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SENATE BILL NO. 1040

Offered January 8, 2025

Prefiled January 7, 2025

A BILL to amend and reenact §§ 56-585.5 and 56-594.02 of the Code of Virginia, relating to electric utilities; renewable energy portfolio standard program requirements; power purchase agreements.

Patron—VanValkenburg

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That §§ 56-585.5 and 56-594.02 of the Code of Virginia are amended and reenacted as follows:

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

A. As used in this section:

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

"Aggregate load" means the combined electrical load associated with selected accounts of an accelerated renewable 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.

"Behind-the-meter solar" means solar electric generation resources and battery storage systems that are connected to the distribution system on the customer's side of a utility meter.

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

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

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

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

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

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

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

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

B. 1. By December 31, 2024, except for any coal-fired electric generating units (i) jointly owned with a cooperative utility or (ii) owned and operated by a Phase II Utility located in the coalfield region of the Commonwealth that co-fires with biomass, any Phase I and Phase II Utility shall retire all generating units principally fueled by oil with a rated capacity in excess of 500 megawatts and all coal-fired electric generating units operating in the Commonwealth.

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

3. A Phase I or Phase II Utility may petition the Commission for relief from the requirements of this subsection on the basis that the requirement would threaten the reliability or security of electric service to customers. The Commission shall consider in-state and regional transmission entity resources and shall

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59 evaluate the reliability of each proposed retirement on a case-by-case basis in ruling upon any such petition.

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

73 In order to qualify as RPS eligible sources, such sources must be (a) electric-generating resources that
 74 generate electric energy derived from solar or wind located in the Commonwealth or off the Commonwealth's
 75 Atlantic shoreline or in federal waters and interconnected directly into the Commonwealth or physically
 76 located within the PJM region; (b) falling water resources located in the Commonwealth or physically located
 77 within the PJM region that were in operation as of January 1, 2020, that are owned by a Phase I or Phase II
 78 Utility or for which a Phase I or Phase II Utility has entered into a contract prior to January 1, 2020, to
 79 purchase the energy, capacity, and renewable attributes of such falling water resources; (c) non-utility-owned
 80 resources from falling water that (1) are less than 65 megawatts, (2) began commercial operation after
 81 December 31, 1979, or (3) added incremental generation representing greater than 50 percent of the original
 82 nameplate capacity after December 31, 1979, provided that such resources are located in the Commonwealth
 83 or are physically located within the PJM region; (d) waste-to-energy or landfill gas-fired generating resources
 84 located in the Commonwealth and in operation as of January 1, 2020, provided that such resources do not use
 85 waste heat from fossil fuel combustion; (e) geothermal heating and cooling systems located in the
 86 Commonwealth; or (f) biomass-fired facilities in operation in the Commonwealth and in operation as of
 87 January 1, 2023, that (1) supply no more than 10 percent of their annual net electrical generation to the
 88 electric grid or no more than 15 percent of their annual total useful energy to any entity other than the
 89 manufacturing facility to which the generating source is interconnected and are fueled by forest-product
 90 manufacturing residuals, including pulping liquor, bark, paper recycling residuals, biowastes, or biomass, as
 91 described in subdivisions A 1, 2, and 4 of § 10.1-1308.1, provided that biomass as described in subdivision A
 92 1 of § 10.1-1308.1 results from harvesting in accordance with best management practices for the sustainable
 93 harvesting of biomass developed and enforced by the State Forester pursuant to § 10.1-1105, or (2) are owned
 94 by a Phase I or Phase II Utility, have less than 52 megawatts capacity, and are fueled by forest-product
 95 manufacturing residuals, biowastes, or biomass, as described in subdivisions A 1, 2, and 4 of § 10.1-1308.1,
 96 provided that biomass as described in subdivision A 1 of § 10.1-1308.1 results from harvesting in accordance
 97 with best management practices for the sustainable harvesting of biomass developed and enforced by the
 98 State Forester pursuant to § 10.1-1105. Regardless of any future maintenance, expansion, or refurbishment
 99 activities, the total amount of RECs that may be sold by any RPS eligible source using biomass in any year
 100 shall be no more than the number of megawatt hours of electricity produced by that facility in 2022; however,
 101 in no year may any RPS eligible source using biomass sell RECs in excess of the actual megawatt-hours of
 102 electricity generated by such facility that year. In order to comply with the RPS Program, each Phase I and
 103 Phase II Utility may use and retire the environmental attributes associated with any existing owned or
 104 contracted solar, wind, falling water, or biomass electric generating resources in operation, or proposed for
 105 operation, in the Commonwealth or solar, wind, or falling water resources physically located within the PJM
 106 region, with such resource qualifying as a Commonwealth-located resource for purposes of this subsection, as
 107 of January 1, 2020, provided that such renewable attributes are verified as RECs consistent with the PJM-EIS
 108 Generation Attribute Tracking System.

