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**SENATE BILL NO. 512**

Offered January 14, 2026

Prefiled January 13, 2026

*A BILL to amend and reenact §§ 56-247.1, 56-585.1, and 56-585.8 of the Code of Virginia, relating to electric utilities; rates for generation and distribution services; notice of energy rationing.*

Patron—Stanley

Referred to Committee on Commerce and Labor

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 56-247.1, 56-585.1, and 56-585.8 of the Code of Virginia are amended and reenacted as follows:**

**§ 56-247.1. Commission to require public utilities to follow certain procedures.**

A. The Commission shall require that public utilities adhere to the following procedures for services not found to be competitive:

1. Every public utility shall provide its residential customers one full billing period to pay for one month's local or basic services, before initiating any proceeding against a residential customer for nonpayment of local service.

2. Pay the residential customer a fair rate of interest as determined by the Commission on money deposited and return the deposit with the interest after not more than one year of satisfactory credit has been established.

3. Every public utility shall establish customer complaint procedures that will ensure prompt and effective handling of all customer inquiries, service requests, and complaints. Such procedure shall be approved by the Commission before its implementation and it shall be distributed to its residential customers. The utility shall disclose to the customer that the Commission is the responsible regulatory agency and that the customer may contact the Commission on regulatory matters and provide the customer with the contact information for the Commission.

4. No electric or gas utility shall terminate a customer's service without 10 days' notice by mail to the customer.

5. No public utility shall terminate the residential service of a customer for such customer's nonpayment of basic nonresidential services as defined by its terms and conditions on file with the Virginia State Corporation Commission.

6. A public utility providing water service shall not terminate service for nonpayment until it first sends the customer written notice by mail 10 days in advance of making the termination but, in no event, shall it terminate the customer's service until 20 days after the customer's bill has become due. Any such notice shall also include contact information for the customer's use in contacting the public utility regarding the notice.

7. Any electric utility formed under or subject to Chapter 9.1 (§ 56-231.15 et seq.) may install and operate, upon a customer's request and pursuant to an appropriate tariff for any type or classification of service, a prepaid metering equipment and system that is configured to terminate electric service immediately and automatically when the customer has incurred charges for electric service equal to the customer's prepayments for such service. Subdivisions 1, 2, 4, and 5 shall not apply to services provided pursuant to electric service provided on a prepaid basis by a prepaid metering equipment and system pursuant to this subsection. Such tariffs shall be filed with the Commission for its review and determination that the tariff is not contrary to the public interest.

8. No electric utility shall terminate the residential service of a customer for such customer's nonpayment for metered services when the electric utility believes that the customer is receiving or has received electric utility services for which the customer was not properly billed as the result of tampering with the electric utility's meter in a manner that prevented the meter from accurately recording usage, until the electric utility has complied with the procedure set forth in subsection C. However, the requirement that the electric utility comply with the procedure set forth in subsection C before terminating service shall not apply if (i) the condition of a customer's wiring, equipment, or appliances is either unsafe or unsuitable for receiving the electric utility service; (ii) the customer's use of the electric utility service or equipment interferes with or may be detrimental to the electric utility's facilities or to the provision of electric utility service by the electric utility to any other customer; (iii) a tamper-evident meter seal securing the meter is broken, damaged, or missing; (iv) electric service is furnished over a line that is not owned or leased by the electric utility and the line is either not in a safe and suitable condition or is inadequate to receive electric utility service; (v) emergency repairs or alterations are needed; (vi) there are unavoidable shortages or interruptions in a supply of utility service; (vii) the electric utility is acting upon orders from an authority having jurisdiction; or (viii)

59 the actions taken are to preserve life or property, or to avoid or abate utility or fire hazard.

60 9. *Any electric utility that, due to an emergency or other energy shortage, rations energy to avoid power*  
61 *outages, including by conducting fuel rationing, load shedding, or disconnections or imposing surcharges,*  
62 *shall provide written notice of such rationing to such utility's customers within 10 days after such rationing*  
63 *occurs.*

64 B. Any and all Commission rules and regulations concerning the denial of telephone service for  
65 nonpayment of such service shall not apply to services found to be competitive.

66 C. If an electric utility believes that a customer is receiving or has received electric utility services for  
67 which the customer was not properly billed as the result of tampering with the electric utility's meter in a  
68 manner that prevented the meter from accurately recording usage, the electric utility shall (i) retrieve the  
69 meter from the customer's premises, which may be done without providing prior notice to the customer; (ii)  
70 immediately replace it with a new meter; and (iii) determine whether the meter has been tampered with.  
71 Within 60 days after any such determination of meter tampering has been made, the electric utility shall  
72 provide evidence of such tampering to the customer. If, after determining the meter has been tampered with,  
73 the electric utility seeks payment for electric utility services not properly billed, the electric utility shall  
74 provide the customer with an invoice with a reasonable and final estimate of the amount owed by the  
75 customer as a result of the meter's failure to accurately record the customer's usage. The invoice shall explain  
76 the electric utility's calculation of the estimated amount owed as a result of any suspected failure. The electric  
77 utility shall provide the customer one full billing period to pay the amount billed in such invoice before  
78 initiating any proceeding against the customer for nonpayment. During such billing period, the customer may  
79 submit an informal complaint to the Commission disputing the amount sought by the utility. The customer  
80 may commence a formal proceeding after the informal complaint process has been exhausted in accordance  
81 with Commission regulations.

82 **§ 56-585.1. Generation, distribution, and transmission rates after capped rates terminate or expire.**

83 A. During the first six months of 2009, the Commission shall, after notice and opportunity for hearing,  
84 initiate proceedings to review the rates, terms and conditions for the provision of generation, distribution and  
85 transmission services of each investor-owned incumbent electric utility. Such proceedings shall be governed  
86 by the provisions of Chapter 10 (§ 56-232 et seq.), except as modified herein. In such proceedings the  
87 Commission shall determine fair rates of return on common equity applicable to the generation and  
88 distribution services of the utility. In so doing, the Commission may use any methodology to determine such  
89 return it finds consistent with the public interest, but such return shall not be set lower than the average of the  
90 returns on common equity reported to the Securities and Exchange Commission for the three most recent  
91 annual periods for which such data are available by not less than a majority, selected by the Commission as  
92 specified in subdivision 2 b, of other investor-owned electric utilities in the peer group of the utility, nor shall  
93 the Commission set such return more than 300 basis points higher than such average. The peer group of the  
94 utility shall be determined in the manner prescribed in subdivision 2 b. The Commission may increase or  
95 decrease such combined rate of return by up to 100 basis points based on the generating plant performance,  
96 customer service, and operating efficiency of a utility, as compared to nationally recognized standards  
97 determined by the Commission to be appropriate for such purposes. In such a proceeding, the Commission  
98 shall determine the rates that the utility may charge until such rates are adjusted. If the Commission finds that  
99 the utility's combined rate of return on common equity is more than 50 basis points below the combined rate  
100 of return as so determined, it shall be authorized to order increases to the utility's rates necessary to provide  
101 the opportunity to fully recover the costs of providing the utility's services and to earn not less than such  
102 combined rate of return. If the Commission finds that the utility's combined rate of return on common equity  
103 is more than 50 basis points above the combined rate of return as so determined, it shall be authorized either  
104 (i) to order reductions to the utility's rates it finds appropriate, provided that the Commission may not order  
105 such rate reduction unless it finds that the resulting rates will provide the utility with the opportunity to fully  
106 recover its costs of providing its services and to earn not less than the fair rates of return on common equity  
107 applicable to the generation and distribution services; or (ii) to direct that 60 percent of the amount of the  
108 utility's earnings that were more than 50 basis points above the fair combined rate of return for calendar year  
109 2008 be credited to customers' bills, in which event such credits shall be amortized over a period of six to 12  
110 months, as determined at the discretion of the Commission, following the effective date of the Commission's  
111 order and be allocated among customer classes such that the relationship between the specific customer class  
112 rates of return to the overall target rate of return will have the same relationship as the last approved  
113 allocation of revenues used to design base rates. Commencing in 2011, the Commission, after notice and  
114 opportunity for hearing, shall conduct reviews of the rates, terms and conditions for the provision of  
115 generation, distribution and transmission services by each investor-owned incumbent electric utility, subject  
116 to the following provisions:

117 1. Rates, terms and conditions for each service shall be reviewed separately on an unbundled basis, and  
118 such reviews shall be conducted in a single, combined proceeding. Pursuant to subsection A of § 56-585.1:1,  
119 the Commission shall conduct a review for a Phase I Utility in 2020, utilizing the three successive 12-month  
120 test periods beginning January 1, 2017, and ending December 31, 2019. Thereafter, reviews for a Phase I

121 Utility will be on a triennial basis with subsequent proceedings utilizing the three successive 12-month test  
122 periods ending December 31 immediately preceding the year in which such review proceeding is conducted.  
123 Pursuant to subsection A of § 56-585.1:1, the Commission shall conduct a review for a Phase II Utility in  
124 2021, utilizing the four successive 12-month test periods beginning January 1, 2017, and ending December  
125 31, 2020, with subsequent reviews on a biennial basis commencing in 2023, with such proceedings utilizing  
126 the two successive 12-month test periods ending December 31 immediately preceding the year in which such  
127 review proceeding is conducted. For purposes of this section, a Phase I Utility is an investor-owned  
128 incumbent electric utility that was, as of July 1, 1999, not bound by a rate case settlement adopted by the  
129 Commission that extended in its application beyond January 1, 2002, and a Phase II Utility is an  
130 investor-owned incumbent electric utility that was bound by such a settlement.

131 2. Subject to the provisions of subdivision 6, the fair rate of return on common equity applicable  
132 separately to the generation and distribution services of such utility, and for the two such services combined,  
133 and for any rate adjustment clauses approved under subdivision 5 or 6, shall be determined by the  
134 Commission during each such review, as follows:

135 a. The Commission may use any methodology to determine such return it finds consistent with the public  
136 interest. However, for a Phase I Utility, for applications received by the Commission on or after January 1,  
137 2020, such return shall not be set lower than the average of either (i) the returns on common equity reported  
138 to the Securities and Exchange Commission for the three most recent annual periods for which such data are  
139 available by not less than a majority, selected by the Commission as specified in subdivision 2 b, of other  
140 investor-owned electric utilities in the peer group of the utility subject to such triennial review or (ii) the  
141 authorized returns on common equity that are set by the applicable regulatory commissions for the same  
142 selected peer group, nor shall the Commission set such return more than 150 basis points higher than such  
143 average.

