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SENATE BILL NO. 751

Offered January 19, 2026

A BILL to amend and reenact §§ 56-265.1 and 56-580 of the Code of Virginia, relating to Utility Facilities Act; definition of public utility.

Patrons—DeSteph, Deeds, Cifers, Craig, Ebbin, Hackworth, Jordan, Mulchi, Peake, Pillion, Reeves, Stanley, Stuart and Sturtevant

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That §§ 56-265.1 and 56-580 of the Code of Virginia are amended and reenacted as follows:

§ 56-265.1. Definitions.

In this chapter, the following terms shall have the following meanings:

(a) "Company" means a corporation, a limited liability company, an individual, a partnership, an association, a joint-stock company, a business trust, a cooperative, or an organized group of persons, whether incorporated or not; or any receiver, trustee or other liquidating agent of any of the foregoing in his capacity as such; but not a municipal corporation or a county, unless such municipal corporation or county has obtained a certificate pursuant to § 56-265.4:4.

(b) "Public utility" means any company that owns or operates facilities within the Commonwealth of Virginia for the generation, transmission, or distribution of electric energy for sale, for the production, storage, transmission, or distribution, otherwise than in enclosed portable containers, of natural gas, or, if produced, stored, transmitted, or distributed by a natural gas utility as defined in § 56-265.4:6, supplemental or substitute forms of gas sources as defined in § 56-248.1, or geothermal resources for sale for heat, light or power, or for the furnishing of telephone service, sewerage facilities or water. A "public utility" may own a facility for the storage of electric energy for sale that includes one or more pumped hydroelectricity generation and storage facilities located in the coalfield region of Virginia as described in § 15.2-6002. However, the term "public utility" does not include any of the following:

(1) Except as otherwise provided in § 56-265.3:1, any company furnishing sewerage facilities, geothermal resources or water to less than 50 customers. Any company furnishing water or sewer services to 10 or more customers and excluded by this subdivision from the definition of "public utility" for purposes of this chapter nevertheless shall not abandon the water or sewer services unless and until approval is granted by the Commission or all the customers receiving such services agree to accept ownership of the company.

(2) Any company generating and distributing electric energy exclusively for its own consumption.

(3) Any company (A) which furnishes electric service together with heating and cooling services, generated at a central plant installed on the premises to be served, to the tenants of a building or buildings located on a single tract of land undivided by any publicly maintained highway, street or road at the time of installation of the central plant, and (B) which does not charge separately or by meter for electric energy used by any tenant except as part of a rental charge. Any company excluded by this subdivision from the definition of "public utility" for the purposes of this chapter nevertheless shall, within 30 days following the issuance of a building permit, notify the State Corporation Commission in writing of the ownership, capacity and location of such central plant, and it shall be subject, with regard to the quality of electric service furnished, to the provisions of Chapters 10 (§ 56-232 et seq.) and 17 (§ 56-509 et seq.) and regulations thereunder and be deemed a public utility for such purposes, if such company furnishes such service to 100 or more lessees.

(4) Any company, or affiliate thereof, making a first or direct sale, or ancillary transmission or delivery service, of natural gas to fewer than 35 commercial or industrial customers, which are not themselves "public utilities" as defined in this chapter, or to certain public schools as indicated in this subdivision, for use solely by such purchasing customers at facilities which are not located in a territory for which a certificate to provide gas service has been issued by the Commission under this chapter and which, at the time of the Commission's receipt of the notice provided under § 56-265.4:5, are not located within any area, territory, or jurisdiction served by a municipal corporation that provided gas distribution service as of January 1, 1992, provided that such company shall comply with the provisions of § 56-265.4:5. Direct sales or ancillary transmission or delivery services of natural gas to public schools in the following localities may be made without regard to the number of schools involved and shall not count against the "fewer than 35" requirement in this subdivision: the Counties of Dickenson, Wise, Russell, and Buchanan, and the City of Norton.

