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SENATE BILL NO. 818

Offered January 23, 2026

A BILL to amend and reenact § 56-577 of the Code of Virginia, relating to electric utilities; licensed retail suppliers; renewable portfolio standard requirements; retail customers; aggregate demand.

Patrons—Suetterlein and Srinivasan

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That § 56-577 of the Code of Virginia is amended and reenacted as follows:

§ 56-577. Schedule for transition to retail competition; Commission authority; exemptions; pilot programs.

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

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

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

3. Subject to the provisions of subdivisions 4 and 5, only individual retail customers of electric energy from a Phase I or Phase II Utility, as those terms are defined in subdivision A 1 of § 56-585.1, within the Commonwealth, regardless of customer class, whose noncoincident peak demand during the most recent calendar year exceeded five megawatts but did not exceed one percent of the customer's incumbent electric utility's peak load during the most recent calendar year unless such customer had noncoincident peak demand in excess of 90 megawatts in during calendar year 2006 2024 or any year thereafter, shall be permitted to purchase electric energy from any supplier of electric energy licensed to sell retail electric energy within the Commonwealth, except for any incumbent electric utility other than the incumbent electric utility serving the exclusive service territory in which such a customer is located, subject to the following conditions:

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

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

c. If such customer does purchase electric energy from licensed suppliers after the expiration or termination of capped rates, it shall not thereafter be entitled to purchase electric energy from the incumbent electric utility without giving five years' one year's advance written notice of such intention to such utility, except where such customer demonstrates to the Commission, after notice and opportunity for hearing, through clear and convincing evidence that its supplier has failed to perform, or has anticipatorily breached its duty to perform, or otherwise is about to fail to perform, through no fault of the customer, and that such customer is unable to obtain service at reasonable rates from an alternative supplier. If, as a result of such proceeding, the Commission finds it in the public interest to grant an exemption from the five-year notice requirement, such Such customer may thereafter purchase electric energy at the costs of such utility, as determined by the Commission pursuant to subdivision 3 d hereof, for the remainder of the five-year notice period, after which point the customer may purchase electric energy from the utility under rates, terms and conditions determined pursuant to § 56-585.1. However, such customer shall be allowed to individually purchase electric energy from the utility under rates, terms, and conditions determined pursuant to § 56-585.1 if, upon application by such customer, the Commission finds that neither such customer's incumbent electric utility nor retail customers of such utility that do not choose to obtain electric energy from alternate suppliers will be adversely affected in a manner contrary to the public interest by granting such petition. In making such determination, the Commission shall take into consideration, without limitation, the impact and effect of any and all other previously approved petitions of like type with respect to such incumbent electric utility including, at the utility's election, any applicable market-based tariff. Any customer that returns to purchase electric energy from its incumbent electric utility, before or after expiration of the five-year one-year notice period, shall be subject to a minimum stay periods equal to those prescribed by the Commission pursuant to subdivision c 1 period of 30 months.

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

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59 under subdivision 3 e hereof shall be the market-based costs of the utility, including (i) the actual expenses of
 60 procuring such located in the service territory of an incumbent electric utility purchases electric energy from
 61 the market, (ii) additional administrative and transaction costs associated with procuring such energy,
 62 including, but not limited to, costs of transmission, transmission line losses, and ancillary services, and (iii) a
 63 reasonable margin as determined pursuant to the provisions of subdivision A 2 of § 56-585.1. The
 64 methodology established by the Commission for determining such costs a licensed supplier pursuant to this
 65 subdivision, such licensed supplier shall ensure that neither utilities nor other retail customers are adversely
 66 affected in a manner contrary to the public interest satisfy the annual renewable portfolio standard program
 67 requirement percentage established by subdivision C 1 of § 56-585.5 on an aggregate basis for all electric
 68 energy sold by such licensed supplier within the incumbent electric utility's service territory during a
 69 compliance year. A Phase I or Phase II Utility shall include the licensed supplier's electric energy sold
 70 during a compliance year in its calculation of total electric energy and shall include the renewable energy
 71 certificates procured by the licensed supplier toward its calculation of renewable energy certificates needed
 72 to satisfy its annual renewable portfolio standard program requirements. No renewable portfolio standard
 73 program subobligation requirement, including those described in subdivisions C 2 and C 3 of § 56-585.5,
 74 shall apply to a licensed supplier's sale of retail electric energy in the Commonwealth.