144 b. For a Phase I Utility, in selecting such majority of peer group investor-owned electric utilities for  
145 applications received by the Commission on or after January 1, 2020, the Commission shall first remove from  
146 such group the two utilities within such group that have the lowest reported or authorized, as applicable,  
147 returns of the group, as well as the two utilities within such group that have the highest reported or  
148 authorized, as applicable, returns of the group, and the Commission shall then select a majority of the utilities  
149 remaining in such peer group. In its final order regarding such triennial review, the Commission shall identify  
150 the utilities in such peer group it selected for the calculation of such limitation. With respect to a Phase I  
151 Utility, for purposes of this subdivision 2, an investor-owned electric utility shall be deemed part of such peer  
152 group if (i) its principal operations are conducted in the southeastern United States east of the Mississippi  
153 River in either the states of West Virginia or Kentucky or in those states south of Virginia, excluding the state  
154 of Tennessee, (ii) it is a vertically-integrated electric utility providing generation, transmission, and  
155 distribution services whose facilities and operations are subject to state public utility regulation in the state  
156 where its principal operations are conducted, (iii) it had a long-term bond rating assigned by Moody's  
157 Investors Service of at least Baa at the end of the most recent test period subject to such review, and (iv) it is  
158 not an affiliate of the utility subject to such review or a utility whose fair rate of return on common equity is  
159 determined by the Commission.

160 c. The Commission may increase or decrease the utility's combined rate of return for generation and  
161 distribution services by up to 50 basis points based on factors that may include reliability, generating plant  
162 performance, customer service, and operating efficiency of a utility. Any such adjustment to the combined  
163 rate of return for generation and distribution services shall include consideration of nationally recognized  
164 standards determined by the Commission to be appropriate for such purposes.

165 d. In any Current Proceeding, the Commission shall determine whether the Current Return has increased,  
166 on a percentage basis, above the Initial Return by more than the increase, expressed as a percentage, in the  
167 United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the  
168 Bureau of Labor Statistics of the United States Department of Labor, since the date on which the Commission  
169 determined the Initial Return. If so, the Commission may conduct an additional analysis of whether it is in the  
170 public interest to utilize such Current Return for the Current Proceeding then pending. A finding of whether  
171 the Current Return justifies such additional analysis shall be made without regard to any enhanced rate of  
172 return on common equity awarded pursuant to the provisions of subdivision 6. Such additional analysis shall  
173 include, but not be limited to, a consideration of overall economic conditions, the level of interest rates and  
174 cost of capital with respect to business and industry, in general, as well as electric utilities, the current level of  
175 inflation and the utility's cost of goods and services, the effect on the utility's ability to provide adequate  
176 service and to attract capital if less than the Current Return were utilized for the Current Proceeding then  
177 pending, and such other factors as the Commission may deem relevant. If, as a result of such analysis, the  
178 Commission finds that use of the Current Return for the Current Proceeding then pending would not be in the  
179 public interest, then the lower limit imposed by subdivision 2 a on the return to be determined by the  
180 Commission for such utility shall be calculated, for that Current Proceeding only, by increasing the Initial  
181 Return by a percentage at least equal to the increase, expressed as a percentage, in the United States Average  
182 Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor

183 Statistics of the United States Department of Labor, since the date on which the Commission determined the  
184 Initial Return. For purposes of this subdivision:

185 "Current Proceeding" means any proceeding conducted under any provisions of this subsection that  
186 require or authorize the Commission to determine a fair combined rate of return on common equity for a  
187 utility and that will be concluded after the date on which the Commission determined the Initial Return for  
188 such utility.

189 "Current Return" means the minimum fair combined rate of return on common equity required for any  
190 Current Proceeding by the limitation regarding a utility's peer group specified in subdivision 2 a.

191 "Initial Return" means the fair combined rate of return on common equity determined for such utility by  
192 the Commission on the first occasion after July 1, 2009, under any provision of this subsection pursuant to  
193 the provisions of subdivision 2 a.

194 e. In addition to other considerations, in setting the return on equity within the range allowed by this  
195 section, the Commission shall strive to maintain costs of retail electric energy that are cost competitive with  
196 costs of retail electric energy provided by the other peer group investor-owned electric utilities.

197 f. The determination of such returns shall be made by the Commission on a stand-alone basis, and  
198 specifically without regard to any return on common equity or other matters determined with regard to  
199 facilities described in subdivision 6.

200 g. If the combined rate of return on common equity earned by the generation and distribution services is  
201 no more than 50 basis points above or below the return as so determined or, for any test period commencing  
202 after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, such return  
203 is no more than 70 basis points above or below the return as so determined, such combined return shall not be  
204 considered either excessive or insufficient, respectively. However, for any test period commencing after  
205 December 31, 2012, for a Phase II Utility, and after December 31, 2013, for a Phase I Utility, if the utility  
206 has, during the test period or periods under review, earned below the return as so determined, whether or not  
207 such combined return is within 70 basis points of the return as so determined, the utility may petition the  
208 Commission for approval of an increase in rates in accordance with the provisions of subdivision 8 a as if it  
209 had earned more than 70 basis points below a fair combined rate of return, and such proceeding shall  
210 otherwise be conducted in accordance with the provisions of this section. The provisions of this subdivision  
211 are subject to the provisions of subdivision 8.

212 h. Any amount of a utility's earnings directed by the Commission to be credited to customers' bills  
213 pursuant to this section shall not be considered for the purpose of determining the utility's earnings in any  
214 subsequent review.

215 3. Each such utility shall make a triennial filing by March 31 of every third year, with such filings  
216 commencing for a Phase I Utility in 2020, and such filings commencing for a Phase II Utility in 2021 and  
217 terminating thereafter. Such filing shall encompass the three successive 12-month test periods ending  
218 December 31 immediately preceding the year in which such proceeding is conducted, except that the filing  
219 for a Phase II Utility in 2021 shall encompass the four successive 12-month test periods ending December 31,  
220 2020. After 2021, each Phase II Utility shall make a biennial filing by March 31 of every second year, except  
221 that the 2023 filing for a Phase II Utility shall be made on or after July 1, 2023. All biennial filings shall  
222 encompass the two successive 12-month test periods ending December 31 immediately preceding the year in  
223 which such review proceeding is conducted. All such filings shall consist of the schedules contained in the  
224 Commission's rules governing utility rate increase applications, and in every such case the filing for each year  
225 shall be identified separately and shall be segregated from any other year encompassed by the filing. In a  
226 filing under this subdivision that does not result in an overall rate change, a utility may propose an adjustment  
227 to one or more tariffs that are revenue neutral to the utility.

228 If the Commission determines that rates should be revised or credits be applied to customers' bills  
229 pursuant to subdivision 8 or 10, any rate adjustment clauses previously implemented related to facilities  
230 utilizing simple-cycle combustion turbines described in subdivision 6, shall be combined with the utility's  
231 costs, revenues, and investments until the amounts that are the subject of such rate adjustment clauses are  
232 fully recovered. The Commission shall combine such clauses with the utility's costs, revenues, and  
233 investments only after it makes its initial determination with regard to necessary rate revisions or credits to  
234 customers' bills, and the amounts thereof, but after such clauses are combined as specified in this paragraph,  
235 they shall thereafter be considered part of the utility's costs, revenues, and investments for the purposes of  
236 future review proceedings.

237 As of July 1, 2023, a Phase II Utility shall select a subset of rate adjustment clauses previously  
238 implemented pursuant to subdivision 5 or 6 having a combined annual revenue requirement, as of July 1,  
239 2023, of at least \$350 million and combine such rate adjustment clauses with the utility's costs, revenues, and  
240 investments for generation and distribution services. After such rate adjustment clauses are combined as  
241 specified in this paragraph, such rate adjustment clauses shall be considered part of the utility's costs,  
242 revenues, and investments for the purposes of future biennial review proceedings, and the combination of  
243 such rate adjustment clauses shall be specifically subject to audit by the Commission in the utility's 2023  
244 biennial review filing. Notwithstanding the provisions of subsection C of § 56-581, such combination shall

245 not serve as the basis for an increase in a Phase II Utility's rates for generation and distribution services in its  
246 2023 biennial proceeding.

247 4. The following costs incurred by the utility shall be deemed reasonable and prudent: (i) costs for  
248 transmission services provided to the utility by the regional transmission entity of which the utility is a  
249 member, as determined under applicable rates, terms and conditions approved by the Federal Energy  
250 Regulatory Commission; (ii) costs charged to the utility that are associated with demand response programs  
251 approved by the Federal Energy Regulatory Commission and administered by the regional transmission entity  
252 of which the utility is a member; and (iii) costs incurred by the utility to construct, operate, and maintain  
253 transmission lines and substations installed in order to provide service to a business park. Upon petition of a  
254 utility at any time after the expiration or termination of capped rates, but not more than once in any 12-month  
255 period, the Commission shall approve a rate adjustment clause under which such costs, including, without  
256 limitation, costs for transmission service; charges for new and existing transmission facilities, including costs  
257 incurred by the utility to construct, operate, and maintain transmission lines and substations installed in order  
258 to provide service to a business park; administrative charges; and ancillary service charges designed to  
259 recover transmission costs, shall be recovered on a timely and current basis from customers. Retail rates to  
260 recover these costs shall be designed using the appropriate billing determinants in the retail rate schedules.

261 5. A utility may at any time, after the expiration or termination of capped rates, but not more than once in  
262 any 12-month period, petition the Commission for approval of one or more rate adjustment clauses for the  
263 timely and current recovery from customers of the following costs:

264 a. Incremental costs described in clause (vi) of subsection B of § 56-582 incurred between July 1, 2004,  
265 and the expiration or termination of capped rates, if such utility is, as of July 1, 2007, deferring such costs  
266 consistent with an order of the Commission entered under clause (vi) of subsection B of § 56-582. The  
267 Commission shall approve such a petition allowing the recovery of such costs that comply with the  
268 requirements of clause (vi) of subsection B of § 56-582;

269 b. Projected and actual costs for the utility to design and operate fair and effective peak-shaving programs  
270 or pilot programs. The Commission shall approve such a petition if it finds that the program is in the public  
271 interest, provided that the Commission shall allow the recovery of such costs as it finds are reasonable;

272 c. Projected and actual costs for the utility to design, implement, and operate energy efficiency programs  
273 or pilot programs. Any such petition shall include a proposed budget for the design, implementation, and  
274 operation of the energy efficiency program, including anticipated savings from and spending on each  
275 program, and the Commission shall grant a final order on such petitions within eight months of initial filing.  
276 The Commission shall only approve such a petition if it finds that the program is in the public interest. If the  
277 Commission determines that an energy efficiency program or portfolio of programs is not in the public  
278 interest, its final order shall include all work product and analysis conducted by the Commission's staff in  
279 relation to that program that has bearing upon the Commission's determination. Such order shall adhere to  
280 existing protocols for extraordinarily sensitive information.

