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HOUSE BILL NO. 369

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the House Committee on Labor and Commerce
on _____)

(Patron Prior to Substitute—Delegate Reid)

A BILL to amend and reenact § 56-585.5 of the Code of Virginia, relating to electric utilities; renewable energy portfolio standard; zero-carbon electricity; accelerated clean energy buyers.

Be it enacted by the General Assembly of Virginia:

1. That § 56-585.5 of the Code of Virginia is amended and reenacted as follows:

§ 56-585.5. Generation of electricity from renewable and zero carbon sources.

A. As used in this section:

"Accelerated ~~renewable~~ clean energy buyer" means a commercial or industrial customer of a Phase I or Phase II Utility, irrespective of generation supplier, with an aggregate load over 25 megawatts in the prior calendar year, that enters into arrangements pursuant to subsection G, as certified by the Commission.

"Aggregate load" means the combined electrical load associated with selected accounts of an accelerated ~~renewable~~ clean energy buyer with the same legal entity name as, or in the names of affiliated entities that control, are controlled by, or are under common control of, such legal entity or are the names of affiliated entities under a common parent.

"Control" has the same meaning as provided in § 56-585.1:11.

"Elementary or secondary" has the same meaning as provided in § 22.1-1.

"Falling water" means hydroelectric resources, including run-of-river generation from a combined pumped-storage and run-of-river facility. "Falling water" does not include electricity generated from pumped-storage facilities.

"Low-income qualifying projects" means a project that provides a minimum of 50 percent of the respective electric output to low-income utility customers as that term is defined in § 56-576.

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

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

"Previously developed project site" means any property, including related buffer areas, if any, that has been previously disturbed or developed for non-single-family residential, nonagricultural, or nonsilvicultural use, regardless of whether such property currently is being used for any purpose. "Previously developed project site" includes a brownfield as defined in § 10.1-1230 or any parcel that has been previously used (i) for a retail, commercial, or industrial purpose; (ii) as a parking lot; (iii) as the site of a parking lot canopy or structure; (iv) for mining, which is any lands affected by coal mining that took place before August 3, 1977, or any lands upon which extraction activities have been permitted by the Department of Energy under Title 45.2; (v) for quarrying; or (vi) as a landfill.

"Total electric energy" means total electric energy sold to retail customers in the Commonwealth service territory of a Phase I or Phase II Utility, other than accelerated ~~renewable~~ *clean* energy buyers, by the incumbent electric utility or other retail supplier of electric energy in the previous calendar year, excluding an amount equivalent to the annual percentages of the electric energy that was supplied to such customer from nuclear generating plants located within the Commonwealth in the previous calendar year, provided such nuclear units were operating by July 1, 2020, or from any zero-carbon electric generating facilities not otherwise RPS eligible sources and placed into service in the Commonwealth after July 1, 2030.

"Zero-carbon electricity" means electricity generated by any generating unit that does not emit carbon dioxide as a by-product of combusting fuel to generate electricity.

B. 1. By December 31, 2024, except for any coal-fired electric generating units (i) jointly owned with a cooperative utility or (ii) owned and operated by a Phase II Utility located in the coalfield region of the Commonwealth that co-fires with biomass, any Phase I and Phase II Utility shall retire all generating units principally fueled by oil with a rated capacity in excess of 500 megawatts and all coal-fired electric generating units operating in the Commonwealth.

2. By December 31, 2045, except for biomass-fired electric generating units that do not co-fire with coal, each Phase I and II Utility shall retire all other electric generating units located in the Commonwealth that emit carbon as a by-product of combusting fuel to generate electricity.

3. A Phase I or Phase II Utility may petition the Commission for relief from the requirements of this subsection on the basis that the requirement would threaten the reliability or security of electric service to customers. The Commission shall consider in-state and regional transmission entity resources and shall evaluate the reliability of each proposed retirement on a case-by-case basis in ruling upon any such petition.