75 e. No provision of this subdivision A 3 shall apply to any customer of a licensed supplier that entered into
 76 an agreement with a licensed supplier before July 1, 2026, unless such customer has returned to purchase
 77 and receives electric energy from its incumbent electric utility pursuant to the provisions of this subdivision A
 78 3 or subdivision A 4.

79 4. Two or more individual nonresidential retail customers of electric energy within the Commonwealth, a
 80 Phase I or Phase II Utility whose individual noncoincident peak demand during the most recent calendar year
 81 did not exceed five megawatts, may petition the Commission for permission in calendar year 2024 or any
 82 year thereafter shall be permitted to aggregate or combine their demands, for the purpose of meeting the
 83 demand limitations of subdivision 3, so as to become qualified to purchase electric energy from any supplier
 84 of electric energy licensed to sell retail electric energy within the Commonwealth under the conditions
 85 specified in subdivision 3. The Commission may, after notice and opportunity for hearing, approve such
 86 petition if it finds that:

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

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

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

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

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

108 b. To continue purchasing renewable energy pursuant to the terms of a power purchase agreement in
 109 effect on the date there is filed with the Commission a tariff for the incumbent electric utility that serves the
 110 exclusive service territory in which the customer is located to offer electric energy provided 100 percent from
 111 renewable energy, for the duration of such agreement. Such licensed supplier shall procure and retire
 112 renewable energy certificates generated by RPS eligible sources, as described in subsection C of § 56-585.5,
 113 for the load served by such supplier with electric energy provided 100 percent from renewable energy during
 114 each calendar year.

115 b. The Commission shall establish, administer, and publicly maintain a queue for customers seeking to
 116 purchase electric energy provided 100 percent from renewable energy from a licensed supplier pursuant to
 117 this subsection. The Commission shall require each such customer to submit a request in a form and manner
 118 determined by the Commission, which request the Commission shall record, date-stamp, and assign a
 119 position in the queue in the order received. The Commission shall review each request to ensure compliance
 120 with the provisions of this subsection and any applicable consumer protection requirements. Upon the

121 Commission's approval of a customer's request, the customer may contract with the licensed supplier for the
122 supply of electric energy pursuant to this subsection.

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

137 7. A tariff for one or more classes of residential customers filed with the Commission for approval by a
138 cooperative on or after July 1, 2010, shall be deemed to offer a tariff for electric energy provided 100 percent
139 from renewable energy if it provides undifferentiated electric energy and the cooperative retires a quantity of
140 renewable energy certificates equal to 100 percent of the electric energy provided pursuant to such tariff. A
141 tariff for one or more classes of nonresidential customers filed with the Commission for approval by a
142 cooperative on or after July 1, 2012, shall be deemed to offer a tariff for electric energy provided 100 percent
143 from renewable energy if it provides undifferentiated electric energy and the cooperative retires a quantity of
144 renewable energy certificates equal to 100 percent of the electric energy provided pursuant to such tariff. For
145 purposes of this section, "renewable energy certificate" means, with respect to cooperatives, a tradable
146 commodity or instrument issued by a regional transmission entity or affiliate or successor thereof in the
147 United States that validates the generation of electricity from renewable energy sources or that is certified
148 under a generally recognized renewable energy certificate standard. One renewable energy certificate equals
149 1,000 kWh or one MWh of electricity generated from renewable energy. A cooperative offering electric
150 energy provided 100 percent from renewable energy pursuant to this subdivision that involves the retirement
151 of renewable energy certificates shall disclose to its retail customers who express an interest in purchasing
152 energy pursuant to such tariff (i) that the renewable energy is comprised of the retirement of renewable
153 energy certificates, (ii) the identity of the entity providing the renewable energy certificates, and (iii) the
154 sources of renewable energy being offered.

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

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

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

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

183 obtaining retail electric energy at capped rates.

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