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HOUSE BILL NO. 1031

Offered January 14, 2026

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A BILL to amend and reenact §§ 10.1-1308 and 56-585.5 of the Code of Virginia, relating to electric utilities; renewable energy portfolio standard program requirements; Air Pollution Control Board; regulations to reduce carbon emissions.

Patron—Wilt

Committee Referral Pending

Be it enacted by the General Assembly of Virginia:**1. That §§ 10.1-1308 and 56-585.5 of the Code of Virginia are amended and reenacted as follows:****§ 10.1-1308. Regulations.**

A. The Board, after having studied air pollution in the various areas of the Commonwealth, its causes, prevention, control and abatement, shall have the power to promulgate regulations, including emergency regulations, abating, controlling and prohibiting air pollution throughout or in any part of the Commonwealth in accordance with the provisions of the Administrative Process Act (§ 2.2-4000 et seq.), except that a description of provisions of any proposed regulation which are more restrictive than applicable federal requirements, together with the reason why the more restrictive provisions are needed, shall be provided to the standing committee of each house of the General Assembly to which matters relating to the content of the regulation are most properly referable. No such regulation shall prohibit the burning of leaves from trees by persons on property where they reside if the local governing body of the county, city or town has enacted an otherwise valid ordinance regulating such burning. The regulations shall not promote or encourage any substantial degradation of present air quality in any air basin or region which has an air quality superior to that stipulated in the regulations. Any regulations adopted by the Board to have general effect in part or all of the Commonwealth shall be filed in accordance with the Virginia Register Act (§ 2.2-4100 et seq.).

B. Any regulation that prohibits the selling of any consumer product shall not restrict the continued sale of the product by retailers of any existing inventories in stock at the time the regulation is promulgated.

C. Any regulation requiring the use of stage 1 vapor recovery equipment at gasoline dispensing facilities may be applicable only in areas that have been designated at any time by the U.S. Environmental Protection Agency as nonattainment for the pollutant ozone. For purposes of this section, gasoline dispensing facility means any site where gasoline is dispensed to motor vehicle tanks from storage tanks.

D. No regulation of the Board shall require permits for the construction or operation of qualified fumigation facilities, as defined in § 10.1-1308.01.

E. Notwithstanding any other provision of law and no earlier than July 1, 2024, the Board shall adopt regulations to reduce, for the period of ~~2034~~ 2051 to ~~2050~~ 2070, the carbon dioxide emissions from any electricity generating unit in the Commonwealth, regardless of fuel type, that serves an electricity generator with a nameplate capacity equal to or greater than 25 megawatts that supplies (i) 10 percent or more of its annual net electrical generation to the electric grid or (ii) more than 15 percent of its annual total useful energy to any entity other than the manufacturing facility to which the generating source is interconnected (covered unit).

The Board may establish, implement, and manage an auction program to sell allowances to carry out the purposes of such regulations or may in its discretion utilize an existing multistate trading system.

The Board may utilize its existing regulations to reduce carbon dioxide emissions from electric power generating facilities; however, the regulations shall provide that no allowances be issued for covered units in ~~2050~~ 2070 or any year beyond ~~2050~~ 2070. The Board may establish rules for trading, the use of banked allowances, and other auction or market mechanisms as it may find appropriate to control allowance costs and otherwise carry out the purpose of this subsection.

In adopting such regulations, the Board shall consider only the carbon dioxide emissions from the covered units. The Board shall not provide for emission offsetting or netting based on fuel type.

Regulations adopted by the Board under this subsection shall be subject to the requirements set out in §§ 2.2-4007.03, 2.2-4007.04, 2.2-4007.05, and 2.2-4026 through 2.2-4030 of the Administrative Process Act (§ 2.2-4000 et seq.) and shall be published in the Virginia Register of Regulations.

§ 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.

