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HOUSE BILL NO. 1256

Offered January 14, 2026

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A BILL to amend and reenact § 56-249.6 of the Code of Virginia, relating to a cost-sharing adjustment mechanism for the recovery of fuel and purchased power costs by certain electric utilities; report.

Patron—Shin

Committee Referral Pending

Be it enacted by the General Assembly of Virginia:

1. That § 56-249.6 of the Code of Virginia is amended and reenacted as follows:

§ 56-249.6. Recovery of fuel and purchased power costs.

A. 1. Each electric utility that purchases fuel for the generation of electricity or purchases power and that was not, as of July 1, 1999, bound by a rate case settlement adopted by the Commission that extended in its application beyond January 1, 2002, shall submit to the Commission its estimate of fuel costs, including the cost of purchased power, for the 12-month period beginning on the date prescribed by the Commission. Upon investigation of such estimates and hearings in accordance with law, the Commission shall direct each company to place in effect tariff provisions designed to recover the fuel costs determined by the Commission to be appropriate for that period, adjusted for any over-recovery or under-recovery of fuel costs previously incurred.

2. The Commission shall continuously review fuel costs and if it finds that any utility described in subdivision ~~A~~ 1 is in an over-recovery position by more than five percent, or likely to be so, it may reduce the fuel cost tariffs to correct the over-recovery.

3. Beginning July 1, 2009, for all utilities described in subdivision ~~A~~ 1 and subsection B, if the Commission approves any increase in fuel factor charges pursuant to this section that would increase the total rates of the residential class of customers of any such utility by more than 20 percent, the Commission, within six months following the effective date of such increase, shall review fuel costs, and if the Commission finds that the utility is, or is likely to be, in an over-recovery position with respect to fuel costs for the 12-month period for which the increase in fuel factor charges was approved by more than five percent, it may reduce the utility's fuel cost tariffs to correct the over-recovery.

B. All fuel costs recovery tariff provisions in effect on January 1, 2004, for any electric utility that purchases fuel for the generation of electricity and that was, as of July 1, 1999, bound by a rate case settlement adopted by the Commission that extended in its application beyond January 1, 2002, shall remain in effect until the later of (i) July 1, 2007 or (ii) the establishment of tariff provisions under subsection C. Any such utility shall continue to report to the Commission annually its actual fuel costs, including the cost of purchased power.

C. Each electric utility described in subsection B shall submit annually to the Commission its estimate of fuel costs, including the cost of purchased power, for successive 12-month periods beginning on July 1, 2007, and each July 1 thereafter. Upon investigation of such estimates and hearings in accordance with law, the Commission shall direct each such utility to place in effect tariff provisions designed to recover the fuel costs determined by the Commission to be appropriate for such periods, adjusted for any over-recovery or under-recovery of fuel costs previously incurred; however, (i) no such adjustment for any over-recovery or under-recovery of fuel costs previously incurred shall be made for any period prior to July 1, 2007, and (ii) the Commission shall order that the deferral portion, if any, of the total increase in fuel tariffs for all classes as determined by the Commission to be appropriate for the 12-month period beginning July 1, 2007, above the fuel tariffs previously existing, shall be deferred without interest and recovered from all classes of customers as follows: (i) in the 12-month period beginning July 1, 2008, that part of the deferral portion of the increase in fuel tariffs that the Commission determines would increase the total rates of the residential class of customers of the utility by four percent over the level of such total rates in existence on June 30, 2008, shall be recovered; (ii) in the 12-month period beginning July 1, 2009, that part of the balance of the deferral portion of the increase in fuel tariffs, if any, that the Commission determines would increase the total rates of the residential class of customers of the utility by four percent over the level of such total rates in existence on June 30, 2009, shall be recovered; and (iii) in the 12-month period beginning July 1, 2010, the entire balance of the deferral portion of the increase in fuel tariffs, if any, shall be recovered. The "deferral portion of the increase in fuel tariffs" means the portion of such increase in fuel tariffs that exceeds the amount of such increase in fuel tariffs that the Commission determines would increase the total rates of the residential class of customers of the utility by more than four percent over the level of such total rates in existence on June 30, 2007.

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D. In proceedings under subsections A and C:

1. Energy revenues associated with off-system sales of power shall be credited against fuel factor expenses in an amount equal to the total incremental fuel factor costs incurred in the production and delivery of such sales. In addition, 75 percent of the total annual margins from off-system sales shall be credited against fuel factor expenses; however, the Commission, upon application and after notice and opportunity for hearing, may require that a smaller percentage of such margins be so credited if it finds by clear and convincing evidence that such requirement is in the public interest. The remaining margins from off-system sales shall not be considered in the biennial reviews of electric utilities conducted pursuant to § 56-585.1. In the event such margins result in a net loss to the electric utility, (i) no charges shall be applied to fuel factor expenses and (ii) any such net losses shall not be considered in the biennial reviews of electric utilities conducted pursuant to § 56-585.1. For purposes of this subsection, "margins from off-system sales" shall mean the total revenues received from off-system sales transactions less the total incremental costs incurred; and

2. The Commission shall disallow recovery of any fuel costs that it finds without just cause to be the result of failure of the utility to make every reasonable effort to minimize fuel costs or any decision of the utility resulting in unreasonable fuel costs, giving due regard to reliability of service and the need to maintain reliable sources of supply, economical generation mix, generating experience of comparable facilities, and minimization of the total cost of providing service.

