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SENATE BILL NO. 458

Offered January 14, 2026

Prefiled January 13, 2026

A BILL to amend and reenact §§ 56-577 and 56-579 of the Code of Virginia, relating to electric utilities; regional energy market.

Patrons—DeSteph, Cifers, Craig, French, Hackworth, McDouggle, Peake, Pillion, Reeves, Stanley, Stuart and Sturtevant

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:**1. That §§ 56-577 and 56-579 of the Code of Virginia are amended and reenacted as follows:****§ 56-577. Schedule for transition to retail competition; Commission authority; exemptions; pilot programs.**

A. Retail competition for the purchase and sale of electric energy shall be subject to the following provisions:

1. Each incumbent electric utility owning, operating, controlling, or having an entitlement to transmission capacity *may join a regional energy market and* shall join or establish a regional transmission entity, which entity may be an independent system operator, to which such utility shall transfer the management and control of its transmission system, subject to the provisions of § 56-579.

2. The generation of electric energy shall be subject to regulation as specified in this chapter.

3. Subject to the provisions of subdivisions 4 and 5, only individual retail customers of electric energy within the Commonwealth, regardless of customer class, whose demand during the most recent calendar year exceeded five megawatts but did not exceed one percent of the customer's incumbent electric utility's peak load during the most recent calendar year unless such customer had noncoincident peak demand in excess of 90 megawatts in calendar year 2006 or any year thereafter, shall be permitted to purchase electric energy from any supplier of electric energy licensed to sell retail electric energy within the Commonwealth, except for any incumbent electric utility other than the incumbent electric utility serving the exclusive service territory in which such a customer is located, subject to the following conditions:

a. If such customer does not purchase electric energy from licensed suppliers, such customer shall purchase electric energy from its incumbent electric utility.

b. Except as provided in subdivision 4, the demands of individual retail customers may not be aggregated or combined for the purpose of meeting the demand limitations of this provision, any other provision of this chapter to the contrary notwithstanding. For the purposes of this section, each noncontiguous site will nevertheless constitute an individual retail customer even though one or more such sites may be under common ownership of a single person.

c. If such customer does purchase electric energy from licensed suppliers after the expiration or termination of capped rates, it shall not thereafter be entitled to purchase electric energy from the incumbent electric utility without giving five years' advance written notice of such intention to such utility, except where such customer demonstrates to the Commission, after notice and opportunity for hearing, through clear and convincing evidence that its supplier has failed to perform, or has anticipatorily breached its duty to perform, or otherwise is about to fail to perform, through no fault of the customer, and that such customer is unable to obtain service at reasonable rates from an alternative supplier. If, as a result of such proceeding, the Commission finds it in the public interest to grant an exemption from the five-year notice requirement, such customer may thereafter purchase electric energy at the costs of such utility, as determined by the Commission pursuant to subdivision 3 d hereof, for the remainder of the five-year notice period, after which point the customer may purchase electric energy from the utility under rates, terms and conditions determined pursuant to § 56-585.1. However, such customer shall be allowed to individually purchase electric energy from the utility under rates, terms, and conditions determined pursuant to § 56-585.1 if, upon application by such customer, the Commission finds that neither such customer's incumbent electric utility nor retail customers of such utility that do not choose to obtain electric energy from alternate suppliers will be adversely affected in a manner contrary to the public interest by granting such petition. In making such determination, the Commission shall take into consideration, without limitation, the impact and effect of any and all other previously approved petitions of like type with respect to such incumbent electric utility. Any customer that returns to purchase electric energy from its incumbent electric utility, before or after expiration of the five-year notice period, shall be subject to minimum stay periods equal to those prescribed by the Commission pursuant to subdivision C 1.

d. The costs of serving a customer that has received an exemption from the five-year notice requirement

under subdivision 3 c hereof shall be the market-based costs of the utility, including (i) the actual expenses of procuring such electric energy from the market, (ii) additional administrative and transaction costs associated with procuring such energy, including, but not limited to, costs of transmission, transmission line losses, and ancillary services, and (iii) a reasonable margin as determined pursuant to the provisions of subdivision A 2 of § 56-585.1. The methodology established by the Commission for determining such costs shall ensure that neither utilities nor other retail customers are adversely affected in a manner contrary to the public interest.