C. Each Phase I and Phase II Utility shall participate in a renewable energy portfolio standard program (RPS Program) that establishes annual goals for the sale of renewable energy to all retail customers in the utility's service territory, other than accelerated ~~renewable~~ clean energy buyers pursuant to subsection G,

60 regardless of whether such customers purchase electric supply service from the utility or from suppliers other
 61 than the utility. To comply with the RPS Program, each Phase I and Phase II Utility shall procure and retire
 62 Renewable Energy Certificates (RECs) originating from renewable energy standard eligible sources (RPS
 63 eligible sources). For purposes of complying with the RPS Program from 2021 to 2024, a Phase I and Phase
 64 II Utility may use RECs from any renewable energy facility, as defined in § 56-576, provided that such
 65 facilities are located in the Commonwealth or are physically located within the PJM Interconnection, LLC
 66 (PJM) region. However, at no time during this period or thereafter may any Phase I or Phase II Utility use
 67 RECs from (i) renewable thermal energy, (ii) renewable thermal energy equivalent, or (iii) biomass-fired
 68 facilities that are outside the Commonwealth. From compliance year 2025 and all years after, each Phase I
 69 and Phase II Utility may only use RECs from RPS eligible sources for compliance with the RPS Program.

70 In order to qualify as RPS eligible sources, such sources must be (a) electric-generating resources that
 71 generate electric energy derived from solar or wind located in the Commonwealth or off the Commonwealth's
 72 Atlantic shoreline or in federal waters and interconnected directly into the Commonwealth or physically
 73 located within the PJM region; (b) falling water resources located in the Commonwealth or physically located
 74 within the PJM region that were in operation as of January 1, 2020, that are owned by a Phase I or Phase II
 75 Utility or for which a Phase I or Phase II Utility has entered into a contract prior to January 1, 2020, to
 76 purchase the energy, capacity, and renewable attributes of such falling water resources; (c) non-utility-owned
 77 resources from falling water that (1) are less than 65 megawatts, (2) began commercial operation after
 78 December 31, 1979, or (3) added incremental generation representing greater than 50 percent of the original
 79 nameplate capacity after December 31, 1979, provided that such resources are located in the Commonwealth
 80 or are physically located within the PJM region; (d) waste-to-energy or landfill gas-fired generating resources
 81 located in the Commonwealth and in operation as of January 1, 2020, provided that such resources do not use
 82 waste heat from fossil fuel combustion; (e) geothermal heating and cooling systems located in the
 83 Commonwealth; (f) geothermal electric generating resources located in the Commonwealth or physically
 84 located within the PJM region; or (g) biomass-fired facilities in operation in the Commonwealth and in
 85 operation as of January 1, 2023, that (1) supply no more than 10 percent of their annual net electrical
 86 generation to the electric grid or no more than 15 percent of their annual total useful energy to any entity
 87 other than the manufacturing facility to which the generating source is interconnected and are fueled by
 88 forest-product manufacturing residuals, including pulping liquor, bark, paper recycling residuals, biowastes,
 89 or biomass, as described in subdivisions A 1, 2, and 4 of § 10.1-1308.1, provided that biomass as described in
 90 subdivision A 1 of § 10.1-1308.1 results from harvesting in accordance with best management practices for
 91 the sustainable harvesting of biomass developed and enforced by the State Forester pursuant to § 10.1-1105,
 92 or (2) are owned by a Phase I or Phase II Utility, have less than 52 megawatts capacity, and are fueled by
 93 forest-product manufacturing residuals, biowastes, or biomass, as described in subdivisions A 1, 2, and 4 of
 94 § 10.1-1308.1, provided that biomass as described in subdivision A 1 of § 10.1-1308.1 results from
 95 harvesting in accordance with best management practices for the sustainable harvesting of biomass developed
 96 and enforced by the State Forester pursuant to § 10.1-1105. Regardless of any future maintenance, expansion,
 97 or refurbishment activities, the total amount of RECs that may be sold by any RPS eligible source using
 98 biomass in any year shall be no more than the number of megawatt hours of electricity produced by that
 99 facility in 2022; however, in no year may any RPS eligible source using biomass sell RECs in excess of the
 100 actual megawatt-hours of electricity generated by such facility that year. In order to comply with the RPS
 101 Program, each Phase I and Phase II Utility may use and retire the environmental attributes associated with
 102 any existing owned or contracted solar, wind, falling water, or biomass electric generating resources in
 103 operation, or proposed for operation, in the Commonwealth or solar, wind, or falling water resources
 104 physically located within the PJM region, with such resource qualifying as a Commonwealth-located
 105 resource for purposes of this subsection, as of January 1, 2020, provided that such renewable attributes are
 106 verified as RECs consistent with the PJM-EIS Generation Attribute Tracking System.