In any proceeding for the recovery of fuel costs under this subdivision in which the costs a utility seeks to recover include costs incurred under a natural gas capacity contract for a term of more than 10 years that procures more than 250,000 dekatherms per day that has not previously been subject to a review under this subdivision, the Commission shall require the utility to prove by a preponderance of the evidence that the utility has (i) determined that the utility cannot meet its service obligations, giving due regard, in the Commission's sole discretion, to reliability of service and the need to maintain reliable sources of supply, without an additional fuel resource; (ii) reasonably identified and determined the date and amount of the new fuel resource it needs; (iii) objectively studied available alternative fuel resource options, as verified by the Commission, including options other than a new natural gas capacity contract or contracts to meet the identified and determined need; and (iv) determined that the natural gas capacity contract or contracts are the lowest-cost available option, taking into consideration fixed and variable costs and a reasonable projection of utilization. Absent the Commission's finding that the utility has proven by a preponderance of the evidence that the utility had complied with the requirements of clauses (i), (ii), (iii), and (iv), the Commission shall deny the utility's recovery of such costs. Nothing in this subdivision shall limit the Commission's discretion to review and make a determination as to the reasonableness of the recovery by a utility of costs, including costs incurred under a natural gas capacity contract, that were previously subject to a review under this subdivision.

E. The Commission is authorized to promulgate, in accordance with the provisions of this section, all rules and regulations necessary to allow the recovery by electric utilities of all of their prudently incurred fuel costs under subsections A and C, including the cost of purchased power, as precisely and promptly as possible, with no over-recovery or under-recovery, except as provided in subsection C, in a manner that will tend to assure public confidence and minimize abrupt changes in charges to consumers.

F. Notwithstanding any other provision of this section, the Commission shall establish by regulation a cost-sharing adjustment mechanism for the recovery of a percentage of prudently incurred fuel costs, including the costs of purchased power, under which each electric utility described in subdivision A 1 and subsection B shares the risk of variability of such costs with their customers. A percentage, established by the Commission, of the costs of any fuel purchased for the generation of electricity or power purchased on or after the effective date of such cost-sharing mechanism, except for any fuel or power contracted for prior to such effective date, shall be recovered in accordance with such cost-sharing adjustment mechanism. The remainder of such costs shall be recovered in accordance with the provisions of subsections A through E.

2. That the State Corporation Commission (the Commission) shall conduct a proceeding to implement the provisions of this act. In conducting such proceeding, the Commission shall consider opportunities to mitigate the impact on customer rates that are associated with fluctuations in the market for purchased fuel and purchased power or other unpredictable events that affect customer rates and elements of a cost-sharing adjustment mechanism that is designed to align the financial incentives of an electric utility with the interests of the customers of the electric utility, including (i) a cost-sharing percentage that incentivizes the electric utility to minimize the costs of purchased fuel and purchased power without exposing the electric utility to unreasonable levels of risk and volatility; (ii) whether a cost-sharing adjustment mechanism is symmetrical or asymmetrical; (iii) whether to use a straight-sharing method or a sharing-band method; (iv) whether to use historic information concerning costs; (v) the extent to which earnings tests, caps, amortization periods, and prudence review processes can be used to promote prudent fuel management; (vi) options to improve the transparency of any forecasted estimate of costs, including the use of a forward price index and providing access to forecasted estimates to interveners in proceedings of the Commission who sign nondisclosure agreements; (vii) the impacts of ratio sharing designs on residential, small business, and large

industrial customers, including bill volatility and affordability; (viii) implications of the inclusion of costs for purchased fuel and purchased power on the participation of an electric utility in real-time and day-ahead markets; and (ix) examination of existing practices and evaluation of options that reduce load and mitigate volatility in fuel and purchased power costs, including demand-side management programs that are cost-effective, demand responsive, and load shifting. The cost-sharing adjustment mechanism shall be designed to include the following elements: (a) applicability to all currently identifiable fuel costs, except those that are specifically designated as emerging technologies, which fuel costs may be exempted from the mechanism; (b) a fuel-cost ratio calculated for the current period, meaning that the total fuel cost per megawatt-hour is computed for all major fuel cost categories reported, including purchased power, to create the fuel-cost ratio based on actual amounts paid and any adjustments for prior periods accounted for in the current period; (c) the amount of fuel cost by category subject to sharing, established annually based on a reasonable amount to motivate the controlling parties to optimize fuel cost choices; and (d) the application of a cost-sharing percentage based on the change in ratio year over year, where such percentage may change over time and differ for fuel cost categories in a manner deemed reasonable by the Commission. For the purposes of such proceeding, "emerging technologies" means electric fuel or generation resources with currently insufficient cost-performance data, as determined by the Commission. The Commission shall consider the comments and recommendations of various stakeholders, including Commission staff, the Office of the Attorney General, consumer protection groups, representatives of all customer classes, environmental organizations, and local communities. The Commission shall complete such proceeding and report on the findings and any regulations, orders, or other outcomes of such proceeding to the General Assembly and the Commission on Electric Utility Regulation by September 1, 2027.

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