281 Energy efficiency pilot programs are in the public interest provided that the pilot program is (i) of limited  
282 scope, cost, and duration and (ii) intended to determine whether a new or substantially revised program  
283 would be cost-effective.

284 Prior to January 1, 2022, the Commission shall award a margin for recovery on operating expenses for  
285 energy efficiency programs and pilot programs, which margin shall be equal to the general rate of return on  
286 common equity determined as described in subdivision 2. Beginning January 1, 2022, and thereafter, if the  
287 Commission determines that the utility meets in any year the annual energy efficiency standards set forth in  
288 § 56-596.2, in the following year, the Commission shall award a margin on energy efficiency program  
289 operating expenses in that year, to be recovered through a rate adjustment clause, which margin shall be equal  
290 to the general rate of return on common equity determined as described in subdivision 2. If the Commission  
291 does not approve energy efficiency programs that, in the aggregate, can achieve the annual energy efficiency  
292 standards, the Commission shall award a margin on energy efficiency operating expenses in that year for any  
293 programs the Commission has approved, to be recovered through a rate adjustment clause under this  
294 subdivision, which margin shall equal the general rate of return on common equity determined as described in  
295 subdivision 2. Any margin awarded pursuant to this subdivision shall be applied as part of the utility's next  
296 rate adjustment clause true-up proceeding. The Commission shall also award an additional 20 basis points for  
297 each additional incremental 0.1 percent in annual savings in any year achieved by the utility's energy  
298 efficiency programs approved by the Commission pursuant to this subdivision, beyond the annual  
299 requirements set forth in § 56-596.2, provided that the total performance incentive awarded in any year shall  
300 not exceed 10 percent of that utility's total energy efficiency program spending in that same year.

301 The Commission shall annually monitor and report to the General Assembly the performance of all  
302 programs approved pursuant to this subdivision, including each utility's compliance with the total annual  
303 savings required by § 56-596.2, as well as the annual and lifecycle net and gross energy and capacity savings,  
304 related emissions reductions, and other quantifiable benefits of each program; total customer bill savings that  
305 the programs produce; utility spending on each program, including any associated administrative costs; and  
306 each utility's avoided costs and cost-effectiveness results.

307 Notwithstanding any other provision of law, unless the Commission finds in its discretion and after  
308 consideration of all in-state and regional transmission entity resources that there is a threat to the reliability or  
309 security of electric service to the utility's customers, the Commission shall not approve construction of any  
310 new utility-owned generating facilities that emit carbon dioxide as a by-product of combusting fuel to  
311 generate electricity unless the utility has already met the energy savings goals identified in § 56-596.2 and the  
312 Commission finds that supply-side resources are more cost-effective than demand-side or energy storage  
313 resources.

314 As used in this subdivision, "large general service customer" means a customer that has a verifiable  
315 history of having used more than one megawatt of demand from a single site.

316 Large general service customers shall be exempt from requirements that they participate in energy  
317 efficiency programs if the Commission finds that the large general service customer has, at the customer's  
318 own expense, implemented energy efficiency programs that have produced or will produce measured and  
319 verified results consistent with industry standards and other regulatory criteria stated in this section. The  
320 Commission shall, no later than June 30, 2021, adopt rules or regulations (a) establishing the process for large  
321 general service customers to apply for such an exemption, (b) establishing the administrative procedures by  
322 which eligible customers will notify the utility, and (c) defining the standard criteria that shall be satisfied by  
323 an applicant in order to notify the utility, including means of evaluation measurement and verification and  
324 confidentiality requirements. At a minimum, such rules and regulations shall require that each exempted large  
325 general service customer certify to the utility and Commission that its implemented energy efficiency  
326 programs have delivered measured and verified savings within the prior five years. In adopting such rules or  
327 regulations, the Commission shall also specify the timing as to when a utility shall accept and act on such  
328 notice, taking into consideration the utility's integrated resource planning process, as well as its  
329 administration of energy efficiency programs that are approved for cost recovery by the Commission. Savings  
330 from large general service customers shall be accounted for in utility reporting in the standards in § 56-596.2.

331 The notice of nonparticipation by a large general service customer shall be for the duration of the service  
332 life of the customer's energy efficiency measures. The Commission may on its own motion initiate steps  
333 necessary to verify such nonparticipant's achievement of energy efficiency if the Commission has a body of  
334 evidence that the nonparticipant has knowingly misrepresented its energy efficiency achievement.

335 A utility shall not charge such large general service customer for the costs of installing energy efficiency  
336 equipment beyond what is required to provide electric service and meter such service on the customer's  
337 premises if the customer provides, at the customer's expense, equivalent energy efficiency equipment. In all  
338 relevant proceedings pursuant to this section, the Commission shall take into consideration the goals of  
339 economic development, energy efficiency and environmental protection in the Commonwealth;

340 d. Projected and actual costs of compliance with renewable energy portfolio standard requirements  
341 pursuant to § 56-585.5 that are not recoverable under subdivision 6. The Commission shall approve such a  
342 petition allowing the recovery of such costs incurred as required by § 56-585.5, provided that the  
343 Commission does not otherwise find such costs were unreasonably or imprudently incurred;

344 e. Projected and actual costs of projects that the Commission finds to be necessary to mitigate impacts to  
345 marine life caused by construction of offshore wind generating facilities, as described in § 56-585.1:11, or to  
346 comply with state or federal environmental laws or regulations applicable to generation facilities used to  
347 serve the utility's native load obligations, including the costs of allowances purchased through a market-based  
348 trading program for carbon dioxide emissions. The Commission shall approve such a petition if it finds that  
349 such costs are necessary to comply with such environmental laws or regulations;

350 f. Projected and actual costs, not currently in rates, for the utility to design, implement, and operate  
351 programs approved by the Commission that accelerate the vegetation management of distribution rights-of-  
352 way. No costs shall be allocated to or recovered from customers that are served within the large general  
353 service rate classes for a Phase II Utility or that are served at subtransmission or transmission voltage, or take  
354 delivery at a substation served from subtransmission or transmission voltage, for a Phase I Utility; and

355 g. Projected and actual costs, not currently in rates, for the utility to design, implement, and operate  
356 programs approved by the Commission to provide incentives to (i) low-income, elderly, and disabled  
357 individuals or (ii) organizations providing residential services to low-income, elderly, and disabled  
358 individuals for the installation of, or access to, equipment to generate electric energy derived from sunlight,  
359 provided the low-income, elderly, and disabled individuals, or organizations providing residential services to  
360 low-income, elderly, and disabled individuals, first participate in incentive programs for the installation of  
361 measures that reduce heating or cooling costs.

362 Any rate adjustment clause approved under subdivision 5 c by the Commission shall remain in effect until  
363 the utility exhausts the approved budget for the energy efficiency program. The Commission shall have the  
364 authority to determine the duration or amortization period for any other rate adjustment clause approved  
365 under this subdivision.

366 6. To ensure the generation and delivery of a reliable and adequate supply of electricity, to meet the  
367 utility's projected native load obligations and to promote economic development, a utility may at any time,  
368 after the expiration or termination of capped rates, petition the Commission for approval of a rate adjustment

369 clause for recovery on a timely and current basis from customers of the costs of (i) a coal-fueled generation  
370 facility that utilizes Virginia coal and is located in the coalfield region of the Commonwealth as described in  
371 § 15.2-6002, regardless of whether such facility is located within or without the utility's service territory, (ii)  
372 one or more other generation facilities, (iii) one or more major unit modifications of generation facilities,  
373 including the costs of any system or equipment upgrade, system or equipment replacement, or other cost  
374 reasonably appropriate to extend the combined operating license for or the operating life of one or more  
375 generation facilities utilizing nuclear power, (iv) one or more new underground facilities to replace one or  
376 more existing overhead distribution facilities of 69 kilovolts or less located within the Commonwealth, (v)  
377 one or more pumped hydroelectricity generation and storage facilities that utilize on-site or off-site renewable  
378 energy resources as all or a portion of their power source and such facilities and associated resources are  
379 located in the coalfield region of the Commonwealth as described in § 15.2-6002, regardless of whether such  
380 facility is located within or without the utility's service territory, or (vi) one or more electric distribution grid  
381 transformation projects; however, subject to the provisions of the following sentence, the utility shall not file  
382 a petition under clause (iv) more often than annually and, in such petition, shall not seek any annual  
383 incremental increase in the level of investments associated with such a petition that exceeds five percent of  
384 such utility's distribution rate base, as such rate base was determined for the most recently ended 12-month  
385 test period in the utility's latest review proceeding conducted pursuant to subdivision 3 and concluded by final  
386 order of the Commission prior to the date of filing of such petition under clause (iv). In all proceedings  
387 regarding petitions filed under clause (iv) or (vi), the level of investments approved for recovery in such  
388 proceedings shall be in addition to, and not in lieu of, levels of investments previously approved for recovery  
389 in prior proceedings under clause (iv) or (vi), as applicable. As of December 1, 2028, any costs recovered by  
390 a utility pursuant to clause (iv) shall be limited to any remaining costs associated with conversions of  
391 overhead distribution facilities to underground facilities that have been previously approved or are pending  
392 approval by the Commission through a petition by the utility under this subdivision. Such a petition  
393 concerning facilities described in clause (ii) that utilize nuclear power, facilities described in clause (ii) that  
394 are coal-fueled and will be built by a Phase I Utility, or facilities described in clause (i) may also be filed  
395 before the expiration or termination of capped rates. A utility that constructs or makes modifications to any  
396 such facility, or purchases any facility consisting of at least one megawatt of generating capacity using energy  
397 derived from sunlight and located in the Commonwealth and that utilizes goods or services sourced, in whole  
398 or in part, from one or more Virginia businesses, shall have the right to recover the costs of the facility, as  
399 accrued against income, through its rates, including projected construction work in progress, and any  
400 associated allowance for funds used during construction, planning, development and construction or  
401 acquisition costs, life-cycle costs, costs related to assessing the feasibility of potential sites for new  
402 underground facilities, and costs of infrastructure associated therewith, plus, as an incentive to undertake such  
403 projects, an enhanced rate of return on common equity calculated as specified below; however, in  
404 determining the amounts recoverable under a rate adjustment clause for new underground facilities, the  
405 Commission shall not consider, or increase or reduce such amounts recoverable because of (a) the operation  
406 and maintenance costs attributable to either the overhead distribution facilities being replaced or the new  
407 underground facilities or (b) any other costs attributable to the overhead distribution facilities being replaced.  
408 Notwithstanding the preceding sentence, the costs described in clauses (a) and (b) thereof shall remain  
409 eligible for recovery from customers through the utility's base rates for distribution service. A utility filing a  
410 petition for approval to construct or purchase a facility consisting of at least one megawatt of generating  
411 capacity using energy derived from sunlight and located in the Commonwealth and that utilizes goods or  
412 services sourced, in whole or in part, from one or more Virginia businesses may propose a rate adjustment  
413 clause based on a market index in lieu of a cost of service model for such facility. A utility seeking approval  
414 to construct or purchase a generating facility that emits carbon dioxide shall demonstrate that it has already  
415 met the energy savings goals identified in § 56-596.2 and that the identified need cannot be met more  
416 affordably through the deployment or utilization of demand-side resources or energy storage resources and  
417 that it has considered and weighed alternative options, including third-party market alternatives, in its  
418 selection process.