59 "Aggregate load" means the combined electrical load associated with selected accounts of an accelerated
60 renewable energy buyer with the same legal entity name as, or in the names of affiliated entities that control,
61 are controlled by, or are under common control of, such legal entity or are the names of affiliated entities
62 under a common parent.

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

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

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

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

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

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

72 "Previously developed project site" means any property, including related buffer areas, if any, that has
73 been previously disturbed or developed for non-single-family residential, nonagricultural, or nonsilvicultural
74 use, regardless of whether such property currently is being used for any purpose. "Previously developed
75 project site" includes a brownfield as defined in § 10.1-1230 or any parcel that has been previously used (i)
76 for a retail, commercial, or industrial purpose; (ii) as a parking lot; (iii) as the site of a parking lot canopy or
77 structure; (iv) for mining, which is any lands affected by coal mining that took place before August 3, 1977,
78 or any lands upon which extraction activities have been permitted by the Department of Energy under Title
79 45.2; (v) for quarrying; or (vi) as a landfill.

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

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

89 B. 1. By December 31, ~~2024~~ 2044, except for any coal-fired electric generating units (i) jointly owned
90 with a cooperative utility or (ii) owned and operated by a Phase II Utility located in the coalfield region of the
91 Commonwealth that co-fires with biomass, any Phase I and Phase II Utility shall retire all generating units
92 principally fueled by oil with a rated capacity in excess of 500 megawatts and all coal-fired electric
93 generating units operating in the Commonwealth.

94 2. By December 31, ~~2045~~ 2065, except for biomass-fired electric generating units that do not co-fire with
95 coal, each Phase I and II Utility shall retire all other electric generating units located in the Commonwealth
96 that emit carbon as a by-product of combusting fuel to generate electricity.

97 3. A Phase I or Phase II Utility may petition the Commission for relief from the requirements of this
98 subsection on the basis that the requirement would threaten the reliability or security of electric service to
99 customers. The Commission shall consider in-state and regional transmission entity resources and shall
100 evaluate the reliability of each proposed retirement on a case-by-case basis in ruling upon any such petition.

101 C. Each Phase I and Phase II Utility shall participate in a renewable energy portfolio standard program
102 (RPS Program) that establishes annual goals for the sale of renewable energy to all retail customers in the
103 utility's service territory, other than accelerated renewable energy buyers pursuant to subsection G, regardless
104 of whether such customers purchase electric supply service from the utility or from suppliers other than the
105 utility. To comply with the RPS Program, each Phase I and Phase II Utility shall procure and retire
106 Renewable Energy Certificates (RECs) originating from renewable energy standard eligible sources (RPS
107 eligible sources). For purposes of complying with the RPS Program from 2021 to 2024, a Phase I and Phase
108 II Utility may use RECs from any renewable energy facility, as defined in § 56-576, provided that such
109 facilities are located in the Commonwealth or are physically located within the PJM Interconnection, LLC
110 (PJM) region. However, at no time during this period or thereafter may any Phase I or Phase II Utility use
111 RECs from (i) renewable thermal energy, (ii) renewable thermal energy equivalent, or (iii) biomass-fired
112 facilities that are outside the Commonwealth. From compliance year ~~2025~~ 2045 and all years after, each
113 Phase I and Phase II Utility may only use RECs from RPS eligible sources for compliance with the RPS
114 Program.

115 In order to qualify as RPS eligible sources, such sources must be (a) electric-generating resources that
116 generate electric energy derived from solar or wind located in the Commonwealth or off the Commonwealth's
117 Atlantic shoreline or in federal waters and interconnected directly into the Commonwealth or physically
118 located within the PJM region; (b) falling water resources located in the Commonwealth or physically located
119 within the PJM region that were in operation as of January 1, 2020, that are owned by a Phase I or Phase II
120 Utility or for which a Phase I or Phase II Utility has entered into a contract prior to January 1, 2020, to