4. Two or more individual nonresidential retail customers of electric energy within the Commonwealth, whose individual demand during the most recent calendar year did not exceed five megawatts, may petition the Commission for permission to aggregate or combine their demands, for the purpose of meeting the demand limitations of subdivision 3, so as to become qualified to purchase electric energy from any supplier of electric energy licensed to sell retail electric energy within the Commonwealth under the conditions specified in subdivision 3. The Commission may, after notice and opportunity for hearing, approve such petition if it finds that:

a. Neither such customers' incumbent electric utility nor retail customers of such utility that do not choose to obtain electric energy from alternate suppliers will be adversely affected in a manner contrary to the public interest by granting such petition. In making such determination, the Commission shall take into consideration, without limitation, the impact and effect of any and all other previously approved petitions of like type with respect to such incumbent electric utility; and

b. Approval of such petition is consistent with the public interest.

If such petition is approved, all customers whose load has been aggregated or combined shall thereafter be subject in all respects to the provisions of subdivision 3 and shall be treated as a single, individual customer for the purposes of said subdivision. In addition, the Commission shall impose reasonable periodic monitoring and reporting obligations on such customers to demonstrate that they continue, as a group, to meet the demand limitations of subdivision 3. If the Commission finds, after notice and opportunity for hearing, that such group of customers no longer meets the above demand limitations, the Commission may revoke its previous approval of the petition, or take such other actions as may be consistent with the public interest.

5. Individual retail customers of electric energy within the Commonwealth, regardless of customer class, shall be permitted:

a. To purchase electric energy provided 100 percent from renewable energy from any supplier of electric energy licensed to sell retail electric energy within the Commonwealth, other than any incumbent electric utility that is not the incumbent electric utility serving the exclusive service territory in which such a customer is located, if the incumbent electric utility serving the exclusive service territory does not offer an approved tariff for electric energy provided 100 percent from renewable energy; and

b. To continue purchasing renewable energy pursuant to the terms of a power purchase agreement in effect on the date there is filed with the Commission a tariff for the incumbent electric utility that serves the exclusive service territory in which the customer is located to offer electric energy provided 100 percent from renewable energy, for the duration of such agreement.

6. To the extent that an incumbent electric utility has elected as of February 1, 2019, the Fixed Resource Requirement alternative as a Load Serving Entity in the PJM Region and continues to make such election and is therefore required to obtain capacity for all load and expected load growth in its service area, any customer of a utility subject to that requirement that purchases energy pursuant to subdivision 3 or 4 from a supplier licensed to sell retail electric energy within the Commonwealth shall continue to pay its incumbent electric utility for the non-fuel generation capacity and transmission related costs incurred by the incumbent electric utility in order to meet the customer's capacity obligations, pursuant to the incumbent electric utility's standard tariff that has been approved by and is on file with the Commission. In the case of such customer, the advance written notice period established in subdivisions 3 c and d shall be three years. This subdivision shall not apply to the customers of licensed suppliers that (i) had an agreement with a licensed supplier entered into before February 1, 2019, or (ii) had aggregation petitions pending before the Commission prior to January 1, 2019, unless and until any customer referenced in clause (i) or (ii) has returned to purchase electric energy from its incumbent electric utility, pursuant to the provisions of subdivision 3 or 4, and is receiving electric energy from such incumbent electric utility.