419 The costs of the facility, other than return on projected construction work in progress and allowance for  
420 funds used during construction, shall not be recovered prior to the date a facility constructed by the utility and  
421 described in clause (i), (ii), (iii), or (v) begins commercial operation, the date the utility becomes the owner of  
422 a purchased generation facility consisting of at least one megawatt of generating capacity using energy  
423 derived from sunlight and located in the Commonwealth and that utilizes goods or services sourced, in whole  
424 or in part, from one or more Virginia businesses, or the date new underground facilities are classified by the  
425 utility as plant in service. In any application to construct a new generating facility, the utility shall include,  
426 and the Commission shall consider, the social cost of carbon, as determined by the Commission, as a benefit  
427 or cost, whichever is appropriate. The Commission shall ensure that the development of new, or expansion of  
428 existing, energy resources or facilities does not have a disproportionate adverse impact on historically  
429 economically disadvantaged communities. The Commission may adopt any rules it deems necessary to  
430 determine the social cost of carbon and shall use the best available science and technology, including the

431 Technical Support Document: Technical Update of the Social Cost of Carbon for Regulatory Impact Analysis  
432 Under Executive Order 12866, published by the Interagency Working Group on Social Cost of Greenhouse  
433 Gases from the United States Government in August 2016, as guidance. The Commission shall include a  
434 system to adjust the costs established in this section with inflation.

435 Such enhanced rate of return on common equity shall be applied to allowance for funds used during  
436 construction and to construction work in progress during the construction phase of the facility and shall  
437 thereafter be applied to the entire facility during the first portion of the service life of the facility. The first  
438 portion of the service life shall be as specified in the table below; however, the Commission shall determine  
439 the duration of the first portion of the service life of any facility, within the range specified in the table below,  
440 which determination shall be consistent with the public interest and shall reflect the Commission's  
441 determinations regarding how critical the facility may be in meeting the energy needs of the citizens of the  
442 Commonwealth and the risks involved in the development of the facility. After the first portion of the service  
443 life of the facility is concluded, the utility's general rate of return shall be applied to such facility for the  
444 remainder of its service life. As used herein, the service life of the facility shall be deemed to begin on the  
445 date a facility constructed by the utility and described in clause (i), (ii), (iii), or (v) begins commercial  
446 operation, the date the utility becomes the owner of a purchased generation facility consisting of at least one  
447 megawatt of generating capacity using energy derived from sunlight and located in the Commonwealth and  
448 that utilizes goods or services sourced, in whole or in part, from one or more Virginia businesses, or the date  
449 new underground facilities or new electric distribution grid transformation projects are classified by the  
450 utility as plant in service, and such service life shall be deemed equal in years to the life of that facility as  
451 used to calculate the utility's depreciation expense. Such enhanced rate of return on common equity shall be  
452 calculated by adding the basis points specified in the table below to the utility's general rate of return, and  
453 such enhanced rate of return shall apply only to the facility that is the subject of such rate adjustment clause.  
454 Allowance for funds used during construction shall be calculated for any such facility utilizing the utility's  
455 actual capital structure and overall cost of capital, including an enhanced rate of return on common equity as  
456 determined pursuant to this subdivision, until such construction work in progress is included in rates. The  
457 construction of any facility described in clause (i) or (v) is in the public interest, and in determining whether  
458 to approve such facility, the Commission shall liberally construe the provisions of this title. The construction  
459 or purchase by a utility of one or more generation facilities with at least one megawatt of generating capacity,  
460 and with an aggregate rated capacity that does not exceed 16,100 megawatts, including rooftop solar  
461 installations with a capacity of not less than 50 kilowatts, and with an aggregate capacity of 100 megawatts,  
462 that use energy derived from sunlight or from onshore wind and are located in the Commonwealth or off the  
463 Commonwealth's Atlantic shoreline, regardless of whether any of such facilities are located within or without  
464 the utility's service territory, is in the public interest, and in determining whether to approve such facility, the  
465 Commission shall liberally construe the provisions of this title. A utility may enter into short-term or long-  
466 term power purchase contracts for the power derived from sunlight generated by such generation facility prior  
467 to purchasing the generation facility. The replacement of any subset of a utility's existing overhead  
468 distribution tap lines that have, in the aggregate, an average of nine or more total unplanned outage events-  
469 per-mile over a preceding 10-year period with new underground facilities in order to improve electric service  
470 reliability is in the public interest. In determining whether to approve petitions for rate adjustment clauses for  
471 such new underground facilities that meet this criteria, and in determining the level of costs to be recovered  
472 thereunder, the Commission shall liberally construe the provisions of this title.

473 The conversion of any such facilities on or after September 1, 2016, is deemed to provide local and  
474 system-wide benefits and to be cost beneficial, and the costs associated with such new underground facilities  
475 are deemed to be reasonably and prudently incurred and, notwithstanding the provisions of subsection C or  
476 D, shall be approved for recovery by the Commission pursuant to this subdivision, provided that the total  
477 costs associated with the replacement of any subset of existing overhead distribution tap lines proposed by  
478 the utility with new underground facilities, exclusive of financing costs, shall not exceed an average cost per  
479 customer of \$20,000, with such customers, including those served directly by or downline of the tap lines  
480 proposed for conversion, and, further, such total costs shall not exceed an average cost per mile of tap lines  
481 converted, exclusive of financing costs, of \$750,000. A utility shall, without regard for whether it has  
482 petitioned for any rate adjustment clause pursuant to clause (vi), petition the Commission, not more than once  
483 annually, for approval of a plan for electric distribution grid transformation projects. Any plan for electric  
484 distribution grid transformation projects shall include both measures to facilitate integration of distributed  
485 energy resources and measures to enhance physical electric distribution grid reliability and security. In ruling  
486 upon such a petition, the Commission shall consider whether the utility's plan for such projects, and the  
487 projected costs associated therewith, are reasonable and prudent. Such petition shall be considered on a  
488 stand-alone basis without regard to the other costs, revenues, investments, or earnings of the utility; without  
489 regard to whether the costs associated with such projects will be recovered through a rate adjustment clause  
490 under this subdivision or through the utility's rates for generation and distribution services; and without  
491 regard to whether such costs will be the subject of a customer credit offset, as applicable, pursuant to  
492 subdivision 8 d. The Commission's final order regarding any such petition for approval of an electric

493 distribution grid transformation plan shall be entered by the Commission not more than six months after the  
 494 date of filing such petition. The Commission shall likewise enter its final order with respect to any petition by  
 495 a utility for a certificate to construct and operate a generating facility or facilities utilizing energy derived  
 496 from sunlight, pursuant to subsection D of § 56-580, within six months after the date of filing such petition.  
 497 The basis points to be added to the utility's general rate of return to calculate the enhanced rate of return on  
 498 common equity, and the first portion of that facility's service life to which such enhanced rate of return shall  
 499 be applied, shall vary by type of facility, as specified in the following table:

500	Type of Generation Facility	Basis Points	First Portion of Service Life
501	Nuclear-powered	200	Between 12 and 25 years
502	Carbon capture compatible, clean-coal powered	200	Between 10 and 20 years
503	Renewable powered, other than landfill gas powered	200	Between 5 and 15 years
504	Coalbed methane gas powered	150	Between 5 and 15 years
505	Landfill gas powered	200	Between 5 and 15 years
506	Conventional coal or combined-cycle combustion	100	Between 10 and 20 years
507	turbine		

508 Only those facilities as to which a rate adjustment clause under this subdivision has been previously  
 509 approved by the Commission, or as to which a petition for approval of such rate adjustment clause was filed  
 510 with the Commission, on or before January 1, 2013, shall be entitled to the enhanced rate of return on  
 511 common equity as specified in the above table during the construction phase of the facility and the approved  
 512 first portion of its service life.

513 Thirty percent of all costs of such a facility utilizing nuclear power that the utility incurred between July  
 514 1, 2007, and December 31, 2013, and all of such costs incurred after December 31, 2013, may be deferred by  
 515 the utility and recovered through a rate adjustment clause under this subdivision at such time as the  
 516 Commission provides in an order approving such a rate adjustment clause. The remaining 70 percent of all  
 517 costs of such a facility that the utility incurred between July 1, 2007, and December 31, 2013, shall not be  
 518 deferred for recovery through a rate adjustment clause under this subdivision; however, such remaining 70  
 519 percent of all costs shall be recovered ratably through existing base rates as determined by the Commission in  
 520 the test periods under review in the utility's next review filed after July 1, 2014. Thirty percent of all costs of  
 521 a facility utilizing energy derived from offshore wind that the utility incurred between July 1, 2007, and  
 522 December 31, 2013, and all of such costs incurred after December 31, 2013, may be deferred by the utility  
 523 and recovered through a rate adjustment clause under this subdivision at such time as the Commission  
 524 provides in an order approving such a rate adjustment clause. The remaining 70 percent of all costs of such a  
 525 facility that the utility incurred between July 1, 2007, and December 31, 2013, shall not be deferred for  
 526 recovery through a rate adjustment clause under this subdivision; however, such remaining 70 percent of all  
 527 costs shall be recovered ratably through existing base rates as determined by the Commission in the test  
 528 periods under review in the utility's next review filed after July 1, 2014.

529 In connection with planning to meet forecasted demand for electric generation supply and assure the  
 530 adequate and sufficient reliability of service, consistent with § 56-598, planning and development activities  
 531 for a new utility-owned and utility-operated generating facility or facilities utilizing energy derived from  
 532 sunlight or from onshore or offshore wind are in the public interest.

