

## 1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

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

5 [H 1934]

6 Approved

7 **Be it enacted by the General Assembly of Virginia:**8 **1. That § 56-585.5 of the Code of Virginia is amended and reenacted as follows:**9 **§ 56-585.5. Generation of electricity from renewable and zero-carbon sources.**

10 A. As used in this section:

11 "Accelerated renewable energy buyer" means a commercial or industrial customer of a Phase I or Phase II  
 12 Utility, irrespective of generation supplier, with an aggregate load over 25 megawatts in the prior calendar  
 13 year, that enters into arrangements pursuant to subsection G, as certified by the Commission.14 "Aggregate load" means the combined electrical load associated with selected accounts of an accelerated  
 15 renewable energy buyer with the same legal entity name as, or in the names of affiliated entities that control,  
 16 are controlled by, or are under common control of, such legal entity or are the names of affiliated entities  
 17 under a common parent.

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

19 "*Elementary or secondary*" has the same meaning as provided in § 22.1-1.20 "Falling water" means hydroelectric resources, including run-of-river generation from a combined  
 21 pumped-storage and run-of-river facility. "Falling water" does not include electricity generated from pumped-  
 22 storage facilities.23 "Low-income qualifying projects" means a project that provides a minimum of 50 percent of the  
 24 respective electric output to low-income utility customers as that term is defined in § 56-576.

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

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

27 "Previously developed project site" means any property, including related buffer areas, if any, that has  
 28 been previously disturbed or developed for non-single-family residential, nonagricultural, or nonsilvicultural  
 29 use, regardless of whether such property currently is being used for any purpose. "Previously developed  
 30 project site" includes a brownfield as defined in § 10.1-1230 or any parcel that has been previously used (i)  
 31 for a retail, commercial, or industrial purpose; (ii) as a parking lot; (iii) as the site of a parking lot canopy or  
 32 structure; (iv) for mining, which is any lands affected by coal mining that took place before August 3, 1977,  
 33 or any lands upon which extraction activities have been permitted by the Department of Energy under Title  
 34 45.2; (v) for quarrying; or (vi) as a landfill.35 "Total electric energy" means total electric energy sold to retail customers in the Commonwealth service  
 36 territory of a Phase I or Phase II Utility, other than accelerated renewable energy buyers, by the incumbent  
 37 electric utility or other retail supplier of electric energy in the previous calendar year, excluding an amount  
 38 equivalent to the annual percentages of the electric energy that was supplied to such customer from nuclear  
 39 generating plants located within the Commonwealth in the previous calendar year, provided such nuclear  
 40 units were operating by July 1, 2020, or from any zero-carbon electric generating facilities not otherwise RPS  
 41 eligible sources and placed into service in the Commonwealth after July 1, 2030.42 "Zero-carbon electricity" means electricity generated by any generating unit that does not emit carbon  
 43 dioxide as a by-product of combusting fuel to generate electricity.44 B. 1. By December 31, 2024, except for any coal-fired electric generating units (i) jointly owned with a  
 45 cooperative utility or (ii) owned and operated by a Phase II Utility located in the coalfield region of the  
 46 Commonwealth that co-fires with biomass, any Phase I and Phase II Utility shall retire all generating units  
 47 principally fueled by oil with a rated capacity in excess of 500 megawatts and all coal-fired electric  
 48 generating units operating in the Commonwealth.49 2. By December 31, 2045, except for biomass-fired electric generating units that do not co-fire with coal,  
 50 each Phase I and II Utility shall retire all other electric generating units located in the Commonwealth that  
 51 emit carbon as a by-product of combusting fuel to generate electricity.52 3. A Phase I or Phase II Utility may petition the Commission for relief from the requirements of this  
 53 subsection on the basis that the requirement would threaten the reliability or security of electric service to  
 54 customers. The Commission shall consider in-state and regional transmission entity resources and shall  
 55 evaluate the reliability of each proposed retirement on a case-by-case basis in ruling upon any such petition.

56 C. Each Phase I and Phase II Utility shall participate in a renewable energy portfolio standard program

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

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

105 1. The RPS Program requirements shall be a percentage of the total electric energy sold in the previous  
 106 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%
2028	24%	2028	35%
2029	27%	2029	38%
2030	30%	2030	41%

119	2031	33%	2031	45%
120	2032	36%	2032	49%
121	2033	39%	2033	52%
122	2034	42%	2034	55%
123	2035	45%	2035	59%
124	2036	53%	2036	63%
125	2037	53%	2037	67%
126	2038	57%	2038	71%
127	2039	61%	2039	75%
128	2040	65%	2040	79%
129	2041	68%	2041	83%
130	2042	71%	2042	87%
131	2043	74%	2043	91%
132	2044	77%	2044	95%
133	2045	80%	2045 and	100%
134			thereafter	
135	2046	84%		
136	2047	88%		
137	2048	92%		
138	2049	96%		
139	2050 and	100%		
140	thereafter			

141 2. A Phase II Utility shall meet one percent of the RPS Program requirements in any given compliance  
 142 year with solar, wind, or anaerobic digestion resources of one megawatt or less located in the  
 143 Commonwealth, with not more than 3,000 kilowatts at any single location or at contiguous locations owned  
 144 by the same entity or affiliated entities and, to the extent that low-income qualifying projects are available,  
 145 then no less than 25 percent of such one percent shall be composed of low-income qualifying projects. *To the*  
 146 *extent that low-income qualifying projects are not available and projects located on or adjacent to public*  
 147 *elementary or secondary schools are available, the remainder of no less than 25 percent of such one percent*  
 148 *shall be composed of projects located on or adjacent to public elementary or secondary schools. A project*  
 149 *located on or adjacent to a public elementary or secondary school shall have a contractual relationship with*  
 150 *such school in order to qualify for the provisions of this section.*