107 1. The RPS Program requirements shall be a percentage of the total electric energy sold in the previous
 108 calendar year and shall be implemented in accordance with the following schedule:

109	Phase I Utilities		Phase II Utilities	
	110 Year	111 RPS Program Requirement	112 Year	113 RPS Program Requirement
114 2021	115 6%	116 2021	117 14%	
118 2022	119 7%	120 2022	121 17%	
122 2023	123 8%	124 2023	125 20%	
126 2024	127 10%	128 2024	129 23%	
130 2025	131 14%	132 2025	133 26%	
134 2026	135 17%	136 2026	137 29%	
138 2027	139 20%	140 2027	141 32%	
142 2028	143 24%	144 2028	145 35%	
146 2029	147 27%	148 2029	149 38%	
150 2030	151 30%	152 2030	153 41%	
154 2031	155 33%	156 2031	157 45%	
158 2032	159 36%	160 2032	161 49%	

123	2033	39%	2033	52%
124	2034	42%	2034	55%
125	2035	45%	2035	59%
126	2036	53%	2036	63%
127	2037	53%	2037	67%
128	2038	57%	2038	71%
129	2039	61%	2039	75%
130	2040	65%	2040	79%
131	2041	68%	2041	83%
132	2042	71%	2042	87%
133	2043	74%	2043	91%
134	2044	77%	2044	95%
135	2045	80%	2045 and thereafter	100%
136				
137	2046	84%		
138	2047	88%		
139	2048	92%		
140	2049	96%		
141	2050 and thereafter	100%		
142				

2. A Phase II Utility shall meet one percent of the RPS Program requirements in any given compliance year with solar, wind, or anaerobic digestion resources of one megawatt or less located in the Commonwealth, with not more than 3,000 kilowatts at any single location or at contiguous locations owned by the same entity or affiliated entities and, to the extent that low-income qualifying projects are available, then no less than 25 percent of such one percent shall be composed of low-income qualifying projects. To the extent that low-income qualifying projects are not available and projects located on or adjacent to public elementary or secondary schools are available, the remainder of no less than 25 percent of such one percent shall be composed of projects located on or adjacent to public elementary or secondary schools. A project located on or adjacent to a public elementary or secondary school shall have a contractual relationship with such school in order to qualify for the provisions of this section.

3. Beginning with the 2025 compliance year and thereafter, at least 75 percent of all RECs used by a Phase II Utility in a compliance period shall come from RPS eligible resources located in the Commonwealth.

4. Any Phase I or Phase II Utility may apply renewable energy sales achieved or RECs acquired in excess of the sales requirement for that RPS Program to the sales requirements for RPS Program requirements in the year in which it was generated and the five calendar years after the renewable energy was generated or the RECs were created. To the extent that a Phase I or Phase II Utility procures RECs for RPS Program compliance from resources the utility does not own, the utility shall be entitled to recover the costs of such certificates at its election pursuant to § 56-249.6 or subdivision A 5 d of § 56-585.1.

5. Energy from a geothermal heating and cooling system is eligible for inclusion in meeting the requirements of the RPS Program. RECs from a geothermal heating and cooling system are created based on the amount of energy, converted from BTUs to kilowatt-hours, that is generated by a geothermal heating and cooling system for space heating and cooling or water heating. The Commission shall determine the form and manner in which such RECs are verified.

