

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact §§ 56-580, 56-597, 56-598, and 56-599 of the Code of Virginia, relating to electric utilities; integrated resource plans.

[S 1021]

Approved

Be it enacted by the General Assembly of Virginia:
1. That §§ 56-580, 56-597, 56-598, and 56-599 of the Code of Virginia are amended and reenacted as follows:

§ 56-580. Transmission and distribution of electric energy.

A. Subject to the provisions of § 56-585.1, the Commission shall continue to regulate pursuant to this title the distribution of retail electric energy to retail customers in the Commonwealth and, to the extent not prohibited by federal law, the transmission of electric energy in the Commonwealth.

B. The Commission shall continue to regulate, to the extent not prohibited by federal law, the reliability, quality and maintenance by transmitters and distributors of their transmission and retail distribution systems.

C. The Commission shall develop codes of conduct governing the conduct of incumbent electric utilities and affiliates thereof when any such affiliates provide, or control any entity that provides, generation, distribution, or transmission services, to the extent necessary to prevent impairment of competition. Nothing in this chapter shall prevent an incumbent electric utility from offering metering options to its customers.

D. The Commission shall permit the construction and operation of electrical generating facilities in Virginia upon a finding that such generating facility and associated facilities (i) will have no material adverse effect upon reliability of electric service provided by any regulated public utility; (ii) are required by the public convenience and necessity, if a petition for such permit is filed after July 1, 2007, and if they are to be constructed and operated by any regulated utility whose rates are regulated pursuant to § 56-585.1; and (iii) are not otherwise contrary to the public interest. *Any petition for such a permit filed by an electric utility that is required to file an integrated resource plan pursuant to Chapter 24 (§ 56-597 et seq.) shall (a) reference the utility's most recently approved integrated resource plan that identified the utility's intent to construct and operate such generating facilities or (b) if the utility's intent to construct and operate such generating facilities was not identified in the utility's most recently approved integrated resource plan, provide a detailed explanation of why the utility did not anticipate the need for such generating facilities.* In review of a petition for a certificate to construct and operate a generating facility described in this subsection, the Commission shall give consideration to the effect of the facility and associated facilities on the environment and establish such conditions as may be desirable or necessary to minimize adverse environmental impact as provided in § 56-46.1, unless exempt as a small renewable energy project for which the Department of Environmental Quality has issued a permit by rule pursuant to Article 5 (§ 10.1-1197.5 et seq.) of Chapter 11.1 of Title 10.1. In order to avoid duplication of governmental activities, any valid permit or approval required for an electric generating plant and associated facilities issued or granted by a federal, state or local governmental entity charged by law with responsibility for issuing permits or approvals regulating environmental impact and mitigation of adverse environmental impact or for other specific public interest issues such as building codes, transportation plans, and public safety, whether such permit or approval is prior to or after the Commission's decision, shall be deemed to satisfy the requirements of this section with respect to all matters that ~~(1)~~ (1) are governed by the permit or approval or ~~(2)~~ (2) are within the authority of, and were considered by, the governmental entity in issuing such permit or approval, and the Commission shall impose no additional conditions with respect to such matters. Nothing in this section shall affect the ability of the Commission to keep the record of a case open. Nothing in this section shall affect any right to appeal such permits or approvals in accordance with applicable law. In the case of a proposed facility located in a region that was designated as of July 1, 2001, as serious nonattainment for the one-hour ozone standard as set forth in the federal Clean Air Act, the Commission shall not issue a decision approving such proposed facility that is conditioned upon issuance of any environmental permit or approval. The Commission shall complete any proceeding under this section, or under any provision of the Utility Facilities Act (§ 56-265.1 et seq.), involving an application for a certificate, permit, or approval required for the construction or operation by a public utility of a small renewable energy project as defined in § 10.1-1197.5, within nine months following the utility's submission of a complete application therefore. Small renewable energy projects as defined in § 10.1-1197.5 are in the public interest and in determining whether to approve such project, the Commission shall liberally construe the provisions of this title.

E. Nothing in this section shall impair the distribution service territorial rights of incumbent electric utilities, and incumbent electric utilities shall continue to provide distribution services within their exclusive

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service territories as established by the Commission. Subject to the provisions of § 56-585.1, the Commission shall continue to exercise its existing authority over the provision of electric distribution services to retail customers in the Commonwealth including, but not limited to, the authority contained in Chapters 10 (§ 56-232 et seq.) and 10.1 (§ 56-265.1 et seq.) of this title.