7. A tariff for one or more classes of residential customers filed with the Commission for approval by a cooperative on or after July 1, 2010, shall be deemed to offer a tariff for electric energy provided 100 percent from renewable energy if it provides undifferentiated electric energy and the cooperative retires a quantity of renewable energy certificates equal to 100 percent of the electric energy provided pursuant to such tariff. A tariff for one or more classes of nonresidential customers filed with the Commission for approval by a cooperative on or after July 1, 2012, shall be deemed to offer a tariff for electric energy provided 100 percent from renewable energy if it provides undifferentiated electric energy and the cooperative retires a quantity of renewable energy certificates equal to 100 percent of the electric energy provided pursuant to such tariff. For purposes of this section, "renewable energy certificate" means, with respect to cooperatives, a tradable

commodity or instrument issued by a regional transmission entity or affiliate or successor thereof in the United States that validates the generation of electricity from renewable energy sources or that is certified under a generally recognized renewable energy certificate standard. One renewable energy certificate equals 1,000 kWh or one MWh of electricity generated from renewable energy. A cooperative offering electric energy provided 100 percent from renewable energy pursuant to this subdivision that involves the retirement of renewable energy certificates shall disclose to its retail customers who express an interest in purchasing energy pursuant to such tariff (i) that the renewable energy is comprised of the retirement of renewable energy certificates, (ii) the identity of the entity providing the renewable energy certificates, and (iii) the sources of renewable energy being offered.

B. The Commission shall promulgate such rules and regulations as may be necessary to implement the provisions of this section.

C. 1. By January 1, 2002, the Commission shall promulgate regulations establishing whether and, if so, for what minimum periods, customers who request service from an incumbent electric utility pursuant to subsection D of § 56-582 or a default service provider, after a period of receiving service from other suppliers of electric energy, shall be required to use such service from such incumbent electric utility or default service provider, as determined to be in the public interest by the Commission.

2. Subject to (i) the availability of capped rate service under § 56-582, and (ii) the transfer of the management and control of an incumbent electric utility's transmission assets to a regional transmission entity after approval of such transfer by the Commission under § 56-579, retail customers of such utility (a) purchasing such energy from licensed suppliers and (b) otherwise subject to minimum stay periods prescribed by the Commission pursuant to subdivision 1, shall nevertheless be exempt from any such minimum stay obligations by agreeing to purchase electric energy at the market-based costs of such utility or default providers after a period of obtaining electric energy from another supplier. Such costs shall include (i) the actual expenses of procuring such electric energy from the market, (ii) additional administrative and transaction costs associated with procuring such energy, including, but not limited to, costs of transmission, transmission line losses, and ancillary services, and (iii) a reasonable margin. The methodology of ascertaining such costs shall be determined and approved by the Commission after notice and opportunity for hearing and after review of any plan filed by such utility to procure electric energy to serve such customers. The methodology established by the Commission for determining such costs shall be consistent with the goals of (a) promoting the development of effective competition and economic development within the Commonwealth as provided in subsection A of § 56-596, and (b) ensuring that neither incumbent utilities nor retail customers that do not choose to obtain electric energy from alternate suppliers are adversely affected.

3. Notwithstanding the provisions of subsection D of § 56-582 and subsection C of § 56-585, however, any such customers exempted from any applicable minimum stay periods as provided in subdivision 2 shall not be entitled to purchase retail electric energy thereafter from their incumbent electric utilities, or from any distributor required to provide default service under subsection B of § 56-585, at the capped rates established under § 56-582, unless such customers agree to satisfy any minimum stay period then applicable while obtaining retail electric energy at capped rates.

4. The Commission shall promulgate such rules and regulations as may be necessary to implement the provisions of this subsection, which rules and regulations shall include provisions specifying the commencement date of such minimum stay exemption program.

§ 56-579. Regional energy markets; regional transmission entities.