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

Phase I Utilities		Phase II Utilities	
Year	RPS Program Requirement	Year	RPS Program Requirement
2021	6%	2021	14%
2022	7%	2022	17%
2023	8%	2023	20%
2024	10%	2024	23%
2025	14%	2025	26%
2026	17%	2026	29%
2027	20%	2027	32%

120	2028	24%	2028	35%
121	2029	27%	2029	38%
122	2030	30%	2030	41%
123	2031	33%	2031	45%
124	2032	36%	2032	49%
125	2033	39%	2033	52%
126	2034	42%	2034	55%
127	2035	45%	2035	59%
128	2036	53%	2036	63%
129	2037	53%	2037	67%
130	2038	57%	2038	71%
131	2039	61%	2039	75%
132	2040	65%	2040	79%
133	2041	68%	2041	83%
134	2042	71%	2042	87%
135	2043	74%	2043	91%
136	2044	77%	2044	95%
137	2045	80%	2045 and	100%
138			thereafter	
139	2046	84%		
140	2047	88%		
141	2048	92%		
142	2049	96%		
143	2050 and	100%		
144	thereafter			

145 2. A Phase II Utility shall meet ~~one percent~~ of the RPS Program requirements in any given compliance
 146 year with *behind-the-meter* solar, wind, or anaerobic digestion resources of ~~one megawatt~~ *three megawatts* or
 147 less located in the Commonwealth *in the following amounts, measured as a percentage of the utility's RPS P*
 148 *rogram requirements: (i) three percent in 2026 and 2027, (ii) five percent in 2028 and 2029, and (iii) eight*
 149 *percent in 2030 and after*, with not more than 3,000 kilowatts at any single location or at contiguous locations
 150 owned by the same entity or affiliated entities and, to the extent that low-income qualifying projects are
 151 available, then no less than 25 percent of such ~~one percent~~ *percentages* shall be composed of low-income
 152 qualifying projects.

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

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

162 5. Energy from a geothermal heating and cooling system is eligible for inclusion in meeting the
 163 requirements of the RPS Program. RECs from a geothermal heating and cooling system are created based on
 164 the amount of energy, converted from BTUs to kilowatt-hours, that is generated by a geothermal heating and
 165 cooling system for space heating and cooling or water heating. The Commission shall determine the form and
 166 manner in which such RECs are verified.

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

179 1. Each Phase I Utility shall petition the Commission for necessary approvals to construct, acquire, or

180 enter into agreements to purchase the energy, capacity, and environmental attributes of 600 megawatts of
181 generating capacity using energy derived from sunlight or onshore wind.

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

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

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

203 d. Nothing in this subdivision 1 shall prohibit such Phase I Utility from constructing, acquiring, or
204 entering into agreements to purchase the energy, capacity, and environmental attributes of more than 600
205 megawatts of generating capacity located in the Commonwealth using energy derived from sunlight or
206 onshore wind, provided the utility receives approval from the Commission pursuant to §§ 56-580 and
207 56-585.1.

208 2. By December 31, 2035, each Phase II Utility shall petition the Commission for necessary approvals to
209 (i) construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes
210 of 16,100 megawatts of generating capacity located in the Commonwealth using energy derived from
211 sunlight or onshore wind, ~~which shall include 1,100 megawatts of solar generation of a nameplate capacity~~
212 ~~not to exceed three megawatts per individual project and~~ where 35 percent of such generating capacity
213 procured shall be from the purchase of energy, capacity, and environmental attributes from solar facilities
214 owned by persons other than a utility, including utility affiliates and deregulated affiliates, and (ii) pursuant to
215 § 56-585.1:11, construct or purchase one or more offshore wind generation facilities located off the
216 Commonwealth's Atlantic shoreline or in federal waters and interconnected directly into the Commonwealth
217 with an aggregate capacity of up to 5,200 megawatts. At least ~~200~~ 1,000 megawatts of the 16,100 megawatts
218 shall be placed on previously developed project sites. *Thirty-five percent of such generating capacity on*
219 *previously developed project sites shall be procured from the purchase of energy, capacity, and*
220 *environmental attributes from solar facilities owned by persons other than a utility, including utility affiliates*
221 *and deregulated affiliates. The 16,100 megawatts of generating capacity located in the Commonwealth using*
222 *energy derived from sunlight or onshore wind shall include 1,100 megawatts of solar generation of a*
223 *nameplate capacity not to exceed three megawatts per individual project, and 65 percent of such generation*
224 *capacity procured shall be from the purchase of energy, capacity, and environmental attributes from solar*
225 *facilities owned by persons other than a utility, including utility affiliates and deregulated affiliates.*

