 facilities that are outside the Commonwealth. From compliance year 2025 and all years after, each Phase I
264 and Phase II Utility may only use RECs from RPS eligible sources for compliance with the RPS Program.

265 In order to qualify as RPS eligible sources, such sources must be (a) electric-generating resources that
266 generate electric energy derived from solar or wind located in the Commonwealth or off the Commonwealth's
267 Atlantic shoreline or in federal waters and interconnected directly into the Commonwealth or physically
268 located within the PJM region; (b) falling water resources located in the Commonwealth or physically located
269 within the PJM region that were in operation as of January 1, 2020, that are owned by a Phase I or Phase II
270 Utility or for which a Phase I or Phase II Utility has entered into a contract prior to January 1, 2020, to
271 purchase the energy, capacity, and renewable attributes of such falling water resources; (c) non-utility-owned
272 resources from falling water that (1) are less than 65 megawatts, (2) began commercial operation after
273 December 31, 1979, or (3) added incremental generation representing greater than 50 percent of the original
274 nameplate capacity after December 31, 1979, provided that such resources are located in the Commonwealth
275 or are physically located within the PJM region; (d) waste-to-energy or landfill gas-fired generating resources
276 located in the Commonwealth and in operation as of January 1, 2020, provided that such resources do not use
277 waste heat from fossil fuel combustion; or (e) biomass-fired facilities in operation in the Commonwealth and
278 in operation as of January 1, 2023, that (1) supply no more than 10 percent of their annual net electrical
279 generation to the electric grid or no more than 15 percent of their annual total useful energy to any entity
280 other than the manufacturing facility to which the generating source is interconnected and are fueled by
281 forest-product manufacturing residuals, including pulping liquor, bark, paper recycling residuals, biowastes,
282 or biomass, as described in subdivisions A 1, 2, and 4 of § 10.1-1308.1, provided that biomass as described in
283 subdivision A 1 of § 10.1-1308.1 results from harvesting in accordance with best management practices for
284 the sustainable harvesting of biomass developed and enforced by the State Forester pursuant to § 10.1-1105,
285 or (2) are owned by a Phase I or phase II Utility, have less than 52 megawatts capacity, and are fueled by
286 forest-product manufacturing residuals, biowastes, or biomass, as described in subdivisions A 1, 2, and 4 of §
287 10.1-1308.1, provided that biomass as described in subdivision A 1 of § 10.1-1308.1 results from harvesting
288 in accordance with best management practices for the sustainable harvesting of biomass developed and
289 enforced by the State Forester pursuant to § 10.1-1105. Regardless of any future maintenance, expansion, or
290 refurbishment activities, the total amount of RECs that may be sold by any RPS eligible source using biomass
291 in any year shall be no more than the number of megawatt hours of electricity produced by that facility in
292 2022; however, in no year may any RPS eligible source using biomass sell RECs in excess of the actual
293 megawatt-hours of electricity generated by such facility that year. In order to comply with the RPS Program,
294 each Phase I and Phase II Utility may use and retire the environmental attributes associated with any existing
295 owned or contracted solar, wind, falling water, or biomass electric generating resources in operation, or
296 proposed for operation, in the Commonwealth or solar, wind, or falling water resources physically located
297 within the PJM region, with such resource qualifying as a Commonwealth-located resource for purposes of
298 this subsection, as of January 1, 2020, provided that such renewable attributes are verified as RECs consistent
299 with the PJM-EIS Generation Attribute Tracking System.

300 The RPS Program requirements shall be a percentage of the total electric energy sold in the previous
301 calendar year and shall be implemented in accordance with the following schedule:

302	Phase I Utilities		Phase II Utilities	
303	Year	RPS Program Requirement	Year	RPS Program Requirement

304	2021	6%	2021	14%
305	2022	7%	2022	17%
306	2023	8%	2023	20%
307	2024	10%	2024	23%
308	2025	14%	2025	26%
309	2026	17%	2026	29%
310	2027	20%	2027	32%
311	2028	24%	2028	35%
312	2029	27%	2029	38%
313	2030	30%	2030	41%
314	2031	33%	2031	45%
315	2032	36%	2032	49%
316	2033	39%	2033	52%
317	2034	42%	2034	55%
318	2035	45%	2035	59%
319	2036	53%	2036	63%
320	2037	53%	2037	67%
321	2038	57%	2038	71%
322	2039	61%	2039	75%
323	2040	65%	2040	79%
324	2041	68%	2041	83%
325	2042	71%	2042	87%
326	2043	74%	2043	91%
327	2044	77%	2044	95%
328	2045	80%	2045 and	100%
329			thereafter	
330	2046	84%		
331	2047	88%		
332	2048	92%		
333	2049	96%		
334	2050 and	100%		
335	thereafter			