533 Notwithstanding any provision of Chapter 296 of the Acts of Assembly of 2018, construction, purchasing,  
 534 or leasing activities for a new utility-owned and utility-operated generating facility or facilities utilizing  
 535 energy derived from sunlight or from onshore wind with an aggregate capacity of 16,100 megawatts,  
 536 including rooftop solar installations with a capacity of not less than 50 kilowatts, and with an aggregate  
 537 capacity of 100 megawatts, together with a utility-owned and utility-operated generating facility or facilities  
 538 utilizing energy derived from offshore wind with an aggregate capacity of not more than 3,000 megawatts,  
 539 are in the public interest. Additionally, energy storage facilities with an aggregate capacity of 2,700  
 540 megawatts are in the public interest. To the extent that a utility elects to recover the costs of any such new  
 541 generation or energy storage facility or facilities through its rates for generation and distribution services and  
 542 does not petition and receive approval from the Commission for recovery of such costs through a rate  
 543 adjustment clause described in clause (ii), the Commission shall, upon the request of the utility in a review  
 544 proceeding, provide for a customer credit reinvestment offset, as applicable, pursuant to subdivision 8 d with  
 545 respect to all costs deemed reasonable and prudent by the Commission in a proceeding pursuant to subsection  
 546 D of § 56-580 or in a review proceeding.

547 Electric distribution grid transformation projects are in the public interest. To the extent that a utility  
 548 elects to recover the costs of such electric distribution grid transformation projects through its rates for  
 549 generation and distribution services, and does not petition and receive approval from the Commission for  
 550 recovery of such costs through a rate adjustment clause described in clause (vi), the Commission shall, upon  
 551 the request of the utility in a review proceeding, provide for a customer credit reinvestment offset, as  
 552 applicable, pursuant to subdivision 8 d with respect to all costs deemed reasonable and prudent by the  
 553 Commission in a proceeding for approval of a plan for electric distribution grid transformation projects  
 554 pursuant to subdivision 6 or in a review proceeding.

555 Neither generation facilities described in clause (ii) that utilize simple-cycle combustion turbines nor new  
556 underground facilities shall receive an enhanced rate of return on common equity as described herein, but  
557 instead shall receive the utility's general rate of return during the construction phase of the facility and,  
558 thereafter, for the entire service life of the facility. No rate adjustment clause for new underground facilities  
559 shall allocate costs to, or provide for the recovery of costs from, customers that are served within the large  
560 power service rate class for a Phase I Utility and the large general service rate classes for a Phase II Utility.  
561 New underground facilities are hereby declared to be ordinary extensions or improvements in the usual  
562 course of business under the provisions of § 56-265.2.

563 As used in this subdivision, a generation facility is (1) "coalbed methane gas powered" if the facility is  
564 fired at least 50 percent by coalbed methane gas, as such term is defined in § 45.2-1600, produced from wells  
565 located in the Commonwealth, and (2) "landfill gas powered" if the facility is fired by methane or other  
566 combustible gas produced by the anaerobic digestion or decomposition of biodegradable materials in a solid  
567 waste management facility licensed by the Waste Management Board. A landfill gas powered facility  
568 includes, in addition to the generation facility itself, the equipment used in collecting, drying, treating, and  
569 compressing the landfill gas and in transmitting the landfill gas from the solid waste management facility  
570 where it is collected to the generation facility where it is combusted.

571 For purposes of this subdivision, "general rate of return" means the fair combined rate of return on  
572 common equity as it is determined by the Commission for such utility pursuant to subdivision 2.

573 Notwithstanding any other provision of this subdivision, if the Commission finds during the triennial  
574 review conducted for a Phase II Utility in 2021 that such utility has not filed applications for all necessary  
575 federal and state regulatory approvals to construct one or more nuclear-powered or coal-fueled generation  
576 facilities that would add a total capacity of at least 1500 megawatts to the amount of the utility's generating  
577 resources as such resources existed on July 1, 2007, or that, if all such approvals have been received, that the  
578 utility has not made reasonable and good faith efforts to construct one or more such facilities that will provide  
579 such additional total capacity within a reasonable time after obtaining such approvals, then the Commission,  
580 if it finds it in the public interest, may reduce on a prospective basis any enhanced rate of return on common  
581 equity previously applied to any such facility to no less than the general rate of return for such utility and may  
582 apply no less than the utility's general rate of return to any such facility for which the utility seeks approval in  
583 the future under this subdivision.

584 Notwithstanding any other provision of this subdivision, if a Phase II utility obtains approval from the  
585 Commission of a rate adjustment clause pursuant to subdivision 6 associated with a test or demonstration  
586 project involving a generation facility utilizing energy from offshore wind, and such utility has not, as of July  
587 1, 2023, commenced construction as defined for federal income tax purposes of an offshore wind generation  
588 facility or facilities with a minimum aggregate capacity of 250 megawatts, then the Commission, if it finds it  
589 in the public interest, may direct that the costs associated with any such rate adjustment clause involving said  
590 test or demonstration project shall thereafter no longer be recovered through a rate adjustment clause pursuant  
591 to subdivision 6 and shall instead be recovered through the utility's rates for generation and distribution  
592 services, with no change in such rates for generation and distribution services as a result of the combination  
593 of such costs with the other costs, revenues, and investments included in the utility's rates for generation and  
594 distribution services. Any such costs shall remain combined with the utility's other costs, revenues, and  
595 investments included in its rates for generation and distribution services until such costs are fully recovered.

596 7. Any petition filed pursuant to subdivision 4, 5, or 6 shall be considered by the Commission on a  
597 stand-alone basis without regard to the other costs, revenues, investments, or earnings of the utility. Any costs  
598 incurred by a utility prior to the filing of such petition, or during the consideration thereof by the  
599 Commission, that are proposed for recovery in such petition and that are related to subdivision 5 a, or that are  
600 related to facilities and projects described in clause (i) of subdivision 6, or that are related to new  
601 underground facilities described in clause (iv) of subdivision 6, shall be deferred on the books and records of  
602 the utility until the Commission's final order in the matter, or until the implementation of any applicable  
603 approved rate adjustment clauses, whichever is later. Except as otherwise provided in subdivision 6, any costs  
604 prudently incurred on or after July 1, 2007, by a utility prior to the filing of such petition, or during the  
605 consideration thereof by the Commission, that are proposed for recovery in such petition and that are related  
606 to facilities and projects described in clause (ii) or clause (iii) of subdivision 6 that utilize nuclear power, or  
607 coal-fueled facilities and projects described in clause (ii) of subdivision 6 if such coal-fueled facilities will be  
608 built by a Phase I Utility, shall be deferred on the books and records of the utility until the Commission's final  
609 order in the matter, or until the implementation of any applicable approved rate adjustment clauses,  
610 whichever is later. Any costs prudently incurred after the expiration or termination of capped rates related to  
611 other matters described in subdivision 4, 5, or 6 shall be deferred beginning only upon the expiration or  
612 termination of capped rates, provided, however, that no provision of this act shall affect the rights of any  
613 parties with respect to the rulings of the Federal Energy Regulatory Commission in PJM Interconnection LLC  
614 and Virginia Electric and Power Company, 109 F.E.R.C. P 61,012 (2004). A utility shall establish a  
615 regulatory asset for regulatory accounting and ratemaking purposes under which it shall defer its operation  
616 and maintenance costs incurred in connection with (i) the refueling of any nuclear-powered generating plant

617 and (ii) other work at such plant normally performed during a refueling outage. The utility shall amortize  
618 such deferred costs over the refueling cycle, but in no case more than 18 months, beginning with the month in  
619 which such plant resumes operation after such refueling. The refueling cycle shall be the applicable period of  
620 time between planned refueling outages for such plant. As of January 1, 2014, such amortized costs are a  
621 component of base rates, recoverable in base rates only ratably over the refueling cycle rather than when such  
622 outages occur, and are the only nuclear refueling costs recoverable in base rates. This provision shall apply to  
623 any nuclear-powered generating plant refueling outage commencing after December 31, 2013, and the  
624 Commission shall treat the deferred and amortized costs of such regulatory asset as part of the utility's costs  
625 for the purpose of proceedings conducted (a) with respect to filings under subdivision 3 made on and after  
626 July 1, 2014, and (b) pursuant to § 56-245 or the Commission's rules governing utility rate increase  
627 applications as provided in subsection B. This provision shall not be deemed to change or reset base rates.

628 The Commission's final order regarding any petition filed pursuant to subdivision 4, 5, or 6 shall be  
629 entered not more than three months, eight months, and nine months, respectively, after the date of filing of  
630 such petition. If such petition is approved, the order shall direct that the applicable rate adjustment clause be  
631 applied to customers' bills not more than 60 days after the date of the order, or upon the expiration or  
632 termination of capped rates, whichever is later. At any time, the Commission may, in its discretion, for a  
633 Phase I Utility, upon petition by such a utility or upon its own initiated proceeding, direct the consolidation of  
634 any one or more subsets of rate adjustment clauses previously implemented pursuant to subdivision 5 or 6 in  
635 the interest of judicial economy, customer transparency, or other factors the Commission determines to be  
636 appropriate. Any subset of rate adjustment clauses so consolidated shall continue to be considered by the  
637 Commission without regard to the other costs, revenues, investments, or earnings of the utility and remain as  
638 a cost recovery mechanism independent from the utility's rates for generation and distribution services  
639 pursuant to § 56-585.8 and subdivisions 5 and 6, but will be combined as a single rate adjustment clause for  
640 cost recovery and review purposes. Any rate adjustment clause or subset of rate adjustment clauses so  
641 consolidated shall be named in a manner, as determined by the Commission, that reasonably informs  
642 customers as to the nature of the costs recovered by the consolidated rate adjustment clause.

643 At any time, the Commission may, in its discretion, for a Phase II Utility, upon petition by such a utility  
644 or upon its own initiated proceeding, direct the consolidation of any one or more subsets of rate adjustment  
645 clauses previously implemented pursuant to subdivision 5 or 6 in the interest of judicial economy, customer  
646 transparency, or other factors the Commission determines to be appropriate. Any subset of rate adjustment  
647 clauses so consolidated shall continue to be considered by the Commission without regard to the other costs,  
648 revenues, investments, or earnings of the utility and remain as a cost recovery mechanism independent from  
649 the utility's rates for generation and distribution services pursuant to this subdivision and subdivisions 5 and  
650 6, but will be combined as a single rate adjustment clause for cost recovery and review purposes. Any rate  
651 adjustment clause or subset of rate adjustment clauses so consolidated shall be named in a manner, as  
652 determined by the Commission, that reasonably informs customers as to the nature of the costs recovered by  
653 the consolidated rate adjustment clause.