(5) Any company which is not a public service corporation and which provides compressed natural gas service at retail for the public.

(6) Any company selling landfill gas from a solid waste management facility permitted by the Department of Environmental Quality to a public utility certificated by the Commission to provide gas distribution service

58 to the public in the area in which the solid waste management facility is located. If such company submits to  
59 the public utility a written offer for sale of such gas and the public utility does not agree within 60 days to  
60 purchase such gas on mutually satisfactory terms, then the company may sell such gas to (i) any facility  
61 owned and operated by the Commonwealth which is located within three miles of the solid waste  
62 management facility or (ii) any purchaser after such landfill gas has been liquefied. The provisions of this  
63 subdivision shall not apply to the City of Lynchburg or Fairfax County.

64 (7) Any authority created pursuant to the Virginia Water and Waste Authorities Act (§ 15.2-5100 et seq.)  
65 making a sale or ancillary transmission or delivery service of landfill gas to a commercial or industrial  
66 customer from a solid waste management facility permitted by the Department of Environmental Quality and  
67 operated by that same authority, if such an authority limits off-premises sale, transmission or delivery service  
68 of landfill gas to no more than one purchaser. The authority may contract with other persons for the  
69 construction and operation of facilities necessary or convenient to the sale, transmission or delivery of landfill  
70 gas, and no such person shall be deemed a public utility solely by reason of its construction or operation of  
71 such facilities. If the purchaser of the landfill gas is located within the certificated service territory of a  
72 natural gas public utility, the public utility may file for Commission approval a proposed tariff to reflect any  
73 anticipated or known changes in service to the purchaser as a result of the use of landfill gas. No such tariff  
74 shall impose on the purchaser of the landfill gas terms less favorable than similarly situated customers with  
75 alternative fuel capabilities; provided, however, that such tariff may impose such requirements as are  
76 reasonably calculated to recover the cost of such service and to protect and ensure the safety and integrity of  
77 the public utility's facilities.

78 (8) A company selling or delivering only landfill gas, electricity generated from only landfill gas, or both,  
79 that is derived from a solid waste management facility permitted by the Department of Environmental Quality  
80 and sold or delivered from any such facility to not more than three commercial or industrial purchasers or to a  
81 natural gas or electric public utility, municipal corporation or county as authorized by this section. If a  
82 purchaser of the landfill gas is located within the certificated service territory of a natural gas public utility or  
83 within an area in which a municipal corporation provides gas distribution service and the landfill gas is to be  
84 used in facilities constructed after January 1, 2000, such company shall submit to such public utility or  
85 municipal corporation a written offer for sale of that gas prior to offering the gas for sale or delivery to a  
86 commercial or industrial purchaser. If the public utility or municipal corporation does not agree within 60  
87 days following the date of the offer to purchase such landfill gas on mutually satisfactory terms, then the  
88 company shall be authorized to sell such landfill gas, electricity, or both, to the commercial or industrial  
89 purchaser, utility, municipal corporation, or county. Such public utility may file for Commission approval a  
90 proposed tariff to reflect any anticipated or known changes in service to the purchaser as a result of the  
91 purchaser's use of the landfill gas. No such tariff shall impose on such purchaser of the landfill gas terms less  
92 favorable than those imposed on similarly situated customers with alternative fuel capabilities; provided,  
93 however, that such tariff may impose such requirements as are reasonably calculated to recover any cost of  
94 such service and to protect and ensure the safety and integrity of the public utility's facilities.

95 (9) A company that is not organized as a public service company pursuant to subsection D of § 13.1-620  
96 and that sells and delivers propane air only to one or more public utilities. Any company excluded by this  
97 subdivision from the definition of "public utility" for the purposes of this chapter nevertheless shall be subject  
98 to the Commission's jurisdiction relating to gas pipeline safety and enforcement.