336 A Phase II Utility shall meet one percent of the RPS Program requirements in any given compliance year
337 with solar, wind, or anaerobic digestion resources of one megawatt or less located in the Commonwealth,
338 with not more than 3,000 kilowatts at any single location or at contiguous locations owned by the same entity
339 or affiliated entities and, to the extent that low-income qualifying projects are available, then no less than 25
340 percent of such one percent shall be composed of low-income qualifying projects.

341 Beginning with the 2025 compliance year and thereafter, at least 75 percent of all RECs used by a Phase
342 II Utility in a compliance period shall come from RPS eligible resources located in the Commonwealth.

343 Any Phase I or Phase II Utility may apply renewable energy sales achieved or RECs acquired in excess of
344 the sales requirement for that RPS Program to the sales requirements for RPS Program requirements in the
345 year in which it was generated and the five calendar years after the renewable energy was generated or the
346 RECs were created. To the extent that a Phase I or Phase II Utility procures RECs for RPS Program
347 compliance from resources the utility does not own, the utility shall be entitled to recover the costs of such
348 certificates at its election pursuant to § 56-249.6 or subdivision A 5 d of § 56-585.1.

349 D. Each Phase I or Phase II Utility shall petition the Commission for necessary approvals to procure zero-
350 carbon electricity generating capacity as set forth in this subsection and energy storage resources as set forth
351 in subsection E. To the extent that a Phase I or Phase II Utility constructs or acquires new zero-carbon
352 generating facilities or energy storage resources, the utility shall petition the Commission for the recovery of
353 the costs of such facilities, at the utility's election, either through its rates for generation and distribution
354 services or through a rate adjustment clause pursuant to subdivision A 6 of § 56-585.1. All costs not sought
355 for recovery through a rate adjustment clause pursuant to subdivision A 6 of § 56-585.1 associated with
356 generating facilities provided by sunlight or onshore or offshore wind are also eligible to be applied by the
357 utility as a customer credit reinvestment offset as provided in subdivision A 8 of § 56-585.1. Costs associated
358 with the purchase of energy, capacity, or environmental attributes from facilities owned by the persons other
359 than the utility required by this subsection shall be recovered by the utility either through its rates for
360 generation and distribution services or pursuant to § 56-249.6.

361 1. Each Phase I Utility shall petition the Commission for necessary approvals to construct, acquire, or
362 enter into agreements to purchase the energy, capacity, and environmental attributes of 600 megawatts of
363 generating capacity using energy derived from sunlight or onshore wind.

364 a. By December 31, 2023, each Phase I Utility shall petition the Commission for necessary approvals to
 365 construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of
 366 at least 200 megawatts of generating capacity located in the Commonwealth using energy derived from
 367 sunlight or onshore wind, and 35 percent of such generating capacity procured shall be from the purchase of
 368 energy, capacity, and environmental attributes from solar or onshore wind facilities owned by persons other
 369 than the utility, with the remainder, in the aggregate, being from construction or acquisition by such Phase I
 370 Utility.

371 b. By December 31, 2027, each Phase I Utility shall petition the Commission for necessary approvals to
 372 construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of
 373 at least 200 megawatts of additional generating capacity located in the Commonwealth using energy derived
 374 from sunlight or onshore wind, and 35 percent of such generating capacity procured shall be from the
 375 purchase of energy, capacity, and environmental attributes from solar or onshore wind facilities owned by
 376 persons other than the utility, with the remainder, in the aggregate, being from construction or acquisition by
 377 such Phase I Utility.

378 c. By December 31, 2030, each Phase I Utility shall petition the Commission for necessary approvals to
 379 construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of
 380 at least 200 megawatts of additional generating capacity located in the Commonwealth using energy derived
 381 from sunlight or onshore wind, and 35 percent of such generating capacity procured shall be from the
 382 purchase of energy, capacity, and environmental attributes from solar or onshore wind facilities owned by
 383 persons other than the utility, with the remainder, in the aggregate, being from construction or acquisition by
 384 such Phase I Utility.