F. Nothing in this chapter shall impair the exclusive territorial rights of an electric utility owned or operated by a municipality as of July 1, 1999, or by an authority created by a governmental unit exempt from the referendum requirement of § 15.2-5403. Nor shall any provision of this chapter apply to any such electric utility unless (i) that municipality or that authority created by a governmental unit exempt from the referendum requirement of § 15.2-5403 elects to have this chapter apply to that utility or (ii) that utility, directly or indirectly, sells, offers to sell or seeks to sell electric energy to any retail customer eligible to purchase electric energy from any supplier in accordance with § 56-577 if that retail customer is outside the geographic area that was served by such municipality as of July 1, 1999, except (a) any area within the municipality that was served by an incumbent public utility as of that date but was thereafter served by an electric utility owned or operated by a municipality or by an authority created by a governmental unit exempt from the referendum requirement of § 15.2-5403 pursuant to the terms of a franchise agreement between the municipality and the incumbent public utility, or (b) where the geographic area served by an electric utility owned or operated by a municipality is changed pursuant to mutual agreement between the municipality and the affected incumbent public utility in accordance with § 56-265.4:1. If an electric utility owned or operated by a municipality as of July 1, 1999, or by an authority created by a governmental unit exempt from the referendum requirement of § 15.2-5403 is made subject to the provisions of this chapter pursuant to clause (i) or (ii) of this subsection, then in such event the provisions of this chapter applicable to incumbent electric utilities shall also apply to any such utility, *mutatis mutandis*.

G. The applicability of all provisions of this chapter except § 56-594 to any investor-owned incumbent electric utility supplying electric service to retail customers on January 1, 2003, whose service territory assigned to it by the Commission is located entirely within Dickenson, Lee, Russell, Scott, and Wise Counties shall be suspended effective July 1, 2003, so long as such utility does not provide retail electric services in any other service territory in any jurisdiction to customers who have the right to receive retail electric energy from another supplier. During any such suspension period, the utility's rates shall be (i) its capped rates established pursuant to § 56-582 for the duration of the capped rate period established thereunder, and (ii) determined thereafter by the Commission on the basis of such utility's prudently incurred costs pursuant to Chapter 10 (§ 56-232 et seq.) of this title.

H. The expiration date of any certificates granted by the Commission pursuant to subsection D, for which applications were filed with the Commission prior to July 1, 2002, shall be extended for an additional two years from the expiration date that otherwise would apply.

§ 56-597. Definitions.

As used in this chapter:

"Advanced conductors" means hardware technology that can conduct electricity across transmission lines and that demonstrates enhanced performance over traditional conductor products.

"Affiliate" means a person that controls, is controlled by, or is under common control with an electric utility.

"Electric utility" means any investor-owned public utility that provides electric energy for use by retail customers; ~~except investor-owned utilities subject to the provisions of § 56-585.8.~~

"Grid-enhancing technologies" means a set of technologies that maximize the transmission of electricity across the electric distribution *and transmission* grid in a manner that ensures grid reliability and safeguards the cybersecurity and physical security of the electric distribution grid, including storage as a transmission asset, dynamic line rating, power flow control, and topology optimization.

"Integrated resource plan" ~~or "IRP"~~ means a document developed by an electric utility that provides a forecast of its load obligations and a plan to meet those obligations by supply side and demand side resources *and transmission and distribution infrastructure* over the ensuing ~~15~~ 20 years to promote reasonable prices, reliable service, energy independence, and environmental responsibility.

"Retail customer" means any person that purchases retail electric energy for its own consumption at one or more metering points or non-metered points of delivery located in the Commonwealth.

§ 56-598. Contents of integrated resource plans.

~~An IRP should~~ *integrated resource plan shall:*

1. Integrate, over the planning period, the electric utility's forecast of demand for electric generation supply with recommended plans to meet that forecasted demand and assure adequate and sufficient reliability of service, including:

a. Generating electricity from generation facilities that it currently operates or intends to construct or purchase;

b. Purchasing electricity from affiliates and third parties;

c. Reducing load growth and peak demand growth through cost-effective demand reduction programs, *including the incorporation of such programs into virtual power plant aggregation; and*

119 d. Meeting the total energy savings targets required by subsection B of § 56-596.2; and
 120 e. Utilizing energy storage facilities to help meet forecasted demand and assure adequate and sufficient
 121 reliability of service;

