

SENATE BILL NO. 1216

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Commerce and Labor

on _____)

(Patron Prior to Substitute—Senator Pekarsky)

A BILL to amend the Code of Virginia by adding a section numbered 56-577.2, relating to retail electric energy; renewable energy certificates.

Be it enacted by the General Assembly of Virginia:**1. That the Code of Virginia is amended by adding a section numbered 56-577.2 as follows:****§ 56-577.2. Retail electric energy; renewable energy certificates.***A. As used in this section:*

"Bundled renewable energy certificates" are electric generation resources purchased on a customer's behalf from generation resources that are the same as the generation resources used to serve the customer's energy and capacity needs.

"Competitive service provider" means a service provider of electric energy licensed to sell retail electric energy within the Commonwealth, other than any incumbent electric utility that is not the incumbent electric utility serving the exclusive service territory in which a customer is located.

"Renewable energy" has the same meaning as provided in § 56-576, except that it does not include energy derived from (i) biomass, (ii) waste heat from fossil fuel or biomass combustion, (iii) waste, (iv) landfill gas, or (v) municipal solid waste.

"Renewable energy certificate" means a tradable commodity or instrument issued by a regional transmission entity or affiliate or successor thereof in the United States that validates the generation of electricity from renewable energy sources or that is certified under a generally recognized renewable energy certificate standard. One renewable energy certificate equals 1,000 kWh or one MWh of electricity generated from renewable energy, as defined in this section.

"Unbundled renewable energy certificates" means renewable energy certificates purchased on a customer's behalf from generation resources different from the generation resources used to serve the customer's energy and capacity needs.

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

31 *"Zero-carbon electricity" does not include (i) carbon capture and sequestration, (ii) electricity generated by*
32 *hydrogen-fueled electric generating resources, unless the hydrogen fuel is produced using only zero-carbon*
33 *electricity resources, or (iii) any portion of the output from electric generating resources that co-fire*
34 *hydrogen and natural gas.*

35 *B. Notwithstanding subdivision A 5 of § 56-577, retail electric utility customers may contract with*
36 *competitive service providers pursuant to this section regardless of whether the retail electric customer's*
37 *incumbent electric utility has obtained approval from the Commission for a voluntary tariff pursuant to*
38 *subdivision A 5 of §56-577. A competitive service provider shall serve 100 percent of its customers' energy*
39 *and capacity needs, as measured on a monthly basis, from electric generating units located within the PJM*
40 *transmission region.*

41 *C. For retail customers purchasing energy pursuant to this section, a competitive service provider shall*
42 *ensure that 100 percent of its customers' energy is clean. Energy is clean if it is either zero-carbon electricity,*
43 *matched with renewable energy certificates on a kilowatt-hour basis, or a combination of both. No*
44 *competitive service provider shall use renewable energy certificates that are not derived from renewable*
45 *energy as defined in this section. Except during emergency dispatch events identified by PJM Interconnection*
46 *, LLC, or for purposes of testing the readiness of such generation resources, as required by applicable air*
47 *pollution permits, no competitive service provider may serve any portion of a participating customer's energy*
48 *or capacity needs with generating resources connected to the customer's side of the incumbent electric utility'*
49 *s meter that emit carbon dioxide as a byproduct of combusting fuel to generate electricity.*

50 *D. Competitive service providers shall match a percentage of each retail electric customer's annual load*
51 *with zero-carbon electricity, renewable energy certificates from generating resources within the PJM*
52 *transmission region, or a combination of both, for retail customers purchasing energy pursuant to this*
53 *section. This percentage shall be equal to the annual obligation of the customer's incumbent electric utility*
54 *pursuant to the renewable energy portfolio standard under § 56-585.5, unless the customer's incumbent*
55 *electric utility is a distribution cooperative or municipal utility that has opted in to allow certain or all*
56 *customers to purchase electric service from a competitive service provider, in which case the percentage*
57 *shall be equal to the renewable energy portfolio standard under § 56-585.5 for Phase I Utilities, as that term*
58 *is defined in subdivision A 1 of § 56-585.1. Any zero-carbon electricity or renewable energy certificates in*
59 *excess of this percentage may be procured from outside the PJM transmission region.*

60 *E. Notwithstanding the provisions of subsection F of § 56-585.5, retail customers purchasing electric*
61 *energy pursuant to this section shall be exempt from the non-bypassable charges imposed by the renewable*
62 *energy portfolio standard under § 56-585.5 as follows:*

63 *1. If a competitive service provider is meeting 100 percent of a retail customer's electric energy needs*
64 *with bundled renewable energy certificates or with zero-carbon electricity from within the PJM transmission*
65 *region, such customer shall be exempt from all non-bypassable charges imposed by the renewable energy*
66 *portfolio standard under § 56-585.5, except for the costs of an offshore wind generating facility imposed*
67 *pursuant to § 56-585.1:11.*

68 *2. If a competitive service provider is meeting a retail customer's obligation as described in subsection D*
69 *with unbundled renewable energy certificates, such customer shall be exempt from non-bypassable charges*
70 *that are specific to renewable energy certificates but shall not be exempt from the costs of an offshore wind*
71 *generation facility imposed pursuant to § 56-585.1:11 or other non-bypassable charges for energy and*
72 *capacity, pursuant to the renewable energy portfolio standard under § 56-585.5.*

73 *F. Electric energy sold to retail customers pursuant to this section shall be excluded from the calculation*
74 *of "total electric energy" in § 56-585.5.*

75 *G. The provisions of this section shall not apply to municipally owned electric utilities or any utility*
76 *services cooperative formed under or subject to Article 1 (§ 56-231.15 et seq.) of Chapter 9.1, but such*
77 *municipally owned electric utility or utility services cooperative may choose to opt in to allow designated or*
78 *all customers to use a competitive service provider to supply electric energy pursuant to this section.*

79 *H. The Commission may promulgate any rules regarding consumer protection that it deems necessary to*
80 *protect residential customers participating in the provisions of this section.*

81 **2. That the State Corporation Commission may promulgate any rules or regulations as it deems**
82 **necessary to ensure that the provisions of this act do not create an unreasonable shifting of costs to**
83 **customers that are not participating in the retail purchase of electricity pursuant to § 56-577 of the**
84 **Code of Virginia, 56-577.2 of the Code of Virginia, as created by this act, or 56-589 of the Code of**
85 **Virginia, including reasonable timelines for nonresidential customers seeking to return to incumbent**
86 **electric utility service, provided that such timelines are not longer than the timelines applicable to**
87 **customers returning to incumbent utility service pursuant to subdivisions A 3 and 4 of § 56-577 of the**
88 **Code of Virginia.**

89 **3. That the State Corporation Commission shall ensure that, in all integrated resource plans submitted**
90 **pursuant to Chapter 24 (§ 56-597 et seq.) of Title 56 of the Code of Virginia and cost recovery**
91 **proceedings conducted pursuant to § 56-585.1 of the Code of Virginia, no incumbent electric utility is**
92 **improperly incorporating the loads of retail electric customers into its forecasts or load projections.**