385 d. Nothing in this subdivision 1 shall prohibit such Phase I Utility from constructing, acquiring, or
 386 entering into agreements to purchase the energy, capacity, and environmental attributes of more than 600
 387 megawatts of generating capacity located in the Commonwealth using energy derived from sunlight or
 388 onshore wind, provided the utility receives approval from the Commission pursuant to §§ 56-580 and 56-
 389 585.1.

390 2. By December 31, 2035, each Phase II Utility shall petition the Commission for necessary approvals to
 391 (i) construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes
 392 of 16,100 megawatts of generating capacity located in the Commonwealth using energy derived from
 393 sunlight or onshore wind, which shall include 1,100 megawatts of solar generation of a nameplate capacity
 394 not to exceed three megawatts per individual project and 35 percent of such generating capacity procured
 395 shall be from the purchase of energy, capacity, and environmental attributes from solar facilities owned by
 396 persons other than a utility, including utility affiliates and deregulated affiliates and (ii) pursuant to § 56-
 397 585.1:11, construct or purchase one or more offshore wind generation facilities located off the
 398 Commonwealth's Atlantic shoreline or in federal waters and interconnected directly into the Commonwealth
 399 with an aggregate capacity of up to 5,200 megawatts *or purchase energy, capacity, and environmental*
 400 *attributes from such offshore wind generation facilities that are owned by persons other than a public utility.*
 401 At least 200 megawatts of the 16,100 megawatts shall be placed on previously developed project sites.

402 a. By December 31, 2024, each Phase II Utility shall petition the Commission for necessary approvals to
 403 construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of
 404 at least 3,000 megawatts of generating capacity located in the Commonwealth using energy derived from
 405 sunlight or onshore wind, and 35 percent of such generating capacity procured shall be from the purchase of
 406 energy, capacity, and environmental attributes from solar or onshore wind facilities owned by persons other
 407 than the utility, with the remainder, in the aggregate, being from construction or acquisition by such Phase II
 408 Utility.

409 b. By December 31, 2027, each Phase II Utility shall petition the Commission for necessary approvals to
 410 construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of
 411 at least 3,000 megawatts of additional generating capacity located in the Commonwealth using energy
 412 derived from sunlight or onshore wind, and 35 percent of such generating capacity procured shall be from the
 413 purchase of energy, capacity, and environmental attributes from solar or onshore wind facilities owned by
 414 persons other than the utility, with the remainder, in the aggregate, being from construction or acquisition by
 415 such Phase II Utility.

416 c. By December 31, 2030, each Phase II Utility shall petition the Commission for necessary approvals to
 417 construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of
 418 at least 4,000 megawatts of additional generating capacity located in the Commonwealth using energy
 419 derived from sunlight or onshore wind, and 35 percent of such generating capacity procured shall be from the
 420 purchase of energy, capacity, and environmental attributes from solar or onshore wind facilities owned by
 421 persons other than the utility, with the remainder, in the aggregate, being from construction or acquisition by
 422 such Phase II Utility.

423 d. By December 31, 2035, each Phase II Utility shall petition the Commission for necessary approvals to
 424 construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of

425 at least 6,100 megawatts of additional generating capacity located in the Commonwealth using energy
426 derived from sunlight or onshore wind, and 35 percent of such generating capacity procured shall be from the
427 purchase of energy, capacity, and environmental attributes from solar or onshore wind facilities owned by
428 persons other than the utility, with the remainder, in the aggregate, being from construction or acquisition by
429 such Phase II Utility.

430 e. Nothing in this subdivision 2 shall prohibit such Phase II Utility from constructing, acquiring, or
431 entering into agreements to purchase the energy, capacity, and environmental attributes of more than 16,100
432 megawatts of generating capacity located in the Commonwealth using energy derived from sunlight or
433 onshore wind, provided the utility receives approval from the Commission pursuant to §§ 56-580 and 56-
434 585.1.

435 3. Nothing in this section shall prohibit a utility from petitioning the Commission to construct or acquire
436 zero-carbon electricity or from entering into contracts to procure the energy, capacity, and environmental
437 attributes of zero-carbon electricity generating resources in excess of the requirements in subsection B. The
438 Commission shall determine whether to approve such petitions on a stand-alone basis pursuant to §§ 56-580
439 and 56-585.1, provided that the Commission's review shall also consider whether the proposed generating
440 capacity (i) is necessary to meet the utility's native load, (ii) is likely to lower customer fuel costs, (iii) will
441 provide economic development opportunities in the Commonwealth, and (iv) serves a need that cannot be
442 more affordably met with demand-side or energy storage resources.