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

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

240 c. By December 31, 2030, each Phase II Utility shall petition the Commission for necessary approvals to

241 construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of
 242 at least 4,000 megawatts of additional generating capacity located in the Commonwealth using energy
 243 derived from sunlight or onshore wind, and 35 percent of such generating capacity procured shall be from the
 244 purchase of energy, capacity, and environmental attributes from solar or onshore wind facilities owned by
 245 persons other than the utility, with the remainder, in the aggregate, being from construction or acquisition by
 246 such Phase II Utility.

247 d. By December 31, 2035, each Phase II Utility shall petition the Commission for necessary approvals to
 248 construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of
 249 at least 6,100 megawatts of additional generating capacity located in the Commonwealth using energy
 250 derived from sunlight or onshore wind, and 35 percent of such generating capacity procured shall be from the
 251 purchase of energy, capacity, and environmental attributes from solar or onshore wind facilities owned by
 252 persons other than the utility, with the remainder, in the aggregate, being from construction or acquisition by
 253 such Phase II Utility.

254 e. Nothing in this subdivision 2 shall prohibit such Phase II Utility from constructing, acquiring, or
 255 entering into agreements to purchase the energy, capacity, and environmental attributes of more than 16,100
 256 megawatts of generating capacity located in the Commonwealth using energy derived from sunlight or
 257 onshore wind, provided the utility receives approval from the Commission pursuant to §§ 56-580 and
 258 56-585.1.

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

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

285 4. In connection with the requirements of this subsection, each Phase I and Phase II Utility shall,
 286 commencing in 2020 and concluding in 2035, submit annually a plan and petition for approval for the
 287 development of new solar and onshore wind generation capacity. Such plan shall reflect, in the aggregate and
 288 over its duration, the requirements of subsection D concerning the allocation percentages for construction or
 289 purchase of such capacity. Such petition shall contain any request for approval to construct such facilities
 290 pursuant to subsection D of § 56-580 and a request for approval or update of a rate adjustment clause
 291 pursuant to subdivision A 6 of § 56-585.1 to recover the costs of such facilities. Such plan shall also include
 292 the utility's plan to meet the energy storage project targets of subsection E, including the goal of installing at
 293 least 10 percent of such energy storage projects behind the meter. In determining whether to approve the
 294 utility's plan and any associated petition requests, the Commission shall determine whether they are
 295 reasonable and prudent and shall give due consideration to (i) the RPS and carbon dioxide reduction
 296 requirements in this section; (ii) the promotion of new renewable generation and energy storage resources
 297 within the Commonwealth; and associated economic development, *including those resources not exceeding*
 298 *three megawatts or placed on previously developed project sites pursuant to subdivision 2*; and (iii) fuel
 299 savings projected to be achieved by the plan. Notwithstanding any other provision of this title, the
 300 Commission's final order regarding any such petition and associated requests shall be entered by the
 301 Commission not more than six months after the date of the filing of such petition.