654 8. For a Phase I Utility in any triennial review proceeding filed on or before June 30, 2023 or for a Phase  
655 II Utility in any biennial review proceeding, for the purposes of reviewing earnings on the utility's rates for  
656 generation and distribution services, the following utility generation and distribution costs not proposed for  
657 recovery under any other subdivision of this subsection, as recorded per books by the utility for financial  
658 reporting purposes and accrued against income, shall be attributed to the test periods under review and  
659 deemed fully recovered in the period recorded: costs associated with asset impairments related to early  
660 retirement determinations made by the utility for utility generation facilities fueled by coal, natural gas, or oil  
661 or for automated meter reading electric distribution service meters; costs associated with projects necessary to  
662 comply with state or federal environmental laws, regulations, or judicial or administrative orders relating to  
663 coal combustion by-product management that the utility does not petition to recover through a rate  
664 adjustment clause pursuant to subdivision 5 e; costs associated with severe weather events; and costs  
665 associated with natural disasters. Such costs shall be deemed to have been recovered from customers through  
666 rates for generation and distribution services in effect during the test periods under review unless such costs,  
667 individually or in the aggregate, together with the utility's other costs, revenues, and investments to be  
668 recovered through rates for generation and distribution services, result in the utility's earned return on its  
669 generation and distribution services for the combined test periods under review to fall more than 50 basis  
670 points below the fair combined rate of return authorized under subdivision 2 for such periods or, for any test  
671 period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase  
672 I Utility, to fall more than 70 basis points below the fair combined rate of return authorized under subdivision  
673 2 for such periods. In such cases, the Commission shall, in such review proceeding, authorize deferred  
674 recovery of such costs and allow the utility to amortize and recover such deferred costs over future periods as  
675 determined by the Commission. The aggregate amount of such deferred costs shall not exceed an amount that  
676 would, together with the utility's other costs, revenues, and investments to be recovered through rates for  
677 generation and distribution services, cause the utility's earned return on its generation and distribution  
678 services to exceed the fair rate of return authorized under subdivision 2, less 50 basis points, for the combined

679 test periods under review or, for any test period commencing after December 31, 2012, for a Phase II Utility  
680 and after December 31, 2013, for a Phase I Utility, to exceed the fair rate of return authorized under  
681 subdivision 2 less 70 basis points. Notwithstanding the prior sentence, the aggregate amount of actual and  
682 reasonable costs associated with severe weather events eligible for such deferral shall not exceed an amount  
683 that would, together with the utility's other costs, revenues, and investments to be recovered through rates for  
684 generation and distribution services, cause the utility's earned return on its generation and distribution  
685 services to exceed the fair rate of return authorized for the combined test periods under review. For the  
686 purposes of determining any amount of costs that are associated with severe weather events, the Commission  
687 shall consider nationally recognized standards such as those published by the Institute of Electrical and  
688 Electronics Engineers (IEEE). Nothing in this section shall limit the Commission's authority, pursuant to the  
689 provisions of Chapter 10 (§ 56-232 et seq.), including specifically § 56-235.2, following the review of  
690 combined test period earnings of the utility in a review, for normalization of nonrecurring test period costs  
691 and annualized adjustments for future costs, in determining any appropriate increase or decrease in the  
692 utility's rates for generation and distribution services pursuant to subdivision 8 a or 8 c.

693 If the Commission determines as a result of any triennial review initiated prior to July 1, 2023 that:

694 a. Revenue reductions related to energy efficiency measures or programs approved and deployed since the  
695 utility's previous triennial review have caused the utility, as verified by the Commission, during the test  
696 period or periods under review, considered as a whole, to earn more than 50 basis points below a fair  
697 combined rate of return on its generation and distribution services or, for any test period commencing after  
698 December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70  
699 basis points below a fair combined rate of return on its generation and distribution services, as determined in  
700 subdivision 2, without regard to any return on common equity or other matters determined with respect to  
701 facilities described in subdivision 6, the Commission shall order increases to the utility's rates for generation  
702 and distribution services necessary to recover such revenue reductions. If the Commission finds, for reasons  
703 other than revenue reductions related to energy efficiency measures, that the utility has, during the test period  
704 or periods under review, considered as a whole, earned more than 50 basis points below a fair combined rate  
705 of return on its generation and distribution services or, for any test period commencing after December 31,  
706 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points  
707 below a fair combined rate of return on its generation and distribution services, as determined in subdivision  
708 2, without regard to any return on common equity or other matters determined with respect to facilities  
709 described in subdivision 6, the Commission shall order increases to the utility's rates necessary to provide the  
710 opportunity to fully recover the costs of providing the utility's services and to earn not less than such fair  
711 combined rate of return, using the most recently ended 12-month test period as the basis for determining the  
712 amount of the rate increase necessary. However, in the first triennial review proceeding conducted after  
713 January 1, 2021, for a Phase II Utility, the Commission may not order a rate increase, and in all triennial  
714 reviews of a Phase I or Phase II utility, the Commission may not order such rate increase unless it finds that  
715 the resulting rates are necessary to provide the utility with the opportunity to fully recover its costs of  
716 providing its services and to earn not less than a fair combined rate of return on both its generation and  
717 distribution services, as determined in subdivision 2, without regard to any return on common equity or other  
718 matters determined with respect to facilities described in subdivision 6, using the most recently ended  
719 12-month test period as the basis for determining the permissibility of any rate increase under the standards of  
720 this sentence, and the amount thereof; and provided that, solely in connection with making its determination  
721 concerning the necessity for such a rate increase or the amount thereof, the Commission shall, in any triennial  
722 review proceeding conducted prior to July 1, 2028, exclude from this most recently ended 12-month test  
723 period any remaining investment levels associated with a prior customer credit reinvestment offset pursuant  
724 to subdivision d. *Notwithstanding any other provision of law, no rate increase proposed by a Phase I or*  
725 *Phase II Utility shall be approved by the Commission unless the utility demonstrates a net increase in total*  
726 *electric generating capacity within the previous rate period.*

727 b. The utility has, during the test period or test periods under review, considered as a whole, earned more  
728 than 50 basis points above a fair combined rate of return on its generation and distribution services or, for any  
729 test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a  
730 Phase I Utility, more than 70 basis points above a fair combined rate of return on its generation and  
731 distribution services, as determined in subdivision 2, without regard to any return on common equity or other  
732 matters determined with respect to facilities described in subdivision 6, the Commission shall, subject to the  
733 provisions of subdivisions 8 d and 9, direct that 60 percent of the amount of such earnings that were more  
734 than 50 basis points, or, for any test period commencing after December 31, 2012, for a Phase II Utility and  
735 after December 31, 2013, for a Phase I Utility, that 70 percent of the amount of such earnings that were more  
736 than 70 basis points, above such fair combined rate of return for the test period or periods under review,  
737 considered as a whole, shall be credited to customers' bills. Any such credits shall be amortized over a period  
738 of six to 12 months, as determined at the discretion of the Commission, following the effective date of the  
739 Commission's order, and shall be allocated among customer classes such that the relationship between the  
740 specific customer class rates of return to the overall target rate of return will have the same relationship as the

741 last approved allocation of revenues used to design base rates; or

742 c. The utility has, during the test period or test periods under review, considered as a whole, earned more  
743 than 50 basis points above a fair combined rate of return on its generation and distribution services or, for any  
744 test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a  
745 Phase I Utility, more than 70 basis points above a fair combined rate of return on its generation and  
746 distribution services, as determined in subdivision 2, without regard to any return on common equity or other  
747 matter determined with respect to facilities described in subdivision 6, and the combined aggregate level of  
748 capital investment that the Commission has approved other than those capital investments that the  
749 Commission has approved for recovery pursuant to a rate adjustment clause pursuant to subdivision 6 made  
750 by the utility during the test periods under review in that triennial review proceeding in new utility-owned  
751 generation facilities utilizing energy derived from sunlight, or from wind, and in electric distribution grid  
752 transformation projects, as determined pursuant to subdivision 8 d, does not equal or exceed 100 percent of  
753 the earnings that are more than 70 basis points above the utility's fair combined rate of return on its  
754 generation and distribution services for the combined test periods under review in that triennial review  
755 proceeding, the Commission shall, subject to the provisions of subdivision 10 and in addition to the actions  
756 authorized in subdivision b, also order reductions to the utility's rates it finds appropriate. However, in the  
757 first triennial review proceeding conducted after January 1, 2021, for a Phase II Utility, any reduction to the  
758 utility's rates ordered by the Commission pursuant to this subdivision shall not exceed \$50 million in annual  
759 revenues, with any reduction allocated to the utility's rates for generation services, and in each triennial  
760 review of a Phase I or Phase II Utility, the Commission may not order such rate reduction unless it finds that  
761 the resulting rates will provide the utility with the opportunity to fully recover its costs of providing its  
762 services and to earn not less than a fair combined rate of return on its generation and distribution services, as  
763 determined in subdivision 2, without regard to any return on common equity or other matters determined with  
764 respect to facilities described in subdivision 6, using the most recently ended 12-month test period as the  
765 basis for determining the permissibility of any rate reduction under the standards of this sentence, and the  
766 amount thereof; and