purchase the energy, capacity, and renewable attributes of such falling water resources; (c) non-utility-owned resources from falling water that (1) are less than 65 megawatts, (2) began commercial operation after December 31, 1979, or (3) added incremental generation representing greater than 50 percent of the original nameplate capacity after December 31, 1979, provided that such resources are located in the Commonwealth or are physically located within the PJM region; (d) waste-to-energy or landfill gas-fired generating resources located in the Commonwealth and in operation as of January 1, 2020, provided that such resources do not use waste heat from fossil fuel combustion; (e) geothermal heating and cooling systems located in the Commonwealth; (f) geothermal electric generating resources located in the Commonwealth or physically located within the PJM region; or (g) biomass-fired facilities in operation in the Commonwealth and in operation as of January 1, 2023, that (1) supply no more than 10 percent of their annual net electrical generation to the electric grid or no more than 15 percent of their annual total useful energy to any entity other than the manufacturing facility to which the generating source is interconnected and are fueled by forest-product manufacturing residuals, including pulping liquor, bark, paper recycling residuals, biowastes, or biomass, as described in subdivisions A 1, 2, and 4 of § 10.1-1308.1, provided that biomass as described in subdivision A 1 of § 10.1-1308.1 results from harvesting in accordance with best management practices for the sustainable harvesting of biomass developed and enforced by the State Forester pursuant to § 10.1-1105, or (2) are owned by a Phase I or Phase II Utility, have less than 52 megawatts capacity, and are fueled by forest-product manufacturing residuals, biowastes, or biomass, as described in subdivisions A 1, 2, and 4 of § 10.1-1308.1, provided that biomass as described in subdivision A 1 of § 10.1-1308.1 results from harvesting in accordance with best management practices for the sustainable harvesting of biomass developed and enforced by the State Forester pursuant to § 10.1-1105. Regardless of any future maintenance, expansion, or refurbishment activities, the total amount of RECs that may be sold by any RPS eligible source using biomass in any year shall be no more than the number of megawatt hours of electricity produced by that facility in 2022; however, in no year may any RPS eligible source using biomass sell RECs in excess of the actual megawatt-hours of electricity generated by such facility that year. In order to comply with the RPS Program, each Phase I and Phase II Utility may use and retire the environmental attributes associated with any existing owned or contracted solar, wind, falling water, or biomass electric generating resources in operation, or proposed for operation, in the Commonwealth or solar, wind, or falling water resources physically located within the PJM region, with such resource qualifying as a Commonwealth-located resource for purposes of this subsection, as of January 1, 2020, provided that such renewable attributes are verified as RECs consistent with the PJM-EIS Generation Attribute Tracking System.

1. The RPS Program requirements shall be a percentage of the total electric energy sold in the previous 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%
2024-2044	10%	2024-2044	23%
2025-2045	14%	2025-2045	26%
2026-2046	17%	2026-2046	29%
2027-2047	20%	2027-2047	32%
2028-2048	24%	2028-2048	35%
2029-2049	27%	2029-2049	38%
2030-2050	30%	2030-2050	41%
2031-2051	33%	2031-2051	45%
2032-2052	36%	2032-2052	49%
2033-2053	39%	2033-2053	52%
2034-2054	42%	2034-2054	55%
2035-2055	45%	2035-2055	59%
2036-2056	53%	2036-2056	63%
2037-2057	53%	2037-2057	67%
2038-2058	57%	2038-2058	71%
2039-2059	61%	2039-2059	75%
2040-2060	51%	2040-2060	79%
2041-2061	68%	2041-2061	83%
2042-2062	71%	2042-2062	87%
2043-2063	74%	2043-2063	91%
2044-2064	77%	2044-2064	95%
2045-2065	80%	2045-2065 and thereafter	100%
2046-2066	84%		
2047-2067	88%		
2048-2068	92%		

185	2049-2069	96%
186	2050-2070 and	100%
187	thereafter	

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

198 3. Beginning with the ~~2025~~ 2045 compliance year and thereafter, at least 75 percent of all RECs used by a
199 Phase II Utility in a compliance period shall come from RPS eligible resources located in the
200 Commonwealth.