302 5. If, in any year, a Phase I or Phase II Utility is unable to meet the compliance obligation of the RPS

303 Program requirements or if the cost of RECs necessary to comply with RPS Program requirements exceeds
304 \$45 per megawatt hour, such supplier shall be obligated to make a deficiency payment equal to \$45 for each
305 megawatt-hour shortfall for the year of noncompliance, except that the deficiency payment for any shortfall
306 in procuring RECs for solar, wind, or anaerobic digesters located in the Commonwealth shall be \$75 per
307 megawatts hour for resources ~~one megawatt~~ *three megawatts* and lower. The amount of any deficiency
308 payment shall increase by one percent annually after 2021. A Phase I or Phase II Utility shall be entitled to
309 recover the costs of such payments as a cost of compliance with the requirements of this subsection pursuant
310 to subdivision A 5 d of § 56-585.1. All proceeds from the deficiency payments shall be deposited into an
311 interest-bearing account administered by the Department of Energy. In administering this account, the
312 Department of Energy shall manage the account as follows: (i) 50 percent of total revenue shall be directed to
313 job training programs in historically economically disadvantaged communities; (ii) 16 percent of total
314 revenue shall be directed to energy efficiency measures for public facilities; (iii) 30 percent of total revenue
315 shall be directed to renewable energy programs located in historically economically disadvantaged
316 communities; and (iv) four percent of total revenue shall be directed to administrative costs.

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

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

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

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

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

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

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

344 F. All costs incurred by a Phase I or Phase II Utility related to compliance with the requirements of this
345 section or pursuant to § 56-585.1:11, including (i) costs of generation facilities powered by sunlight or
346 onshore or offshore wind, or energy storage facilities, that are constructed or acquired by a Phase I or Phase II
347 Utility after July 1, 2020, (ii) costs of capacity, energy, or environmental attributes from generation facilities
348 powered by sunlight or onshore or offshore wind, or falling water, or energy storage facilities purchased by
349 the utility from persons other than the utility through agreements after July 1, 2020, and (iii) all other costs of
350 compliance, including costs associated with the purchase of RECs associated with RPS Program
351 requirements pursuant to this section shall be recovered from all retail customers in the service territory of a
352 Phase I or Phase II Utility as a non-bypassable charge, irrespective of the generation supplier of such
353 customer, except (a) as provided in subsection G for an accelerated renewable energy buyer or (b) as
354 provided in subdivision C 3 of § 56-585.1:11, with respect to the costs of an offshore wind generation
355 facility, for a PIPP eligible utility customer or an advanced clean energy buyer or qualifying large general
356 service customer, as those terms are defined in § 56-585.1:11. If a Phase I or Phase II Utility serves
357 customers in more than one jurisdiction, such utility shall recover all of the costs of compliance with the RPS
358 Program requirements from its Virginia customers through the applicable cost recovery mechanism, and all
359 associated energy, capacity, and environmental attributes shall be assigned to Virginia to the extent that such
360 costs are requested but not recovered from any system customers outside the Commonwealth.

361 By September 1, 2020, the Commission shall direct the initiation of a proceeding for each Phase I and
362 Phase II Utility to review and determine the amount of such costs, net of benefits, that should be allocated to
363 retail customers within the utility's service territory which have elected to receive electric supply service from

364 a supplier of electric energy other than the utility, and shall direct that tariff provisions be implemented to
365 recover those costs from such customers beginning no later than January 1, 2021. Thereafter, such charges
366 and tariff provisions shall be updated and trued up by the utility on an annual basis, subject to continuing
367 review and approval by the Commission.

368 G. 1. An accelerated renewable energy buyer may contract with a Phase I or Phase II Utility, or a person
369 other than a Phase I or Phase II Utility, to obtain (i) RECs from RPS eligible resources or (ii) bundled
370 capacity, energy, and RECs from solar or wind generation resources located within the PJM region and
371 initially placed in commercial operation after January 1, 2015, including any contract with a utility for such
372 generation resources that does not allocate to or recover from any other customer of the utility the cost of
373 such resources. Such an accelerated renewable energy buyer may offset all or a portion of its electric load for
374 purposes of RPS compliance through such arrangements. An accelerated renewable energy buyer shall be
375 exempt from the assignment of non-bypassable RPS compliance costs pursuant to subsection F, with the
376 exception of the costs of an offshore wind generating facility pursuant to § 56-585.1:11, based on the amount
377 of RECs obtained pursuant to this subsection in proportion to the customer's total electric energy
378 consumption, on an annual basis. An accelerated renewable energy buyer obtaining RECs only shall not be
379 exempt from costs related to procurement of new solar or onshore wind generation capacity, energy, or
380 environmental attributes, or energy storage facilities, by the utility pursuant to subsections D and E, however,
381 an accelerated renewable energy buyer that is a customer of a Phase II Utility and was subscribed, as of
382 March 1, 2020, to a voluntary companion experimental tariff offering of the utility for the purchase of
383 renewable attributes from renewable energy facilities that requires a renewable facilities agreement and the
384 purchase of a minimum of 2,000 renewable attributes annually, shall be exempt from allocation of the net
385 costs related to procurement of new solar or onshore wind generation capacity, energy, or environmental
386 attributes, or energy storage facilities, by the utility pursuant to subsections D and E, based on the amount of
387 RECs associated with the customer's renewable facilities agreements associated with such tariff offering as of
388 that date in proportion to the customer's total electric energy consumption, on an annual basis. To the extent
389 that an accelerated renewable energy buyer contracts for the capacity of new solar or wind generation
390 resources pursuant to this subsection, the aggregate amount of such nameplate capacity shall be offset from
391 the utility's procurement requirements pursuant to subsection D. All RECs associated with contracts entered
392 into by an accelerated renewable energy buyer with the utility, or a person other than the utility, for an RPS
393 Program shall not be credited to the utility's compliance with its RPS requirements, and the calculation of the
394 utility's RPS Program requirements shall not include the electric load covered by customers certified as
395 accelerated renewable energy buyers.