767 d. (Expires July 1, 2028) In any review proceeding conducted after December 31, 2017, upon the request  
768 of the utility, the Commission shall determine, prior to directing that 70 percent of earnings that are more  
769 than 70 basis points above the utility's fair combined rate of return on its generation and distribution services  
770 for the test period or periods under review be credited to customer bills pursuant to subdivision 8 b, the  
771 aggregate level of prior capital investment that the Commission has approved other than those capital  
772 investments that the Commission has approved for recovery pursuant to a rate adjustment clause pursuant to  
773 subdivision 6 made by the utility during the test period or periods under review in both (i) new utility-owned  
774 generation facilities utilizing energy derived from sunlight, or from onshore or offshore wind, and (ii) electric  
775 distribution grid transformation projects, as determined by the utility's plant in service and construction work  
776 in progress balances related to such investments as recorded per books by the utility for financial reporting  
777 purposes as of the end of the most recent test period under review. Any such combined capital investment  
778 amounts shall offset any customer bill credit amounts, on a dollar for dollar basis, up to the aggregate level of  
779 invested or committed capital under clauses (i) and (ii). The aggregate level of qualifying invested or  
780 committed capital under clauses (i) and (ii) is referred to in this subdivision as the customer credit  
781 reinvestment offset, which offsets the customer bill credit amount that the utility has invested or will invest in  
782 new solar or wind generation facilities or electric distribution grid transformation projects for the benefit of  
783 customers, in amounts up to 100 percent of earnings that are more than 70 basis points above the utility's fair  
784 rate of return on its generation and distribution services, and thereby reduce or eliminate otherwise  
785 incremental rate adjustment clause charges and increases to customer bills, which is deemed to be in the  
786 public interest. If 100 percent of the amount of earnings that are more than 70 basis points above the utility's  
787 fair combined rate of return on its generation and distribution services, as determined in subdivision 2,  
788 exceeds the aggregate level of invested capital in new utility-owned generation facilities utilizing energy  
789 derived from sunlight, or from wind, and electric distribution grid transformation projects, as provided in  
790 clauses (i) and (ii), during the test period or periods under review, then 70 percent of the amount of such  
791 excess shall be credited to customer bills as provided in subdivision 8 b in connection with the review  
792 proceeding. The portion of any costs associated with new utility-owned generation facilities utilizing energy  
793 derived from sunlight, or from wind, or electric distribution grid transformation projects that is the subject of  
794 any customer credit reinvestment offset pursuant to this subdivision shall not thereafter be recovered through  
795 the utility's rates for generation and distribution services over the service life of such facilities and shall not  
796 thereafter be included in the utility's costs, revenues, and investments in future review proceedings conducted  
797 pursuant to subdivision 2 and shall not be the subject of a rate adjustment clause petition pursuant to  
798 subdivision 6. The portion of any costs associated with new utility-owned generation facilities utilizing  
799 energy derived from sunlight, or from wind, or electric distribution grid transformation projects that is not the  
800 subject of any customer credit reinvestment offset pursuant to this subdivision may be recovered through the  
801 utility's rates for generation and distribution services over the service life of such facilities and shall be

802 included in the utility's costs, revenues, and investments in future review proceedings conducted pursuant to  
803 subdivision 2 until such costs are fully recovered, and if such costs are recovered through the utility's rates for  
804 generation and distribution services, they shall not be the subject of a rate adjustment clause petition pursuant  
805 to subdivision 6. Only the portion of such costs of new utility-owned generation facilities utilizing energy  
806 derived from sunlight, or from wind, or electric distribution grid transformation projects that has not been  
807 included in any customer credit reinvestment offset pursuant to this subdivision, and not otherwise recovered  
808 through the utility's rates for generation and distribution services, may be the subject of a rate adjustment  
809 clause petition by the utility pursuant to subdivision 6.

810 e. In any biennial review of a Phase II Utility, the Commission's final order regarding such review shall be  
811 entered not more than eight months after the date of filing, and any revisions in rates or credits so ordered  
812 shall take effect not more than 60 days after the date of the order. The fair combined rate of return on  
813 common equity determined pursuant to subdivision 2 in such review shall apply, for purposes of reviewing  
814 the utility's earnings on its rates for generation and distribution services, to the entire two or three, as  
815 applicable, successive 12-month test periods ending December 31 immediately preceding the year of the  
816 utility's subsequent review filing under subdivision 3 and shall apply to applicable rate adjustment clauses  
817 under subdivisions 5 and 6 prospectively from the date the Commission's final order in the review  
818 proceeding, utilizing rate adjustment clause true-up protocols as the Commission in its discretion may  
819 determine.

820 9. a. In any biennial review for a Phase II Utility filed on or prior to December 31, 2023, if the  
821 Commission determines that the utility has during the test period or test periods under review, considered as a  
822 whole, earned more than 70 basis points above a fair combined rate of return on its generation and  
823 distribution services previously authorized by the Commission, as determined in subdivision 2, without  
824 regard to any return on common equity or other matters determined with respect to facilities described in  
825 subdivision 6, which have not been combined with the utility's costs, revenues, and investments for  
826 generation and distribution services, the Commission shall direct that 85 percent of the amount of such  
827 earnings that were more than 70 basis points above such fair combined rate of return for the test period or  
828 periods under review, considered as a whole, be credited to customers' bills. Any such credits shall be  
829 amortized over a period of six to 12 months, as determined at the discretion of the Commission, following the  
830 effective date of the Commission's order, and shall be allocated among customer classes such that the  
831 relationship between the specific customer class rates of return to the overall target rate of return will have the  
832 same relationship as the last approved allocation of revenues used to design base rates.

833 b. In any biennial review for a Phase II Utility filed on or after January 1, 2024, if the Commission  
834 determines that the utility has during the test period or test periods under review, considered as a whole,  
835 earned above its fair combined rate of return on its generation and distribution services previously authorized  
836 by the Commission, as determined in subdivision 2, without regard to any return on common equity or other  
837 matters determined with respect to facilities described in subdivision 6, which have not been combined with  
838 the utility's costs, revenues, and investments for generation and distribution services, the Commission shall  
839 direct that 85 percent of the amount of such earnings above such fair combined rate of return for the test  
840 period or periods under review, considered as a whole, be credited to customers' bills. Further, if the  
841 Commission determines that during the test period or test periods under review, considered as a whole, a  
842 Phase II Utility earned more than 150 basis points above a fair combined rate of return on its generation and  
843 distribution services previously authorized by the Commission, without regard to any return on common  
844 equity or other matters determined with respect to facilities described in subdivision 6, which have not been  
845 combined with the utility's costs, revenues, and investments for generation and distribution services, the  
846 Commission shall direct that all such earnings that were more than 150 basis points above such fair combined  
847 rate of return for the test period or periods under review, considered as a whole, be credited to customers'  
848 bills. Any such credits shall be amortized over a period of six to 12 months, as determined at the discretion of  
849 the Commission, following the effective date of the Commission's order, and shall be allocated among  
850 customer classes such that the relationship between the specific customer class rates of return to the overall  
851 target rate of return will have the same relationship as the last approved allocation of revenues used to design  
852 base rates.

853 10. If, as a result of a triennial review required under this subsection and conducted with respect to any  
854 test period or periods under review ending later than December 31, 2010 (or, if the Commission has elected  
855 to stagger its biennial reviews of utilities as provided in subdivision 1, under review ending later than  
856 December 31, 2010, for a Phase I Utility, or December 31, 2011, for a Phase II Utility), the Commission  
857 finds, with respect to such test period or periods considered as a whole, that (i) any utility has, during the test  
858 period or periods under review, considered as a whole, earned more than 50 basis points above a fair  
859 combined rate of return on its generation and distribution services or, for any test period commencing after  
860 December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70  
861 basis points above a fair combined rate of return on its generation and distribution services, as determined in  
862 subdivision 2, without regard to any return on common equity or other matters determined with respect to

863 facilities described in subdivision 6, and (ii) the total aggregate regulated rates of such utility at the end of the  
 864 most recently ended 12-month test period exceeded the annual increases in the United States Average  
 865 Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor  
 866 Statistics of the United States Department of Labor, compounded annually, when compared to the total  
 867 aggregate regulated rates of such utility as determined pursuant to the review conducted for the base period,  
 868 the Commission shall, unless it finds that such action is not in the public interest or that the provisions of  
 869 subdivisions 8 b and c are more consistent with the public interest, direct that any or all earnings for such test  
 870 period or periods under review, considered as a whole that were more than 50 basis points, or, for any test  
 871 period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase  
 872 I Utility, more than 70 basis points, above such fair combined rate of return shall be credited to customers'  
 873 bills, in lieu of the provisions of subdivisions 8 b and c, provided that no credits shall be provided pursuant to  
 874 this subdivision in connection with any triennial review unless such bill credits would be payable pursuant to  
 875 the provisions of subdivision 8 d, and any credits under this subdivision shall be calculated net of any  
 876 customer credit reinvestment offset amounts under subdivision 8 d. Any such credits shall be amortized and  
 877 allocated among customer classes in the manner provided by subdivision 8 b. For purposes of this  
 878 subdivision:

879 "Base period" means (i) the test period ending December 31, 2010 (or, if the Commission has elected to  
 880 stagger its biennial reviews of utilities as provided in subdivision 1, the test period ending December 31,  
 881 2010, for a Phase I Utility, or December 31, 2011, for a Phase II Utility), or (ii) the most recent test period  
 882 with respect to which credits have been applied to customers' bills under the provisions of this subdivision,  
 883 whichever is later.

884 "Total aggregate regulated rates" shall include: (i) fuel tariffs approved pursuant to § 56-249.6, except for  
 885 any increases in fuel tariffs deferred by the Commission for recovery in periods after December 31, 2010,  
 886 pursuant to the provisions of clause (ii) of subsection C of § 56-249.6; (ii) rate adjustment clauses  
 887 implemented pursuant to subdivision 4 or 5; (iii) revisions to the utility's rates pursuant to subdivision 8 a;  
 888 (iv) revisions to the utility's rates pursuant to the Commission's rules governing utility rate increase  
 889 applications, as permitted by subsection B, occurring after July 1, 2009; and (v) base rates in effect as of July  
 890 1, 2009.

891 11. For purposes of this section, the Commission shall regulate the rates, terms and conditions of any  
 892 utility subject to this section on a stand-alone basis utilizing the actual end-of-test period capital structure and  
 893 cost of capital of such utility, excluding any debt associated with securitized bonds that are the obligation of  
 894 non-Virginia jurisdictional customers, unless the Commission finds that the debt to equity ratio of such  
 895 capital structure is unreasonable for such utility, in which case the Commission may utilize a debt to equity  
 896 ratio that it finds to be reasonable for such utility in determining any rate adjustment pursuant to subdivisions  
 897 8 a and c, and without regard to the cost of capital, capital structure, revenues, expenses or investments of any  
 898 other entity with which such utility may be affiliated. In particular, and without limitation, the Commission  
 899 shall determine the federal and state income tax costs for any such utility that is part of a publicly traded,  
 900 consolidated group as follows: (i) such utility's apportioned state income tax costs shall be calculated  
 901 according to the applicable statutory rate, as if the utility had not filed a consolidated return with its affiliates,  
 902 and (ii) such utility's federal income tax costs shall be calculated according to the applicable federal income  
 903 tax rate and shall exclude any consolidated tax liability or benefit adjustments originating from any taxable  
 904 income or loss of its affiliates.

905 B. Nothing in this section shall preclude an investor-owned incumbent electric utility from applying for an  
 906 increase in rates pursuant to § 56-245 or the Commission's rules governing utility rate increase applications;  
 907 however, in any such filing, a fair rate of return on common equity shall be determined pursuant to  
 908 subdivision A 2. Nothing in this section shall preclude such utility's recovery of fuel and purchased power  
 909 costs as provided in § 56-249.6.