443 Each Phase I and Phase II Utility shall, at least once every year, conduct a request for proposals for new
444 solar and wind resources. Such requests shall quantify and describe the utility's need for energy, capacity, or
445 renewable energy certificates. The requests for proposals shall be publicly announced and made available for
446 public review on the utility's website at least 45 days prior to the closing of such request for proposals. The
447 requests for proposals shall provide, at a minimum, the following information: (a) the size, type, and timing
448 of resources for which the utility anticipates contracting; (b) any minimum thresholds that must be met by
449 respondents; (c) major assumptions to be used by the utility in the bid evaluation process, including
450 environmental emission standards; (d) detailed instructions for preparing bids so that bids can be evaluated on
451 a consistent basis; (e) the preferred general location of additional capacity; and (f) specific information
452 concerning the factors involved in determining the price and non-price criteria used for selecting winning
453 bids. A utility may evaluate responses to requests for proposals based on any criteria that it deems reasonable
454 but shall at a minimum consider the following in its selection process: (1) the status of a particular project's
455 development; (2) the age of existing generation facilities; (3) the demonstrated financial viability of a project
456 and the developer; (4) a developer's prior experience in the field; (5) the location and effect on the
457 transmission grid of a generation facility; (6) benefits to the Commonwealth that are associated with
458 particular projects, including regional economic development and the use of goods and services from Virginia
459 businesses; and (7) the environmental impacts of particular resources, including impacts on air quality within
460 the Commonwealth and the carbon intensity of the utility's generation portfolio.

461 4. In connection with the requirements of this subsection, each Phase I and Phase II Utility shall,
462 commencing in 2020 and concluding in 2035, submit annually a plan and petition for approval for the
463 development of new solar and onshore wind generation capacity. Such plan shall reflect, in the aggregate and
464 over its duration, the requirements of subsection D concerning the allocation percentages for construction or
465 purchase of such capacity. Such petition shall contain any request for approval to construct such facilities
466 pursuant to subsection D of § 56-580 and a request for approval or update of a rate adjustment clause
467 pursuant to subdivision A 6 of § 56-585.1 to recover the costs of such facilities. Such plan shall also include
468 the utility's plan to meet the energy storage project targets of subsection E, including the goal of installing at
469 least 10 percent of such energy storage projects behind the meter. In determining whether to approve the
470 utility's plan and any associated petition requests, the Commission shall determine whether they are
471 reasonable and prudent and shall give due consideration to (i) the RPS and carbon dioxide reduction
472 requirements in this section, (ii) the promotion of new renewable generation and energy storage resources
473 within the Commonwealth, and associated economic development, and (iii) fuel savings projected to be
474 achieved by the plan. Notwithstanding any other provision of this title, the Commission's final order
475 regarding any such petition and associated requests shall be entered by the Commission not more than six
476 months after the date of the filing of such petition.

477 5. If, in any year, a Phase I or Phase II Utility is unable to meet the compliance obligation of the RPS
478 Program requirements or if the cost of RECs necessary to comply with RPS Program requirements exceeds
479 \$45 per megawatt hour, such supplier shall be obligated to make a deficiency payment equal to \$45 for each
480 megawatt-hour shortfall for the year of noncompliance, except that the deficiency payment for any shortfall
481 in procuring RECs for solar, wind, or anaerobic digesters located in the Commonwealth shall be \$75 per
482 megawatts hour for resources one megawatt and lower. The amount of any deficiency payment shall increase
483 by one percent annually after 2021. A Phase I or Phase II Utility shall be entitled to recover the costs of such
484 payments as a cost of compliance with the requirements of this subsection pursuant to subdivision A 5 d of §
485 56-585.1. All proceeds from the deficiency payments shall be deposited into an interest-bearing account

486 administered by the Department of Energy. In administering this account, the Department of Energy shall
 487 manage the account as follows: (i) 50 percent of total revenue shall be directed to job training programs in
 488 historically economically disadvantaged communities; (ii) 16 percent of total revenue shall be directed to
 489 energy efficiency measures for public facilities; (iii) 30 percent of total revenue shall be directed to renewable
 490 energy programs located in historically economically disadvantaged communities; and (iv) four percent of
 491 total revenue shall be directed to administrative costs.

492 For any project constructed pursuant to this subsection or subsection E, a utility shall, subject to a
 493 competitive procurement process, procure equipment from a Virginia-based or United States-based
 494 manufacturer using materials or product components made in Virginia or the United States, if reasonably
 495 available and competitively priced.