D. Each Phase I or Phase II Utility shall petition the Commission for necessary approvals to procure zero-carbon electricity generating capacity as set forth in this subsection and energy storage resources as set forth in subsection E. To the extent that a Phase I or Phase II Utility constructs or acquires new zero-carbon generating facilities or energy storage resources, the utility shall petition the Commission for the recovery of the costs of such facilities, at the utility's election, either through its rates for generation and distribution services or through a rate adjustment clause pursuant to subdivision A 6 of § 56-585.1. All costs not sought for recovery through a rate adjustment clause pursuant to subdivision A 6 of § 56-585.1 associated with generating facilities provided by sunlight or onshore or offshore wind are also eligible to be applied by the utility as a customer credit reinvestment offset as provided in subdivision A 8 of § 56-585.1. Costs associated with the purchase of energy, capacity, or environmental attributes from facilities owned by the persons other than the utility required by this subsection shall be recovered by the utility either through its rates for generation and distribution services or pursuant to § 56-249.6.

1. Each Phase I Utility shall petition the Commission for necessary approvals to construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of 600 megawatts of generating capacity using energy derived from sunlight or onshore wind.

a. By December 31, 2023, each Phase I Utility shall petition the Commission for necessary approvals to construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of at least 200 megawatts of generating capacity located in the Commonwealth using energy derived from sunlight or onshore wind, and 35 percent of such generating capacity procured shall be from the purchase of

186 energy, capacity, and environmental attributes from solar or onshore wind facilities owned by persons other
187 than the utility, with the remainder, in the aggregate, being from construction or acquisition by such Phase I
188 Utility.

189 b. By December 31, 2027, each Phase I Utility shall petition the Commission for necessary approvals to
190 construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of
191 at least 200 megawatts of additional generating capacity located in the Commonwealth using energy derived
192 from sunlight or onshore wind, and 35 percent of such generating capacity procured shall be from the
193 purchase of energy, capacity, and environmental attributes from solar or onshore wind facilities owned by
194 persons other than the utility, with the remainder, in the aggregate, being from construction or acquisition by
195 such Phase I Utility.

196 c. By December 31, 2030, each Phase I Utility shall petition the Commission for necessary approvals to
197 construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of
198 at least 200 megawatts of additional generating capacity located in the Commonwealth using energy derived
199 from sunlight or onshore wind, and 35 percent of such generating capacity procured shall be from the
200 purchase of energy, capacity, and environmental attributes from solar or onshore wind facilities owned by
201 persons other than the utility, with the remainder, in the aggregate, being from construction or acquisition by
202 such Phase I Utility.

203 d. Nothing in this subdivision 1 shall prohibit such Phase I Utility from constructing, acquiring, or
204 entering into agreements to purchase the energy, capacity, and environmental attributes of more than 600
205 megawatts of generating capacity located in the Commonwealth using energy derived from sunlight or
206 onshore wind, provided the utility receives approval from the Commission pursuant to §§ 56-580 and
207 56-585.1.

208 2. By December 31, 2035, each Phase II Utility shall petition the Commission for necessary approvals to
209 (i) construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes
210 of 16,100 megawatts of generating capacity located in the Commonwealth using energy derived from
211 sunlight or onshore wind, which shall include 1,100 megawatts of solar generation of a nameplate capacity
212 not to exceed three megawatts per individual project and 35 percent of such generating capacity procured
213 shall be from the purchase of energy, capacity, and environmental attributes from solar facilities owned by
214 persons other than a utility, including utility affiliates and deregulated affiliates and (ii) pursuant to
215 § 56-585.1:11, construct or purchase one or more offshore wind generation facilities located off the
216 Commonwealth's Atlantic shoreline or in federal waters and interconnected directly into the Commonwealth
217 with an aggregate capacity of up to 5,200 megawatts. At least 200 megawatts of the 16,100 megawatts shall
218 be placed on previously developed project sites.

219 a. By December 31, 2024, each Phase II Utility shall petition the Commission for necessary approvals to
220 construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of
221 at least 3,000 megawatts of generating capacity located in the Commonwealth using energy derived from
222 sunlight or onshore wind, and 35 percent of such generating capacity procured shall be from the purchase of
223 energy, capacity, and environmental attributes from solar or onshore wind facilities owned by persons other
224 than the utility, with the remainder, in the aggregate, being from construction or acquisition by such Phase II
225 Utility.