910 C. Except as otherwise provided in this section, the Commission shall exercise authority over the rates,  
 911 terms and conditions of investor-owned incumbent electric utilities for the provision of generation,  
 912 transmission and distribution services to retail customers in the Commonwealth pursuant to the provisions of  
 913 Chapter 10 (§ 56-232 et seq.), including specifically § 56-235.2.

914 D. The Commission may determine, during any proceeding authorized or required by this section, the  
 915 reasonableness or prudence of any cost incurred or projected to be incurred, by a utility in connection with  
 916 the subject of the proceeding. A determination of the Commission regarding the reasonableness or prudence  
 917 of any such cost shall be consistent with the Commission's authority to determine the reasonableness or  
 918 prudence of costs in proceedings pursuant to the provisions of Chapter 10 (§ 56-232 et seq.). In determining  
 919 the reasonableness or prudence of a utility providing energy and capacity to its customers from renewable  
 920 energy resources, the Commission shall consider the extent to which such renewable energy resources,  
 921 whether utility-owned or by contract, further the objectives of the Commonwealth Clean Energy Policy set  
 922 forth in § 45.2-1706.1, and shall also consider whether the costs of such resources is likely to result in  
 923 unreasonable increases in rates paid by customers.

924 E. Notwithstanding any other provision of law, the Commission shall determine the amortization period

925 for recovery of any appropriate costs due to the early retirement of any electric generation facilities owned or  
926 operated by any Phase I Utility or Phase II Utility. In making such determination, the Commission shall (i)  
927 perform an independent analysis of the remaining undepreciated capital costs; (ii) establish a recovery period  
928 that best serves ratepayers; and (iii) allow for the recovery of any carrying costs that the Commission deems  
929 appropriate.

930 F. The Commission shall include in its report required by subsection B of § 56-596 any information  
931 concerning the reliability impacts of generation unit additions and retirement determinations by a Phase I or  
932 Phase II Utility, along with the potential impact on the purchase of power from generation assets outside the  
933 Virginia jurisdiction used to serve the utility's native load, utilizing information from the respective utility's  
934 integrated resource plan or information from the respective utility's plan filed pursuant to subsection D of  
935 § 56-585.5.

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

938 **§ 56-585.8. Biennial rate reviews.**

939 A. For the purposes of this section:

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

941 "Utility" means a Phase I Utility.

942 B. With the first review commencing on March 31, 2024, and on May 31 biennially thereafter, the  
943 Commission shall conduct rate reviews of the rates, terms, and conditions for the provision of generation and  
944 distribution services by a Phase I Utility that participated in triennial review proceedings in 2020 and 2023,  
945 and such Phase I Utility shall no longer be subject to triennial review proceedings pursuant to § 56-585.1.

946 C. In each biennial review, the Commission shall conduct a proceeding to review all rates, terms, and  
947 conditions for generation and distribution services with such proceeding utilizing the two successive  
948 12-month test periods ending December 31 immediately preceding the year in which such proceeding is  
949 conducted. Such biennial review shall be conducted in a single, combined proceeding, except for review of  
950 the following costs, which the utility shall continue to recover and the Commission shall continue to review  
951 separately, pursuant to the applicable statutory provisions: costs that are recovered pursuant to (i) § 56-249.6,  
952 (ii) subdivisions A 4, 5, and 6 of § 56-585.1, and (iii) § 56-585.6.

953 D. Beginning in 2026, each biennial rate review proceeding shall commence on May 31 of the biennial  
954 review year with the filing of a petition by each Phase I Utility subject to the provisions of this section. The  
955 Commission, after providing notice and an opportunity for hearing, shall grant a final order on such petition  
956 no later than January 15 of the subsequent year, with any revisions in rates ordered by the Commission  
957 pursuant to the rate review taking effect no earlier than March 1.

958 E. In each biennial review proceeding, the Commission shall set the fair rate of return on common equity  
959 applicable to the generation and distribution services of the utility for the two such services combined and for  
960 any rate adjustment clauses approved under subdivision A 5 or 6 of § 56-585.1. The Commission may use  
961 any methodology it finds consistent with the public interest to determine the Phase I Utility's fair rate of  
962 return on common equity. The Commission may increase or decrease the combined rate of return for  
963 generation and distribution services by up to 50 basis points based on factors that may include reliability,  
964 generating plant performance, customer service, and operating efficiency of a utility. Any such adjustment to  
965 the combined rate of return for generation and distribution services shall include consideration of nationally  
966 recognized standards determined by the Commission to be appropriate for such purposes.

967 F. In any biennial review for a Phase I Utility, if the Commission determines in its sole discretion that the  
968 utility's existing rates for generation and distribution services will, on a going-forward basis, either produce  
969 (i) revenues in excess of the utility's authorized rate of return or (ii) revenues below the utility's authorized  
970 rate of return, then the Commission shall order any reductions or increases, as applicable and necessary, to  
971 such rates for generation and distribution services that it deems appropriate to ensure the resulting rates for  
972 generation and distribution services (a) are just and reasonable and (b) provide the utility an opportunity to  
973 recover its costs of providing services over the rate period ending on December 31 of the year of the utility's  
974 succeeding review and earn a fair rate of return authorized pursuant to this section. Such determination shall  
975 be limited to the Phase I Utility's rates for generation and distribution services and shall not consider the costs  
976 or revenues recovered in any rate adjustment clause authorized pursuant to this chapter. *Notwithstanding any  
977 other provision of law, no rate increase proposed by a Phase I Utility shall be approved by the Commission  
978 unless the utility demonstrates a net increase in total electric generating capacity within the previous rate  
979 period.*

980 G. In any biennial review of rates for generation and distribution services, if the combined rate of return  
981 on common equity earned is no more than 100 basis points above or below the fair combined rate of return,  
982 as determined by the Commission, for the test period under review, then such combined return shall not be  
983 considered either excessive or insufficient, respectively.

984 1. If in any biennial review, the Commission finds that, during the test period under review, considered as  
985 a whole, the utility has earned more than 100 basis points above the authorized fair combined rate of return  
986 on its generation or distribution services, the Commission shall direct that 100 percent of the amount of such

987 earnings that were more than 100 basis points above such fair combined rate of return for the test period  
 988 under review, considered as a whole, be credited to customers' bills. Any such credits shall be applied to  
 989 customers' bills, as determined at the discretion of the Commission, following the effective date of the  
 990 Commission's order, and shall be allocated among customer classes such that the relationship between the  
 991 specific customer class rates of return to the overall target rate of return will have the same relationship as the  
 992 last approved allocation of revenues used to design base rates; or

993 2. The Commission shall authorize deferred recovery for reasonable (i) actual costs associated with severe  
 994 weather events and (ii) actual costs associated with natural disasters, not currently in rates, and the  
 995 Commission shall allow the utility to amortize and recover such deferred costs over future periods as  
 996 determined by the Commission. The amount of any such deferral shall not exceed an amount that would,  
 997 together with the utility's other costs, revenues, and investments recovered through rates for generation and  
 998 distribution services for the test period under review, cause the utility's earned return on its generation and  
 999 distribution services to exceed 100 basis points above the fair combined rate of return applicable to the test  
 1000 period under review. For the purposes of determining any amount of costs that are associated with severe  
 1001 weather events, the Commission shall consider nationally recognized standards such as those published by  
 1002 the Institute of Electrical and Electronics Engineers (IEEE).

1003 Any amount of a utility's earnings directed by the Commission to be credited to customers' bills pursuant  
 1004 to this subsection shall not be considered for the purpose of determining the utility's earnings in any  
 1005 subsequent biennial review.

1006 H. In any proceeding under this title, including each biennial review, to determine the prior two years'  
 1007 excess or deficiency for the purposes of subsection F, the Commission shall use an average rate base using  
 1008 the actual starting and end-of-test period capital structure of the utility, excluding any debt associated with  
 1009 any securitized bonds and without regard to the cost of capital, capital structure, or investments of any other  
 1010 entities with which the utility is affiliated. To determine a revenue requirement in any proceeding under this  
 1011 title, the Commission shall use the utility's actual end-of-test period capital structure and cost of capital  
 1012 without regard to the cost of capital, capital structure, or investments of any other entities with which the  
 1013 utility is affiliated, including debt associated with any securitized bonds, unless the Commission makes a  
 1014 finding, based on evidence in the record, that the debt to equity ratio of the actual end-of-test period capital  
 1015 structure of such utility is unreasonable, in which case the Commission may utilize a debt to equity ratio that  
 1016 it finds to be reasonable.

1017 In a rate review for a Phase I Utility that is part of a publicly traded, consolidated group, the Commission  
 1018 shall determine federal and state income tax costs as follows: (i) the utility's apportioned state income tax  
 1019 costs shall be calculated according to the applicable statutory rate, as if the utility had not filed a consolidated  
 1020 return with its affiliates, and (ii) the utility's federal income tax costs shall be calculated according to the  
 1021 applicable federal income tax rate and shall exclude any consolidated tax liability or benefit adjustments  
 1022 originating from any taxable income or loss of its affiliates.

1023 I. The Commission is authorized to determine during any biennial review the reasonableness or prudence  
 1024 of any cost subject to the rate review incurred or projected to be incurred by the utility, and a Phase I Utility  
 1025 shall recover such costs that the Commission finds to be reasonable and prudent.

1026 J. In any biennial review conducted pursuant to this section, a Phase I Utility or any other party may  
 1027 propose changes to its terms and conditions and the Commission may approve, reject, or amend any changes  
 1028 and may propose any special rates, contracts, or incentives pursuant to § 56-235.2.

1029 K. Nothing in this section shall alter a Phase I Utility's obligations pursuant to §§ 56-585.5 and 56-596.2.

1030 L. To the extent that the provisions of this section are inconsistent with the provisions of § 56-585.1, the  
 1031 provisions of this section shall control.

1032 **2. That if the Commonwealth rejoins the Regional Greenhouse Gas Initiative, as defined in § 10.1-1329**  
 1033 **of the Code of Virginia, and resumes participation therein, no electric utility, as defined in § 56-576 of**  
 1034 **the Code of Virginia, that incurs an expense of more than \$10 million as a result of such participation**  
 1035 **shall recover any portion of such expense from its customers.**

1036 **3. That notwithstanding the provisions of subsection B of § 56-585.5 of the Code of Virginia or any**  
 1037 **other provision of law, no electric generation facility with a capacity of more than 20 megawatts shall**  
 1038 **be retired or otherwise fully decommissioned unless the State Corporation Commission determines**  
 1039 **that sufficient electric generation capacity located in the Commonwealth exists to meet at least 90**  
 1040 **percent of all current and forecasted electric demand in the Commonwealth.**