496 E. To enhance reliability and performance of the utility's generation and distribution system, each Phase I
 497 and Phase II Utility shall petition the Commission for necessary approvals to construct or acquire new,
 498 utility-owned energy storage resources.

499 1. By December 31, 2035, each Phase I Utility shall petition the Commission for necessary approvals to
 500 construct or acquire 400 megawatts of energy storage capacity. Nothing in this subdivision shall prohibit a
 501 Phase I Utility from constructing or acquiring more than 400 megawatts of energy storage, provided that the
 502 utility receives approval from the Commission pursuant to §§ 56-580 and 56-585.1.

503 2. By December 31, 2035, each Phase II Utility shall petition the Commission for necessary approvals to
 504 construct or acquire 2,700 megawatts of energy storage capacity. Nothing in this subdivision shall prohibit a
 505 Phase II Utility from constructing or acquiring more than 2,700 megawatts of energy storage, provided that
 506 the utility receives approval from the Commission pursuant to §§ 56-580 and 56-585.1.

507 3. No single energy storage project shall exceed 500 megawatts in size, except that a Phase II Utility may
 508 procure a single energy storage project up to 800 megawatts.

509 4. All energy storage projects procured pursuant to this subsection shall meet the competitive procurement
 510 protocols established in subdivision D 3.

511 5. After July 1, 2020, at least 35 percent of the energy storage facilities placed into service shall be (i)
 512 purchased by the public utility from a party other than the public utility or (ii) owned by a party other than a
 513 public utility, with the capacity from such facilities sold to the public utility. By January 1, 2021, the
 514 Commission shall adopt regulations to achieve the deployment of energy storage for the Commonwealth
 515 required in subdivisions 1 and 2, including regulations that set interim targets and update existing utility
 516 planning and procurement rules. The regulations shall include programs and mechanisms to deploy energy
 517 storage, including competitive solicitations, behind-the-meter incentives, non-wires alternatives programs,
 518 and peak demand reduction programs.

519 F. All costs incurred by a Phase I or Phase II Utility related to compliance with the requirements of this
 520 section or pursuant to § 56-585.1:11, including (i) costs of generation facilities powered by sunlight or
 521 onshore or offshore wind, or energy storage facilities, that are constructed or acquired by a Phase I or Phase II
 522 Utility after July 1, 2020, (ii) costs of capacity, energy, or environmental attributes from generation facilities
 523 powered by sunlight or onshore or offshore wind, or falling water, or energy storage facilities purchased by
 524 the utility from persons other than the utility through agreements after July 1, 2020, and (iii) all other costs of
 525 compliance, including costs associated with the purchase of RECs associated with RPS Program
 526 requirements pursuant to this section shall be recovered from all retail customers in the service territory of a
 527 Phase I or Phase II Utility as a non-bypassable charge, irrespective of the generation supplier of such
 528 customer, except (a) as provided in subsection G for an accelerated renewable energy buyer or (b) as
 529 provided in subdivision C 3 of § 56-585.1:11, with respect to the costs of an offshore wind generation
 530 facility, for a PIPP eligible utility customer or an advanced clean energy buyer or qualifying large general
 531 service customer, as those terms are defined in § 56-585.1:11. If a Phase I or Phase II Utility serves
 532 customers in more than one jurisdiction, such utility shall recover all of the costs of compliance with the RPS
 533 Program requirements from its Virginia customers through the applicable cost recovery mechanism, and all
 534 associated energy, capacity, and environmental attributes shall be assigned to Virginia to the extent that such
 535 costs are requested but not recovered from any system customers outside the Commonwealth.

536 By September 1, 2020, the Commission shall direct the initiation of a proceeding for each Phase I and
 537 Phase II Utility to review and determine the amount of such costs, net of benefits, that should be allocated to
 538 retail customers within the utility's service territory which have elected to receive electric supply service from
 539 a supplier of electric energy other than the utility, and shall direct that tariff provisions be implemented to
 540 recover those costs from such customers beginning no later than January 1, 2021. Thereafter, such charges
 541 and tariff provisions shall be updated and tried up by the utility on an annual basis, subject to continuing
 542 review and approval by the Commission.