99 (10) A farm or aggregation of farms that owns and operates facilities within the Commonwealth for the  
100 generation of electric energy from waste-to-energy technology. As used in this subdivision, (i) "farm" means  
101 any person that obtains at least 51 percent of its annual gross income from agricultural operations and  
102 produces the agricultural waste used as feedstock for the waste-to-energy technology, (ii) "agricultural waste"  
103 means biomass waste materials capable of decomposition that are produced from the raising of plants and  
104 animals during agricultural operations, including animal manures, bedding, plant stalks, hulls, and vegetable  
105 matter, and (iii) "waste-to-energy technology" means any technology, including a methane digester, that  
106 converts agricultural waste into gas, steam, or heat that is used to generate electricity on-site.

107 (11) A company, other than an entity organized as a public service company, that provides non-utility gas  
108 service as provided in § 56-265.4:6.

109 (12) A company, other than an entity organized as a public service company, that provides storage of  
110 electric energy that is not for sale to the public.

111 (13) *Any company that owns or operates one or more facilities for the generation, distribution, or storage*  
112 *of electric energy exclusively for consumption by one or more customers located on the site of such facilities*  
113 *or on adjoining property, provided that such facilities are connected on the customer's side of the electric*  
114 *meter and the electricity is delivered without the use of a public utility's distribution or transmission system.*  
115 *For the purposes of this subdivision, "adjoining property" includes parcels that are separated by a public*  
116 *right-of-way, highway, street, or road, provided that such parcels are zoned for industrial use. After such a*  
117 *facility operates within the certificated service territory of an electric public utility for a duration of five*  
118 *years, such company may submit to such public utility a written offer for the sale of such facility for an*  
119 *amount reflecting its depreciated value pursuant to applicable public utility accounting principles.*