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

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

405 H. No customer of a Phase II Utility with a peak demand in excess of 100 megawatts in 2019 that elected
406 pursuant to subdivision A 3 of § 56-577 to purchase electric energy from a competitive service provider prior
407 to April 1, 2019, shall be allocated any non-bypassable charges pursuant to subsection F for such period that
408 the customer is not purchasing electric energy from the utility, and such customer's electric load shall not be
409 included in the utility's RPS Program requirements. No customer of a Phase I Utility that elected pursuant to
410 subdivision A 3 of § 56-577 to purchase electric energy from a competitive service provider prior to February
411 1, 2019, shall be allocated any non-bypassable charges pursuant to subsection F for such period that the
412 customer is not purchasing electric energy from the utility, and such customer's electric load shall not be
413 included in the utility's RPS Program requirements.

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

418 J. Notwithstanding any contrary provision of law, for the purposes of this section, any falling water
419 generation facility located in the Commonwealth and commencing commercial operations prior to July 1,
420 2024, shall be considered a renewable energy portfolio standard (RPS) eligible source.

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

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

425 § 56-594.02. Solar-powered or wind-powered electricity generation; power purchase agreements;

426 pilot programs.

427 A. The Commission shall conduct pilot programs under which a person that owns or operates a
428 solar-powered or wind-powered electricity generation facility located on premises owned or leased by an
429 eligible customer-generator, as defined in § 56-594, shall be permitted to sell the electricity generated from
430 such facility exclusively to such eligible customer-generator under a power purchase agreement used to
431 provide third party financing of the costs of such a renewable generation facility (third party power purchase
432 agreement), subject to the following terms, conditions, and restrictions:

433 1. Notwithstanding subsection G of § 56-580 or any other provision of law, a pilot program shall be
434 conducted within the certificated service territory of each investor-owned electric utility ("Pilot Utility");

435 2. Except as provided in this subdivision, both jurisdictional and nonjurisdictional customers may
436 participate in such pilot programs on a first-come, first-serve basis. The aggregated capacity of all generation
437 facilities that are subject to such third party power purchase agreements at any time during the pilot program
438 shall not exceed 500 megawatts for Virginia jurisdictional customers and 500 megawatts for Virginia
439 nonjurisdictional customers. Such limitation on the aggregated capacity of such facilities shall constitute a
440 portion of the existing limit of six percent of each Pilot Utility's adjusted Virginia peak-load forecast for the
441 previous year that is available to eligible customer-generators pursuant to subsection E of § 56-594.
442 Notwithstanding any provision of this section that incorporates provisions of § 56-594, the seller and the
443 customer shall elect either to (i) enter into their third party power purchase agreement subject to the
444 conditions and provisions of the Pilot Utility's net energy metering program under § 56-594 or (ii) provide
445 that electricity generated from the generation facilities subject to the third party power purchase agreement
446 will not be net metered under § 56-594, provided that an election not to net meter under § 56-594 shall not
447 exempt the third party power purchase agreement and the parties thereto from the requirements of this section
448 that incorporate provisions of § 56-594;