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

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

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

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

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

180 a. By December 31, 2023, each Phase I Utility shall petition the Commission for necessary approvals to  
 181 construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of

182 at least 200 megawatts of generating capacity located in the Commonwealth using energy derived from  
183 sunlight or onshore wind, and 35 percent of such generating capacity procured shall be from the purchase of  
184 energy, capacity, and environmental attributes from solar or onshore wind facilities owned by persons other  
185 than the utility, with the remainder, in the aggregate, being from construction or acquisition by such Phase I  
186 Utility.

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

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

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

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

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

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

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

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

244 such Phase II Utility.

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

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

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

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

292 5. If, in any year, a Phase I or Phase II Utility is unable to meet the compliance obligation of the RPS  
 293 Program requirements or if the cost of RECs necessary to comply with RPS Program requirements exceeds  
 294 \$45 per megawatt hour, such supplier shall be obligated to make a deficiency payment equal to \$45 for each  
 295 megawatt-hour shortfall for the year of noncompliance, except that the deficiency payment for any shortfall  
 296 in procuring RECs for solar, wind, or anaerobic digesters located in the Commonwealth shall be \$75 per  
 297 megawatts hour for resources one megawatt and lower. The amount of any deficiency payment shall increase  
 298 by one percent annually after 2021. A Phase I or Phase II Utility shall be entitled to recover the costs of such  
 299 payments as a cost of compliance with the requirements of this subsection pursuant to subdivision A 5 d of §  
 300 56-585.1. All proceeds from the deficiency payments shall be deposited into an interest-bearing account  
 301 administered by the Department of Energy. In administering this account, the Department of Energy shall  
 302 manage the account as follows: (i) 50 percent of total revenue shall be directed to job training programs in  
 303 historically economically disadvantaged communities; (ii) 16 percent of total revenue shall be directed to  
 304 energy efficiency measures for public facilities; (iii) 30 percent of total revenue shall be directed to renewable  
 305 energy programs located in historically economically disadvantaged communities; and (iv) four percent of

306 total revenue shall be directed to administrative costs.

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

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

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

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

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

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

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

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

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

358 G. 1. An accelerated renewable energy buyer may contract with a Phase I or Phase II Utility, or a person  
359 other than a Phase I or Phase II Utility, to obtain (i) RECs from RPS eligible resources or (ii) bundled  
360 capacity, energy, and RECs from solar or wind generation resources located within the PJM region and  
361 initially placed in commercial operation after January 1, 2015, including any contract with a utility for such  
362 generation resources that does not allocate to or recover from any other customer of the utility the cost of  
363 such resources. Such an accelerated renewable energy buyer may offset all or a portion of its electric load for  
364 purposes of RPS compliance through such arrangements. An accelerated renewable energy buyer shall be  
365 exempt from the assignment of non-bypassable RPS compliance costs pursuant to subsection F, with the  
366 exception of the costs of an offshore wind generating facility pursuant to § 56-585.1:11, based on the amount  
367 of RECs obtained pursuant to this subsection in proportion to the customer's total electric energy

368 consumption, on an annual basis. An accelerated renewable energy buyer obtaining RECs only shall not be  
 369 exempt from costs related to procurement of new solar or onshore wind generation capacity, energy, or  
 370 environmental attributes, or energy storage facilities, by the utility pursuant to subsections D and E, however,  
 371 an accelerated renewable energy buyer that is a customer of a Phase II Utility and was subscribed, as of  
 372 March 1, 2020, to a voluntary companion experimental tariff offering of the utility for the purchase of  
 373 renewable attributes from renewable energy facilities that requires a renewable facilities agreement and the  
 374 purchase of a minimum of 2,000 renewable attributes annually, shall be exempt from allocation of the net  
 375 costs related to procurement of new solar or onshore wind generation capacity, energy, or environmental  
 376 attributes, or energy storage facilities, by the utility pursuant to subsections D and E, based on the amount of  
 377 RECs associated with the customer's renewable facilities agreements associated with such tariff offering as of  
 378 that date in proportion to the customer's total electric energy consumption, on an annual basis. To the extent  
 379 that an accelerated renewable energy buyer contracts for the capacity of new solar or wind generation  
 380 resources pursuant to this subsection, the aggregate amount of such nameplate capacity shall be offset from  
 381 the utility's procurement requirements pursuant to subsection D. All RECs associated with contracts entered  
 382 into by an accelerated renewable energy buyer with the utility, or a person other than the utility, for an RPS  
 383 Program shall not be credited to the utility's compliance with its RPS requirements, and the calculation of the  
 384 utility's RPS Program requirements shall not include the electric load covered by customers certified as  
 385 accelerated renewable energy buyers.

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

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

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

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

408 J. Notwithstanding any contrary provision of law, for the purposes of this section, any falling water  
 409 generation facility located in the Commonwealth and commencing commercial operations prior to July 1,  
 410 2024, shall be considered a renewable energy portfolio standard (RPS) eligible source.

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

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