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

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

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

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

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

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

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

such Phase I Utility.

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

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

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

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

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

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

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

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

Each Phase I and Phase II Utility shall, at least once every year, conduct a request for proposals for new solar and wind resources. Such requests shall quantify and describe the utility's need for energy, capacity, or renewable energy certificates. The requests for proposals shall be publicly announced and made available for public review on the utility's website at least 45 days prior to the closing of such request for proposals. The

requests for proposals shall provide, at a minimum, the following information: (a) the size, type, and timing of resources for which the utility anticipates contracting; (b) any minimum thresholds that must be met by respondents; (c) major assumptions to be used by the utility in the bid evaluation process, including environmental emission standards; (d) detailed instructions for preparing bids so that bids can be evaluated on a consistent basis; (e) the preferred general location of additional capacity; and (f) specific information concerning the factors involved in determining the price and non-price criteria used for selecting winning bids. A utility may evaluate responses to requests for proposals based on any criteria that it deems reasonable but shall at a minimum consider the following in its selection process: (1) the status of a particular project's development; (2) the age of existing generation facilities; (3) the demonstrated financial viability of a project and the developer; (4) a developer's prior experience in the field; (5) the location and effect on the transmission grid of a generation facility; (6) benefits to the Commonwealth that are associated with particular projects, including regional economic development and the use of goods and services from Virginia businesses; and (7) the environmental impacts of particular resources, including impacts on air quality within the Commonwealth and the carbon intensity of the utility's generation portfolio.

4. In connection with the requirements of this subsection, each Phase I and Phase II Utility shall, commencing in 2020 and concluding in ~~2035~~ 2055, submit annually a plan and petition for approval for the development of new solar and onshore wind generation capacity. Such plan shall reflect, in the aggregate and over its duration, the requirements of subsection D concerning the allocation percentages for construction or purchase of such capacity. Such petition shall contain any request for approval to construct such facilities pursuant to subsection D of § 56-580 and a request for approval or update of a rate adjustment clause pursuant to subdivision A 6 of § 56-585.1 to recover the costs of such facilities. Such plan shall also include the utility's plan to meet the energy storage project targets of subsection E, including the goal of installing at least 10 percent of such energy storage projects behind the meter. In determining whether to approve the utility's plan and any associated petition requests, the Commission shall determine whether they are reasonable and prudent and shall give due consideration to (i) the RPS and carbon dioxide reduction requirements in this section; (ii) the promotion of new renewable generation and energy storage resources within the Commonwealth, and associated economic development; and (iii) fuel savings projected to be achieved by the plan. Notwithstanding any other provision of this title, the Commission's final order regarding any such petition and associated requests shall be entered by the Commission not more than six months after the date of the filing of such petition.

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

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

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

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

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

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

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

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

381 F. All costs incurred by a Phase I or Phase II Utility related to compliance with the requirements of this
382 section or pursuant to § 56-585.1:11, including (i) costs of generation facilities powered by sunlight or
383 onshore or offshore wind, or energy storage facilities, that are constructed or acquired by a Phase I or Phase II
384 Utility after July 1, 2020, (ii) costs of capacity, energy, or environmental attributes from generation facilities
385 powered by sunlight or onshore or offshore wind, or falling water, or energy storage facilities purchased by
386 the utility from persons other than the utility through agreements after July 1, 2020, and (iii) all other costs of
387 compliance, including costs associated with the purchase of RECs associated with RPS Program
388 requirements pursuant to this section shall be recovered from all retail customers in the service territory of a
389 Phase I or Phase II Utility as a non-bypassable charge, irrespective of the generation supplier of such
390 customer, except (a) as provided in subsection G for an accelerated renewable energy buyer or (b) as
391 provided in subdivision C 3 of § 56-585.1:11, with respect to the costs of an offshore wind generation
392 facility, for a PIPP eligible utility customer or an advanced clean energy buyer or qualifying large general
393 service customer, as those terms are defined in § 56-585.1:11. If a Phase I or Phase II Utility serves
394 customers in more than one jurisdiction, such utility shall recover all of the costs of compliance with the RPS
395 Program requirements from its Virginia customers through the applicable cost recovery mechanism, and all
396 associated energy, capacity, and environmental attributes shall be assigned to Virginia to the extent that such
397 costs are requested but not recovered from any system customers outside the Commonwealth.