226 b. By December 31, 2027, each Phase II Utility shall petition the Commission for necessary approvals to
227 construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of
228 at least 3,000 megawatts of additional generating capacity located in the Commonwealth using energy derived
229 from sunlight or onshore wind, and 35 percent of such generating capacity procured shall be from the
230 purchase of energy, capacity, and environmental attributes from solar or onshore wind facilities owned by
231 persons other than the utility, with the remainder, in the aggregate, being from construction or acquisition by
232 such Phase II Utility.

233 c. By December 31, 2030, each Phase II Utility shall petition the Commission for necessary approvals to
234 construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of
235 at least 4,000 megawatts of additional generating capacity located in the Commonwealth using energy
236 derived from sunlight or onshore wind, and 35 percent of such generating capacity procured shall be from the
237 purchase of energy, capacity, and environmental attributes from solar or onshore wind facilities owned by
238 persons other than the utility, with the remainder, in the aggregate, being from construction or acquisition by
239 such Phase II Utility.

240 d. By December 31, 2035, each Phase II Utility shall petition the Commission for necessary approvals to
241 construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of
242 at least 6,100 megawatts of additional generating capacity located in the Commonwealth using energy
243 derived from sunlight or onshore wind, and 35 percent of such generating capacity procured shall be from the
244 purchase of energy, capacity, and environmental attributes from solar or onshore wind facilities owned by
245 persons other than the utility, with the remainder, in the aggregate, being from construction or acquisition by
246 such Phase II Utility.

247 e. Nothing in this subdivision 2 shall prohibit such Phase II Utility from constructing, acquiring, or

248 entering into agreements to purchase the energy, capacity, and environmental attributes of more than 16,100
 249 megawatts of generating capacity located in the Commonwealth using energy derived from sunlight or
 250 onshore wind, provided the utility receives approval from the Commission pursuant to §§ 56-580 and
 251 56-585.1.

252 3. Nothing in this section shall prohibit a utility from petitioning the Commission to construct or acquire
 253 zero-carbon electricity or from entering into contracts to procure the energy, capacity, and environmental
 254 attributes of zero-carbon electricity generating resources in excess of the requirements in subsection B. The
 255 Commission shall determine whether to approve such petitions on a stand-alone basis pursuant to §§ 56-580
 256 and 56-585.1, provided that the Commission's review shall also consider whether the proposed generating
 257 capacity (i) is necessary to meet the utility's native load, (ii) is likely to lower customer fuel costs, (iii) will
 258 provide economic development opportunities in the Commonwealth, and (iv) serves a need that cannot be
 259 more affordably met with demand-side or energy storage resources.

260 Each Phase I and Phase II Utility shall, at least once every year, conduct a request for proposals for new
 261 solar and wind resources. Such requests shall quantify and describe the utility's need for energy, capacity, or
 262 renewable energy certificates. The requests for proposals shall be publicly announced and made available for
 263 public review on the utility's website at least 45 days prior to the closing of such request for proposals. The
 264 requests for proposals shall provide, at a minimum, the following information: (a) the size, type, and timing
 265 of resources for which the utility anticipates contracting; (b) any minimum thresholds that must be met by
 266 respondents; (c) major assumptions to be used by the utility in the bid evaluation process, including
 267 environmental emission standards; (d) detailed instructions for preparing bids so that bids can be evaluated on
 268 a consistent basis; (e) the preferred general location of additional capacity; and (f) specific information
 269 concerning the factors involved in determining the price and non-price criteria used for selecting winning
 270 bids. A utility may evaluate responses to requests for proposals based on any criteria that it deems reasonable
 271 but shall at a minimum consider the following in its selection process: (1) the status of a particular project's
 272 development; (2) the age of existing generation facilities; (3) the demonstrated financial viability of a project
 273 and the developer; (4) a developer's prior experience in the field; (5) the location and effect on the
 274 transmission grid of a generation facility; (6) benefits to the Commonwealth that are associated with
 275 particular projects, including regional economic development and the use of goods and services from Virginia
 276 businesses; and (7) the environmental impacts of particular resources, including impacts on air quality within
 277 the Commonwealth and the carbon intensity of the utility's generation portfolio.