A. As set forth in § 56-577, each incumbent electric utility owning, operating, controlling, or having an entitlement to transmission capacity *may join a regional energy market and shall join or establish a regional transmission entity, which hereafter may be referred to as "RTE," to which such utility shall transfer the management and control of its transmission assets; subject to the following:*

~~1. No such incumbent electric utility shall transfer to any person any ownership or control of, or any responsibility to operate, any portion of any transmission system located in the Commonwealth prior to July 1, 2004, and without obtaining, following notice and hearing, the prior approval of the Commission, as hereinafter provided. However, each incumbent electric utility shall file an application for approval pursuant to this section by July 1, 2003, and shall transfer management and control of its transmission assets to a regional transmission entity by January 1, 2005, subject to Commission approval as provided in this section.~~

2. The Commission shall develop rules and regulations under which any such incumbent electric utility owning, operating, controlling, or having an entitlement to transmission capacity within the Commonwealth, may transfer all or part of such control, ownership or responsibility to an RTE *and participate in a regional energy market*, upon such terms and conditions that the Commission determines will:

~~a. 1. Promote, as applicable:~~

~~(1) a. Practices for the reliable planning, operating, maintaining, and upgrading of the transmission systems and any necessary additions thereto; and~~

~~(2) b. Policies for the pricing and access for service over such systems that are safe, reliable, efficient, not unduly discriminatory and consistent with the orderly development of competition in the Commonwealth;~~

~~b. 2. Be consistent with lawful requirements of the Federal Energy Regulatory Commission;~~

181 ~~ε.~~ 3. Be effectuated on terms that fairly compensate the transferor; *and*

182 ~~δ.~~ 4. Generally promote the public interest, and are consistent with (i) ensuring that consumers' needs for
183 economic and reliable ~~transmission~~ *electric service* are met and (ii) meeting the transmission needs of electric
184 generation suppliers both within and without ~~this~~ *the* Commonwealth, including those that do not own,
185 operate, control, or have an entitlement to transmission capacity.

186 B. The Commission shall also adopt rules and regulations, with appropriate public input, establishing
187 elements of regional transmission entity structures essential to the public interest, which elements shall be
188 applied by the Commission in determining whether to authorize transfer of ownership or control from an
189 incumbent electric utility to a regional transmission entity.

190 C. The Commission shall, to the fullest extent permitted under federal law, participate in any and all
191 proceedings concerning regional transmission entities furnishing transmission services within the
192 Commonwealth, before the Federal Energy Regulatory Commission. Such participation may include such
193 intervention as is permitted state utility regulators under Federal Energy Regulatory Commission rules and
194 procedures.

195 D. Nothing in this section shall be deemed to abrogate or modify:

196 1. The Commission's authority over transmission line or facility construction, enlargement or acquisition
197 within this Commonwealth, as set forth in Chapter 10.1 (§ 56-265.1 et seq.) of this title;

198 2. The laws of this Commonwealth concerning the exercise of the right of eminent domain by a public
199 service corporation pursuant to the provisions of Article 5 (§ 56-257 et seq.) of Chapter 10 of this title; or

200 3. The Commission's authority over retail electric energy sold to retail customers within the
201 Commonwealth by licensed suppliers of electric service, including necessary reserve requirements, all as
202 specified in § 56-587.

203 E. For purposes of this section, transmission capacity shall not include capacity that is primarily operated
204 in a distribution function, as determined by the Commission, taking into consideration any binding federal
205 precedents.

206 F. Any request to the Commission for approval of such transfer of ownership or control of or
207 responsibility for transmission facilities shall include a study of the comparative costs and benefits thereof,
208 which study shall analyze the economic effects of the transfer on consumers, including the effects of
209 transmission congestion costs. The Commission may approve such a transfer if it finds, after notice and
210 hearing, that the transfer satisfies the conditions contained in this section.

211 G. The Commission shall report annually to the Commission on Electric Utility Regulation its assessment
212 of the practices and policies of the *regional energy market or RTE*. Such report shall set forth actions taken
213 by the Commission regarding requests for the approval of any transfer of ownership or control of
214 transmission facilities to an RTE, including a description of the economic effects of such proposed transfers
215 on consumers.