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

405 G. 1. An accelerated renewable energy buyer may contract with a Phase I or Phase II Utility, or a person
406 other than a Phase I or Phase II Utility, to obtain (i) RECs from RPS eligible resources or (ii) bundled
407 capacity, energy, and RECs from solar or, wind, or zero-carbon electricity generation resources located
408 within the PJM region and initially placed in commercial operation after January 1, 2015, including any
409 contract with a utility for such generation resources that does not allocate the cost of such resources to or
410 recover the cost of such resources from any other customers of the utility that have not voluntarily agreed to
411 pay such cost. Such an accelerated renewable energy buyer may offset all or a portion of its electric load for
412 purposes of RPS compliance through such arrangements. An accelerated renewable energy buyer shall be
413 exempt from the assignment of non-bypassable RPS compliance costs pursuant to subsection F, with the
414 exception of the costs of an offshore wind generating facility pursuant to § 56-585.1:11, based on the amount
415 of RECs obtained pursuant to this subsection in proportion to the customer's total electric energy
416 consumption, on an annual basis. An accelerated renewable energy buyer may also contract with a Phase I or
417 Phase II Utility, or a person other than a Phase I or Phase II Utility, to obtain capacity from energy storage
418 facilities located within the network service area of the utility pursuant to this subsection, provided that the
419 costs of such resources are not recovered from any of the utility's customers who have not voluntarily agreed
420 to pay for such costs. Such accelerated renewable energy buyer shall be exempt from the assignment of
421 non-bypassable RPS Program compliance costs specifically associated with energy storage facilities pursuant
422 to this subsection in proportion to the customer's total capacity demand on an annual basis. An accelerated
423 renewable energy buyer obtaining RECs only shall not be exempt from costs related to procurement of new
424 solar or onshore wind generation capacity, energy, or environmental attributes, or energy storage facilities, by
425 the utility pursuant to subsections D and E, however, an accelerated renewable energy buyer that is a
426 customer of a Phase II Utility and was subscribed, as of March 1, 2020, to a voluntary companion
427 experimental tariff offering of the utility for the purchase of renewable attributes from renewable energy
428 facilities that requires a renewable facilities agreement and the purchase of a minimum of 2,000 renewable
429 attributes annually, shall be exempt from allocation of the net costs related to procurement of new solar or
430 onshore wind generation capacity, energy, or environmental attributes, or energy storage facilities, by the
431 utility pursuant to subsections D and E, based on the amount of RECs associated with the customer's
432 renewable facilities agreements associated with such tariff offering as of that date in proportion to the

customer's total electric energy consumption, on an annual basis. To the extent that an accelerated renewable energy buyer contracts for the capacity of new solar or wind generation resources or energy storage facilities pursuant to this subsection, the aggregate amount of such nameplate capacity shall be offset from the utility's procurement requirements pursuant to subsection D. All RECs associated with contracts entered into by an accelerated renewable energy buyer with the utility, or a person other than the utility, for an RPS Program shall not be credited to the utility's compliance with its RPS requirements, and the calculation of the utility's RPS Program requirements shall not include the electric load covered by customers certified as accelerated renewable energy buyers.

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

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

4. The State Corporation Commission shall ensure that any distribution and transmission costs associated with new energy generation resources procured pursuant to subsection G of § 56-585.5 of the Code of Virginia, as amended by this act, are justly and reasonably allocated.

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

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

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

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

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