122 2. Identify a *single preferred* portfolio of electric generation *and non-generation* supply resources,
 123 including purchased and self-generated electric power, *that best serves the public interest and that*:

124 a. Consistent with § 56-585.1, is most likely to provide the electric generation supply needed to meet the
 125 forecasted demand, net of any reductions from demand side programs *and applicable grid-enhancing*
 126 *technologies*, so that *over the long term* the utility will continue to provide reliable service at reasonable
 127 prices ~~over the long term that take into consideration the social cost of carbon; and~~

128 b. Will consider low cost energy/capacity available from short-term or spot market transactions, consistent
 129 with a reasonable assessment of risk with respect to both price and generation supply availability over the
 130 term of the plan;

131 c. Relies on and reflects reputable long-term future cost projections for all fuels and technology types that
 132 reflect reasonable cost changes over the study period;

133 d. Includes the social cost of carbon as a component of generation operating costs for any facility emitting
 134 carbon dioxide as a by-product of generation. Notwithstanding any national carbon dioxide pricing, the best
 135 estimate social cost of carbon shadow price shall not be less than the cost of carbon determined by the
 136 Commission pursuant to subdivision A 6 of § 56-585.1; and

137 e. Will meet the requirements for (i) the renewable portfolio standards program established under
 138 subsection C of § 56-585.5 and (ii) the retirement of electrical generating units that emit carbon as a by-
 139 product of combusting fuel under subsection B of § 56-585.5;

140 3. Identify one or more least cost portfolios of electric generation supply, demand-side, and grid-
 141 dispersed resources, including purchased and self-generated electric power, for the purposes of cost
 142 comparison that rely on reputable long-term future cost projections for all fuels and technology types that
 143 reflect reasonable cost changes over the study period, including the National Renewable Energy Laboratory's
 144 Annual Technology Baseline publications. The least cost portfolio may include one or more modeling
 145 scenarios that would require the utility to petition the Commission for relief under subdivision B 3 of §
 146 56-585.5;

147 4. Include only modeling scenarios that meet the total energy savings targets required by subsection B of
 148 § 56-596.2. The integrated resource plan shall also include at least one modeling scenario, consistent with §
 149 56-585.5, that exceeds such energy savings targets through maximized energy efficiency upgrades to homes
 150 and businesses; dynamic pricing to shift energy use to off-peak; battery storage, both utility and distributed;
 151 transmission line upgrades; grid-enhancing technology; virtual power plants that utilize aggregated demand
 152 response or storage; managed electric vehicle charging and vehicle-to-grid power; home and business
 153 electrification for enhanced grid utilization and associated revenue; known data center efficiency efforts and
 154 innovative data center tariffs approved by the Commission or offsetting investments in offsite energy
 155 efficiency upgrades; and optimized use of the interstate electric grid through long-term transmission
 156 planning;

157 5. Reflect a diversity of electric generation supply and cost-effective demand reduction contracts and
 158 services so as to reduce the risks associated with an over-reliance on any particular fuel or type of generation
 159 demand and supply resources and be consistent with the Commonwealth's energy policies as set forth in §
 160 45.2-1706.1; and

161 4. 6. Include such additional information as the Commission requests pertaining to how the electric utility
 162 intends to meet its obligation to provide electric generation service for use by its retail customers over the
 163 planning period.

164 **§ 56-599. Integrated resource plan required.**

165 A. ~~Each~~ Beginning in 2026 for a Phase I Utility and in 2027 for a Phase II Utility, and triennially
 166 thereafter, each electric utility shall file an updated integrated resource plan by October 15; ~~in each year~~
 167 ~~immediately preceding the year the utility is subject to a biennial review of rates for generation and~~
 168 ~~distribution services filing.~~ The year after a Phase I or Phase II Utility files such updated integrated resource
 169 plan, such Phase I or Phase II Utility shall not be required to file a plan pursuant to subdivision D 4 of §
 170 56-585.5. A copy of each integrated resource plan shall be provided to the Chairman of the House Committee
 171 on Labor and Commerce, the Chairman of the Senate Committee on Commerce and Labor, and the Chairman
 172 of the Commission on Electric Utility Regulation. ~~After January 1, 2024, each~~ Each electric utility ~~not subject~~
 173 ~~to an annual review~~ shall file provide the Commission an annual update to the integrated resource plan by
 174 October 15; ~~in each year that the utility is subject to review of rates for generation and distribution services~~
 175 ~~filing.~~ Each annual update shall include an update to the electric utility's base planning assumptions relative
 176 to its most recently accepted integrated resource plan, including energy and demand forecasts, commodity
 177 fuel price inputs, energy efficiency and demand-side management forecasts, changes to projected retirement
 178 dates of existing units, and other inputs, as determined by the Commission. Such annual update shall describe
 179 the impact of the updated base planning assumptions on the most recently approved resource plan. The
 180 Commission shall include a summary of each utility's annual update in its report required by subsection B of

§ 56-596.