278 4. In connection with the requirements of this subsection, each Phase I and Phase II Utility shall,
 279 commencing in 2020 and concluding in 2035, submit annually a plan and petition for approval for the
 280 development of new solar and onshore wind generation capacity. Such plan shall reflect, in the aggregate and
 281 over its duration, the requirements of subsection D concerning the allocation percentages for construction or
 282 purchase of such capacity. Such petition shall contain any request for approval to construct such facilities
 283 pursuant to subsection D of § 56-580 and a request for approval or update of a rate adjustment clause
 284 pursuant to subdivision A 6 of § 56-585.1 to recover the costs of such facilities. Such plan shall also include
 285 the utility's plan to meet the energy storage project targets of subsection E, including the goal of installing at
 286 least 10 percent of such energy storage projects behind the meter. In determining whether to approve the
 287 utility's plan and any associated petition requests, the Commission shall determine whether they are
 288 reasonable and prudent and shall give due consideration to (i) the RPS and carbon dioxide reduction
 289 requirements in this section; (ii) the promotion of new renewable generation and energy storage resources
 290 within the Commonwealth, and associated economic development; and (iii) fuel savings projected to be
 291 achieved by the plan. Notwithstanding any other provision of this title, the Commission's final order
 292 regarding any such petition and associated requests shall be entered by the Commission not more than six
 293 months after the date of the filing of such petition.

294 5. If, in any year, a Phase I or Phase II Utility is unable to meet the compliance obligation of the RPS
 295 Program requirements or if the cost of RECs necessary to comply with RPS Program requirements exceeds
 296 \$45 per megawatt hour, such supplier shall be obligated to make a deficiency payment equal to \$45 for each
 297 megawatt-hour shortfall for the year of noncompliance, except that the deficiency payment for any shortfall
 298 in procuring RECs for solar, wind, or anaerobic digesters located in the Commonwealth shall be \$75 per
 299 megawatts hour for resources one megawatt and lower. The amount of any deficiency payment shall increase
 300 by one percent annually after 2021. A Phase I or Phase II Utility shall be entitled to recover the costs of such
 301 payments as a cost of compliance with the requirements of this subsection pursuant to subdivision A 5 d of
 302 § 56-585.1. All proceeds from the deficiency payments shall be deposited into an interest-bearing account
 303 administered by the Department of Energy. In administering this account, the Department of Energy shall
 304 manage the account as follows: (i) 50 percent of total revenue shall be directed to job training programs in
 305 historically economically disadvantaged communities; (ii) 16 percent of total revenue shall be directed to
 306 energy efficiency measures for public facilities; (iii) 30 percent of total revenue shall be directed to renewable
 307 energy programs located in historically economically disadvantaged communities; and (iv) four percent of
 308 total revenue shall be directed to administrative costs.

309 For any project constructed pursuant to this subsection or subsection E, a utility shall, subject to a

310 competitive procurement process, procure equipment from a Virginia-based or United States-based
311 manufacturer using materials or product components made in Virginia or the United States, if reasonably
312 available and competitively priced.

313 E. To enhance reliability and performance of the utility's generation and distribution system, each Phase I
314 and Phase II Utility shall petition the Commission for necessary approvals to construct or acquire new,
315 utility-owned energy storage resources.

316 1. By December 31, 2035, each Phase I Utility shall petition the Commission for necessary approvals to
317 construct or acquire 400 megawatts of energy storage capacity. Nothing in this subdivision shall prohibit a
318 Phase I Utility from constructing or acquiring more than 400 megawatts of energy storage, provided that the
319 utility receives approval from the Commission pursuant to §§ 56-580 and 56-585.1.

