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SENATE BILL NO. 1192

Offered January 8, 2025

Prefiled January 8, 2025

A BILL to amend and reenact § 56-585.5 of the Code of Virginia, relating to electric utilities; generation of electricity from renewable and zero carbon sources; projects on or adjacent to public elementary or secondary schools.

Patrons—Deeds and Locke

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That § 56-585.5 of the Code of Virginia is 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.

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

"Elementary or secondary" has the same meaning as provided in § 22.1-1.

"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 solar, wind, or anaerobic digestion resources of one megawatt or less located in the  
 147 Commonwealth, with not more than 3,000 kilowatts at any single location or at contiguous locations owned  
 148 by the same entity or affiliated entities and, to the extent that low-income qualifying projects are available,  
 149 then no less than 25 percent of such one percent shall be composed of low-income qualifying projects. *To the*  
 150 *extent that low-income qualifying projects are not available and projects located on or adjacent to public*  
 151 *elementary or secondary schools are available, the remainder of no less than 25 percent of such one percent*  
 152 *shall be composed of projects located on or adjacent to public elementary or secondary schools. A project*  
 153 *located on or adjacent to a public elementary or secondary school shall have a contractual relationship with*  
 154 *such school in order to qualify for the provisions of this section.*

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

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

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

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

180 generation and distribution services or pursuant to § 56-249.6.

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

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

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

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

205 d. Nothing in this subdivision 1 shall prohibit such Phase I Utility from constructing, acquiring, or  
206 entering into agreements to purchase the energy, capacity, and environmental attributes of more than 600  
207 megawatts of generating capacity located in the Commonwealth using energy derived from sunlight or  
208 onshore wind, provided the utility receives approval from the Commission pursuant to §§ 56-580 and  
209 56-585.1.

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

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

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

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

241 such Phase II Utility.

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

249 e. Nothing in this subdivision 2 shall prohibit such Phase II Utility from constructing, acquiring, or  
250 entering into agreements to purchase the energy, capacity, and environmental attributes of more than 16,100  
251 megawatts of generating capacity located in the Commonwealth using energy derived from sunlight or  
252 onshore wind, provided the utility receives approval from the Commission pursuant to §§ 56-580 and  
253 56-585.1.

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

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

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

296 5. If, in any year, a Phase I or Phase II Utility is unable to meet the compliance obligation of the RPS  
297 Program requirements or if the cost of RECs necessary to comply with RPS Program requirements exceeds  
298 \$45 per megawatt hour, such supplier shall be obligated to make a deficiency payment equal to \$45 for each  
299 megawatt-hour shortfall for the year of noncompliance, except that the deficiency payment for any shortfall  
300 in procuring RECs for solar, wind, or anaerobic digesters located in the Commonwealth shall be \$75 per  
301 megawatts hour for resources one megawatt and lower. The amount of any deficiency payment shall increase

302 by one percent annually after 2021. A Phase I or Phase II Utility shall be entitled to recover the costs of such  
303 payments as a cost of compliance with the requirements of this subsection pursuant to subdivision A 5 d of §  
304 56-585.1. All proceeds from the deficiency payments shall be deposited into an interest-bearing account  
305 administered by the Department of Energy. In administering this account, the Department of Energy shall  
306 manage the account as follows: (i) 50 percent of total revenue shall be directed to job training programs in  
307 historically economically disadvantaged communities; (ii) 16 percent of total revenue shall be directed to  
308 energy efficiency measures for public facilities; (iii) 30 percent of total revenue shall be directed to renewable  
309 energy programs located in historically economically disadvantaged communities; and (iv) four percent of  
310 total revenue shall be directed to administrative costs.

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

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

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

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

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

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

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

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

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

362 G. 1. An accelerated renewable energy buyer may contract with a Phase I or Phase II Utility, or a person

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

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

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

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

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

412 J. Notwithstanding any contrary provision of law, for the purposes of this section, any falling water  
413 generation facility located in the Commonwealth and commencing commercial operations prior to July 1,  
414 2024, shall be considered a renewable energy portfolio standard (RPS) eligible source.

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

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