All updated integrated resource plans shall comply with the provisions of any relevant order of the Commission establishing guidelines for the format and contents of updated and revised integrated resource plans. Each integrated resource plan shall (i) identify a single preferred portfolio of generation, transmission, and distribution infrastructure and energy efficiency programs and measures needed to ensure a reliable, affordable, and carbon-free electric grid and (ii) consider options for maintaining and enhancing rate stability, energy independence, economic development including retention and expansion of energy-intensive industries, and service reliability.

B. In preparing an integrated resource plan, each electric utility shall systematically evaluate and may propose:

1. Entering into short-term and long-term electric power purchase contracts;
2. Owning and operating electric power generation facilities;
3. Building new generation facilities;
4. Relying on purchases from the short term or spot markets;
5. Making investments in demand-side resources, including energy efficiency and demand-side management services;
6. Taking such other actions, as the Commission may approve, to diversify its generation supply portfolio and ensure that the electric utility is able to implement an approved plan;
7. The methods by which the electric utility proposes to acquire the supply and demand resources identified in its proposed integrated resource plan;
8. The effect of current and pending state and federal environmental regulations upon the continued operation of existing electric generation facilities or options for construction of new electric generation facilities;
9. The most cost effective means of complying with current and pending state and federal environmental regulations, including a single compliance options to minimize plan that minimizes the effects on customer rates of such regulations;
10. Building new or upgrading existing distribution and transmission infrastructure.

11. Long-term electric distribution grid and transmission grid planning and proposed electric distribution grid and transmission grid transformation projects, including a comprehensive assessment of the potential application of that use grid-enhancing technologies and advanced conductors in a manner that ensures grid reliability and safeguards the cybersecurity and physical security, including advanced conductors, dynamic line ratings, advanced power flow controllers, transmission switching, virtual power plants or aggregated distributed energy resource management systems, non-wire solutions, battery energy storage systems, and other available technologies that have the potential to improve the efficiency and performance of the electric distribution grid or transmission grid. An electric utility that does not include grid-enhancing technologies or advanced conductors in an integrated resource plan anticipates building new infrastructure in its integrated resource plan shall consider grid-enhancing technologies and shall include a detailed explanation of why such grid-enhancing technologies or conductors are not included in such plan sufficient to eliminate or defer the need for new transmission infrastructure;

12. Developing a long-term plan for energy efficiency measures to accomplish policy goals of reduction in customer bills, particularly for low-income, elderly, and disabled customers; reduction in emissions; and reduction in carbon intensity; and

13. Developing a long-term plan to integrate new energy storage facilities into existing generation and distribution assets to assist with grid transformation.

C. As part of preparing any integrated resource plan pursuant to this section, each utility shall conduct a facility retirement study for owned facilities located in the Commonwealth that emit carbon dioxide as a byproduct of combusting fuel and shall include the study results in its integrated resource plan. Upon filing the integrated resource plan with the Commission, the utility shall contemporaneously disclose the study results to each planning district commission, county board of supervisors, and city and town council where such electric generation unit is located, the Department of Energy, the Department of Housing and Community Development, the Virginia Employment Commission, and the Virginia Council on Environmental Justice. The disclosure shall include (i) the driving factors of the decision to retire and (ii) the anticipated retirement year of any electric generation unit included in the plan. Any electric generating facility with an anticipated retirement date that meets the criteria of § 45.2-1701.1 shall comply with the public disclosure requirements therein.

D. As part of preparing any integrated resource plan pursuant to this section, each utility shall annually conduct outreach to engage the public in a stakeholder review process and provide opportunities for the public to contribute information, input, and ideas on the utility's integrated resource plan, including the plan's development methodology, modeling inputs, and assumptions, as well as the ability for the public to make relevant inquiries, to the utility when formulating its integrated resource plan. Each utility shall report its public outreach efforts to the Commission. The stakeholder review process shall be facilitated by a third-party facilitator selected by the Commission from a list of potential facilitators submitted by the utility and

shall include representatives from multiple interest groups, including residential and industrial classes of ratepayers. *Such facilitator shall be compensated by the utility and shall coordinate input from interest groups and ensure the utility provides meaningful responses to questions and recommendations from interest groups.* Each utility shall, at the time of the filing of its integrated resource plan, report on any stakeholder meetings that have occurred prior to the filing date.