449 3. A solar-powered or wind-powered generation facility with a capacity of ~~no less than 50 kilowatts and~~
450 ~~no more than three megawatts shall be eligible for a third party power purchase agreement under a pilot~~
451 ~~program; however, if the customer under such agreement is a low-income utility customer, as defined in §~~
452 ~~56-576, or is an entity with tax-exempt status in accordance with § 501(e) of the Internal Revenue Code of~~
453 ~~1954, as amended, then such facility is eligible for the pilot program even if it does not meet the 50 kilowatts~~
454 ~~minimum size requirement.~~ The maximum generation capacity of three megawatts shall not affect the limits
455 on the capacity of electrical generating capacities of 25 kilowatts for residential customers and three
456 megawatts for nonresidential customers set forth in subsection B of § 56-594, which limitations shall
457 continue to apply to net energy metering generation facilities regardless of whether they are the subject of a
458 third party power purchase agreement under the pilot program;

459 4. A generation facility that is the subject of a third party power purchase agreement under the pilot
460 program shall serve only one customer, and a third party power purchase agreement shall not serve multiple
461 customers;

462 5. The customer under a third party power purchase agreement under the pilot program shall be subject to
463 the interconnection and other requirements imposed on eligible customer-generators pursuant to subsection C
464 of § 56-594, including the requirement that the customer bear the reasonable costs, as determined by the
465 Commission, of the items described in clauses (a) and (b) of such subsection;

466 6. A third party power purchase agreement under the pilot program shall not be valid unless it conforms in
467 all respects to the requirements of the pilot program conducted under the provisions of this section and unless
468 the Commission and the Pilot Utility are provided written notice of the parties' intent to enter into a third
469 party power purchase agreement not less than 30 days prior to the agreement's proposed effective date; and

470 7. An affiliate of the Pilot Utility shall be permitted to offer and enter into third party power purchase
471 arrangements on the same basis as may any other person that satisfies the requirements of being a seller under
472 a third party power purchase agreement under the pilot program.

473 B. The Commission shall review the pilot program established pursuant to subsection A in 2015 and every
474 two years thereafter during the pilot program. In its review, the Commission shall determine whether the
475 limitations in subdivisions A 2 and 3 should be expanded, reduced, or continued.

476 C. Any third party power purchase agreement that is not entered into pursuant to the pilot program
477 established pursuant to subsection A is prohibited in the Pilot Utility's service territory, unless such third
478 party power purchase agreement is entered into between a licensed supplier and a retail customer pursuant to
479 § 56-577 where such supplier is responsible for serving 100 percent of the load requirements for each retail
480 customer account it serves.

481 D. If the Commission approves a tariff proposed for electric power provided 100 percent from renewable
482 energy that serves 100 percent of the load requirements for each retail customer account it serves under such
483 tariff, hereafter referred to as a "green tariff," such a green tariff shall not be available to any party to a third
484 party power purchase agreement for the account being served by such power purchase agreement, and such
485 an agreement shall remain in effect notwithstanding the approval of the green tariff.

486 E. Nothing in this section shall be construed as (i) rendering any person, by virtue of its selling electric

487 power to an eligible customer-generator under a third party power purchase agreement entered into pursuant
488 to the pilot program established under this section, a public utility or a competitive service provider, (ii)
489 imposing a requirement that such a person meet 100 percent of the load requirements for each retail customer
490 account it serves, or (iii) affecting third party power purchase agreements in effect prior to July 1, 2013.

491 F. Nothing in this section shall abridge any rights of either party to an agreement between a Pilot Utility
492 and a group purchasing organization acting on behalf of Virginia local governments regarding the purchase of
493 electric service.

494 G. The Commission shall, by December 1, 2013, establish guidelines concerning (i) information to be
495 provided in notices required under subdivision A 6 and (ii) procedures for aggregating and posting to the
496 Commission's web site information derived from the aforesaid notices, including total capacity utilized by
497 pilot projects for which notice has been received and capacity remaining available for future pilot projects. In
498 addition, the Commission may adopt such rules or establish such guidelines as may be necessary for its
499 general administration of the pilot program established under this section.

500 **2. That a Phase II Utility, as defined in subdivision A 1 of § 56-585.1 of the Code of Virginia, may**
501 **recover costs for expenses incurred pursuant to clause (iv) of subdivision A 6 of § 56-585.1 of the Code**
502 **of Virginia in the manner prescribed in such subdivision on or before December 31, 2031,**
503 **notwithstanding the time limitations on cost recovery provided in § 56-585.1 of the Code of Virginia.**

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