543 G. 1. An accelerated renewable energy buyer may contract with a Phase I or Phase II Utility, or a person
 544 other than a Phase I or Phase II Utility, to obtain (i) RECs from RPS eligible resources or (ii) bundled
 545 capacity, energy, and RECs from solar or wind generation resources located within the PJM region and
 546 initially placed in commercial operation after January 1, 2015, including any contract with a utility for such

547 generation resources that does not allocate to or recover from any other customer of the utility the cost of
548 such resources. Such an accelerated renewable energy buyer may offset all or a portion of its electric load for
549 purposes of RPS compliance through such arrangements. An accelerated renewable energy buyer shall be
550 exempt from the assignment of non-bypassable RPS compliance costs pursuant to subsection F, with the
551 exception of the costs of an offshore wind generating facility pursuant to § 56-585.1:11, based on the amount
552 of RECs obtained pursuant to this subsection in proportion to the customer's total electric energy
553 consumption, on an annual basis. An accelerated renewable energy buyer obtaining RECs only shall not be
554 exempt from costs related to procurement of new solar or onshore wind generation capacity, energy, or
555 environmental attributes, or energy storage facilities, by the utility pursuant to subsections D and E, however,
556 an accelerated renewable energy buyer that is a customer of a Phase II Utility and was subscribed, as of
557 March 1, 2020, to a voluntary companion experimental tariff offering of the utility for the purchase of
558 renewable attributes from renewable energy facilities that requires a renewable facilities agreement and the
559 purchase of a minimum of 2,000 renewable attributes annually, shall be exempt from allocation of the net
560 costs related to procurement of new solar or onshore wind generation capacity, energy, or environmental
561 attributes, or energy storage facilities, by the utility pursuant to subsections D and E, based on the amount of
562 RECs associated with the customer's renewable facilities agreements associated with such tariff offering as of
563 that date in proportion to the customer's total electric energy consumption, on an annual basis. To the extent
564 that an accelerated renewable energy buyer contracts for the capacity of new solar or wind generation
565 resources pursuant to this subsection, the aggregate amount of such nameplate capacity shall be offset from
566 the utility's procurement requirements pursuant to subsection D. All RECs associated with contracts entered
567 into by an accelerated renewable energy buyer with the utility, or a person other than the utility, for an RPS
568 Program shall not be credited to the utility's compliance with its RPS requirements, and the calculation of the
569 utility's RPS Program requirements shall not include the electric load covered by customers certified as
570 accelerated renewable energy buyers.

571 2. Each Phase I or Phase II Utility shall certify, and verify as necessary, to the Commission that the
572 accelerated renewable energy buyer has satisfied the exemption requirements of this subsection for each year,
573 or an accelerated renewable energy buyer may choose to certify satisfaction of this exemption by reporting to
574 the Commission individually. The Commission may promulgate such rules and regulations as may be
575 necessary to implement the provisions of this subsection.

576 3. Provided that no incremental costs associated with any contract between a Phase I or Phase II Utility
577 and an accelerated renewable energy buyer is allocated to or recovered from any other customer of the utility,
578 any such contract with an accelerated renewable energy buyer that is a jurisdictional customer of the utility
579 shall not be deemed a special rate or contract requiring Commission approval pursuant to § 56-235.2.

580 H. No customer of a Phase II Utility with a peak demand in excess of 100 megawatts in 2019 that elected
581 pursuant to subdivision A 3 of § 56-577 to purchase electric energy from a competitive service provider prior
582 to April 1, 2019, shall be allocated any non-bypassable charges pursuant to subsection F for such period that
583 the customer is not purchasing electric energy from the utility, and such customer's electric load shall not be
584 included in the utility's RPS Program requirements. No customer of a Phase I Utility that elected pursuant to
585 subdivision A 3 of § 56-577 to purchase electric energy from a competitive service provider prior to February
586 1, 2019, shall be allocated any non-bypassable charges pursuant to subsection F for such period that the
587 customer is not purchasing electric energy from the utility, and such customer's electric load shall not be
588 included in the utility's RPS Program requirements.

589 I. In any petition by a Phase I or Phase II Utility for a certificate of public convenience and necessity to
590 construct and operate an electrical generating facility that generates electric energy derived from sunlight
591 submitted pursuant to § 56-580, such utility shall demonstrate that the proposed facility was subject to
592 competitive procurement or solicitation as set forth in subdivision D 3.

593 J. Nothing in this section shall apply to any entity organized under Chapter 9.1 (§ 56-231.15 et seq.).

594 K. The Commission shall adopt such rules and regulations as may be necessary to implement the
595 provisions of this section, including a requirement that participants verify whether the RPS Program
596 requirements are met in accordance with this section.