Prior to being selected by the Commission, any third-party facilitator shall demonstrate, to the satisfaction of the Commission and in a form and manner determined by the Commission, (i) sufficient independence from the utility and its affiliates, which shall include submission of a statement of economic interests that is consistent with the disclosure required by § 2.2-3114, and (ii) the qualifications, expertise, and experience to perform the functions of a facilitator. After being selected, the facilitator shall notify the Commission of any perceived or actual conflicts that arise during the planning process.

As part of the stakeholder review process, the utility shall provide stakeholders with reasonable access to the same modeling software, modeling assumptions, modeling inputs, and data used by the utility to evaluate supply and demand resources in its integrated resource plan. Such access shall enable stakeholders to create modeling scenarios for the utility's consideration during the development of its integrated resource plan. Any such scenarios, including all inputs, assumptions, results, and a narrative description of the scenario, shall be submitted to the utility no later than June 1. The utility may require a stakeholder to enter into a confidentiality agreement prior to providing the stakeholder with such access. If the utility requires such an agreement, the utility shall not be required to provide such access to any stakeholder who does not enter into the confidentiality agreement.

E. The Commission shall analyze and review an integrated resource plan and, after giving notice and opportunity to be heard, the Commission shall make a determination within nine months after the date of filing as to whether such an integrated resource plan is reasonable and is in the public interest.

F. The Commission shall establish guidelines that ensure that utilities develop comprehensive integrated resource plans, provide meaningful public engagement and maximum transparency during the planning process, and meet the requirements of this chapter. Each electric utility shall comply with any relevant Commission order establishing guidelines for the integrated resource plan planning process and for the format and contents of integrated resource plans.

G. By July 1, 2026, and at least once every five years thereafter, the Commission shall conduct a proceeding to identify and review each of its existing orders relevant to integrated resource plans to determine if such orders remain necessary and effective and are not overly burdensome.

2. That the State Corporation Commission (the Commission), in coordination with the Commission on Electric Utility Regulation, shall convene a stakeholder work group to make recommendations to the Commission regarding the integrated resource plan guidelines the Commission is required to establish pursuant to subsection F of § 56-599 of the Code of Virginia, as amended by this act. Such recommendations shall include recommendations for (i) the content of an integrated resource plan that comprehensively addresses generation, transmission, and distribution planning; (ii) integrating transmission planning into the integrated resource plan in a manner that does not violate any standards or requirements of the Federal Energy Regulatory Commission; (iii) the modeling software that best enables utilities to incorporate transmission and distribution planning, including, to the extent it would not create a security threat, location-specific information; (iv) appropriate procedures and timeframes for an electric utility to share with interest groups the modeling software, assumptions, inputs, and data used by an electric utility to develop its integrated resource plan; (v) the use of confidentiality agreements where necessary to protect proprietary information; (vi) training for interest groups on using the modeling software, assumptions, inputs, and data; (vii) a reasonable number of modeling software licenses that the electric utility is required to provide; (viii) the use of a public institution of higher education to conduct modeling on behalf of interest groups that do not wish to conduct modeling on their own; (ix) the availability of subject matter experts from each utility to provide timely and meaningful information in response to questions and recommendations from interest groups; and (x) any other issues the Commission deems relevant to ensure that utilities develop comprehensive integrated resource plans and provide meaningful public engagement and maximum transparency during the planning process. The stakeholder work group shall include Commission staff, staff from the Commission on Electric Utility Regulation, and representatives from the Office of the Attorney General, investor-owned utilities, environmental advocacy groups, environmental justice organizations, and consumer advocates, as well as other interested stakeholders. The work group shall report its findings and recommendations to the Commission, the Commission on Electric Utility Regulation, the House Committee on Labor and Commerce, and the Senate Committee on Commerce and Labor by December 1, 2025. The Commission shall establish by regulation integrated resource plan guidelines required pursuant to subsection F of § 56-599 of the Code of Virginia, as amended by this act, that comply with the provisions of this act no later than 180 days after the work group issues its final report.