120 (c) "Commission" means the State Corporation Commission.  
 121 (d) "Geothermal resources" means those resources as defined in § 45.2-2000.  
 122 **§ 56-580. Transmission and distribution of electric energy.**  
 123 A. Subject to the provisions of § 56-585.1, the Commission shall continue to regulate pursuant to this title  
 124 the distribution of retail electric energy to retail customers in the Commonwealth and, to the extent not  
 125 prohibited by federal law, the transmission of electric energy in the Commonwealth.  
 126 B. The Commission shall continue to regulate, to the extent not prohibited by federal law, the reliability,  
 127 quality and maintenance by transmitters and distributors of their transmission and retail distribution systems.  
 128 C. The Commission shall develop codes of conduct governing the conduct of incumbent electric utilities  
 129 and affiliates thereof when any such affiliates provide, or control any entity that provides, generation,  
 130 distribution, or transmission services, to the extent necessary to prevent impairment of competition. Nothing  
 131 in this chapter shall prevent an incumbent electric utility from offering metering options to its customers.  
 132 D. The Commission shall permit the construction and operation of *an* electrical generating facilities  
 133 *facility in Virginia the Commonwealth for which Commission approval is required* upon a finding that such  
 134 generating facility and associated facilities (i) will have no material adverse effect upon reliability of electric  
 135 service provided by any regulated public utility, (ii) are required by the public convenience and necessity, if a  
 136 petition for such permit is filed after July 1, 2007, and if they are to be constructed and operated by any  
 137 regulated utility whose rates are regulated pursuant to § 56-585.1, and (iii) are not otherwise contrary to the  
 138 public interest. In review of a petition for a certificate to construct and operate a generating facility described  
 139 in this subsection, the Commission shall give consideration to the effect of the facility and associated  
 140 facilities on the environment and establish such conditions as may be desirable or necessary to minimize  
 141 adverse environmental impact as provided in § 56-46.1, unless exempt as a small renewable energy project  
 142 for which the Department of Environmental Quality has issued a permit by rule pursuant to Article 5  
 143 (§ 10.1-1197.5 et seq.) of Chapter 11.1 of Title 10.1. In order to avoid duplication of governmental activities,  
 144 any valid permit or approval required for an electric generating plant and associated facilities issued or  
 145 granted by a federal, state or local governmental entity charged by law with responsibility for issuing permits  
 146 or approvals regulating environmental impact and mitigation of adverse environmental impact or for other  
 147 specific public interest issues such as building codes, transportation plans, and public safety, whether such  
 148 permit or approval is prior to or after the Commission's decision, shall be deemed to satisfy the requirements  
 149 of this section with respect to all matters that ~~(a)~~ (a) are governed by the permit or approval or ~~(b)~~ (b) are  
 150 within the authority of, and were considered by, the governmental entity in issuing such permit or approval,  
 151 and the Commission shall impose no additional conditions with respect to such matters. Nothing in this  
 152 section shall affect the ability of the Commission to keep the record of a case open. Nothing in this section  
 153 shall affect any right to appeal such permits or approvals in accordance with applicable law. In the case of a  
 154 proposed facility located in a region that was designated as of July 1, 2001, as serious nonattainment for the  
 155 one-hour ozone standard as set forth in the federal Clean Air Act, the Commission shall not issue a decision  
 156 approving such proposed facility that is conditioned upon issuance of any environmental permit or approval.  
 157 The Commission shall complete any proceeding under this section, or under any provision of the Utility  
 158 Facilities Act (§ 56-265.1 et seq.), involving an application for a certificate, permit, or approval required for  
 159 the construction or operation by a public utility of a small renewable energy project as defined in  
 160 § 10.1-1197.5, within nine months following the utility's submission of a complete application therefore.  
 161 Small renewable energy projects as defined in § 10.1-1197.5 are in the public interest and in determining  
 162 whether to approve such project, the Commission shall liberally construe the provisions of this title.  
 163 E. Nothing in this section shall impair the distribution service territorial rights of incumbent electric  
 164 utilities, and incumbent electric utilities shall continue to provide distribution services within their exclusive  
 165 service territories as established by the Commission. Subject to the provisions of § 56-585.1, the Commission  
 166 shall continue to exercise its existing authority over the provision of electric distribution services to retail  
 167 customers in the Commonwealth including, but not limited to, the authority contained in Chapters 10  
 168 (§ 56-232 et seq.) and 10.1 (§ 56-265.1 et seq.) of this title.  
 169 F. Nothing in this chapter shall impair the exclusive territorial rights of an electric utility owned or  
 170 operated by a municipality as of July 1, 1999, or by an authority created by a governmental unit exempt from  
 171 the referendum requirement of § 15.2-5403. Nor shall any provision of this chapter apply to any such electric  
 172 utility unless (i) that municipality or that authority created by a governmental unit exempt from the  
 173 referendum requirement of § 15.2-5403 elects to have this chapter apply to that utility or (ii) that utility,  
 174 directly or indirectly, sells, offers to sell or seeks to sell electric energy to any retail customer eligible to  
 175 purchase electric energy from any supplier in accordance with § 56-577 if that retail customer is outside the  
 176 geographic area that was served by such municipality as of July 1, 1999, except (a) any area within the  
 177 municipality that was served by an incumbent public utility as of that date but was thereafter served by an  
 178 electric utility owned or operated by a municipality or by an authority created by a governmental unit exempt  
 179 from the referendum requirement of § 15.2-5403 pursuant to the terms of a franchise agreement between the  
 180 municipality and the incumbent public utility, or (b) where the geographic area served by an electric utility  
 181 owned or operated by a municipality is changed pursuant to mutual agreement between the municipality and

182 the affected incumbent public utility in accordance with § 56-265.4:1. If an electric utility owned or operated  
183 by a municipality as of July 1, 1999, or by an authority created by a governmental unit exempt from the  
184 referendum requirement of § 15.2-5403 is made subject to the provisions of this chapter pursuant to clause (i)  
185 or (ii) of this subsection, then in such event the provisions of this chapter applicable to incumbent electric  
186 utilities shall also apply to any such utility, mutatis mutandis.

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

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