320 2. By December 31, 2035, each Phase II Utility shall petition the Commission for necessary approvals to
321 construct or acquire 2,700 megawatts of energy storage capacity. Nothing in this subdivision shall prohibit a
322 Phase II Utility from constructing or acquiring more than 2,700 megawatts of energy storage, provided that the
323 utility receives approval from the Commission pursuant to §§ 56-580 and 56-585.1.

324 3. No single energy storage project shall exceed 500 megawatts in size, except that a Phase II Utility may
325 procure a single energy storage project up to 800 megawatts.

326 4. All energy storage projects procured pursuant to this subsection shall meet the competitive procurement
327 protocols established in subdivision D 3.

328 5. After July 1, 2020, at least 35 percent of the energy storage facilities placed into service shall be (i)
329 purchased by the public utility from a party other than the public utility or (ii) owned by a party other than a
330 public utility, with the capacity from such facilities sold to the public utility. By January 1, 2021, the
331 Commission shall adopt regulations to achieve the deployment of energy storage for the Commonwealth
332 required in subdivisions 1 and 2, including regulations that set interim targets and update existing utility
333 planning and procurement rules. The regulations shall include programs and mechanisms to deploy energy
334 storage, including competitive solicitations, behind-the-meter incentives, non-wires alternatives programs,
335 and peak demand reduction programs.

336 F. All costs incurred by a Phase I or Phase II Utility related to compliance with the requirements of this
337 section or pursuant to § 56-585.1:11, including (i) costs of generation facilities powered by sunlight or
338 onshore or offshore wind, or energy storage facilities, that are constructed or acquired by a Phase I or Phase II
339 Utility after July 1, 2020, (ii) costs of capacity, energy, or environmental attributes from generation facilities
340 powered by sunlight or onshore or offshore wind, or falling water, or energy storage facilities purchased by
341 the utility from persons other than the utility through agreements after July 1, 2020, and (iii) all other costs of
342 compliance, including costs associated with the purchase of RECs associated with RPS Program
343 requirements pursuant to this section shall be recovered from all retail customers in the service territory of a
344 Phase I or Phase II Utility as a non-bypassable charge, irrespective of the generation supplier of such
345 customer, except (a) as provided in subsection G for an accelerated ~~renewable~~ *clean* energy buyer or (b) as
346 provided in subdivision C 3 of § 56-585.1:11, with respect to the costs of an offshore wind generation
347 facility, for a PIPP eligible utility customer or an advanced clean energy buyer or qualifying large general
348 service customer, as those terms are defined in § 56-585.1:11. If a Phase I or Phase II Utility serves
349 customers in more than one jurisdiction, such utility shall recover all of the costs of compliance with the RPS
350 Program requirements from its Virginia customers through the applicable cost recovery mechanism, and all
351 associated energy, capacity, and environmental attributes shall be assigned to Virginia to the extent that such
352 costs are requested but not recovered from any system customers outside the Commonwealth.

353 By September 1, 2020, the Commission shall direct the initiation of a proceeding for each Phase I and
354 Phase II Utility to review and determine the amount of such costs, net of benefits, that should be allocated to
355 retail customers within the utility's service territory which have elected to receive electric supply service from
356 a supplier of electric energy other than the utility, and shall direct that tariff provisions be implemented to
357 recover those costs from such customers beginning no later than January 1, 2021. Thereafter, such charges
358 and tariff provisions shall be updated and trued up by the utility on an annual basis, subject to continuing
359 review and approval by the Commission.

360 G. 1. An accelerated ~~renewable~~ *clean* energy buyer may contract with a Phase I or Phase II Utility, or a
361 person other than a Phase I or Phase II Utility, to obtain (i) RECs from RPS eligible resources or (ii) bundled
362 capacity, energy, and RECs from solar or, wind, or ~~zero-carbon~~ *electricity* generation resources located
363 within the PJM region and initially placed in commercial operation after January 1, 2015, including any
364 contract with a utility for such generation resources that does not allocate the cost of such resources to or
365 recover the cost of such resources from any other customers of the utility that have not voluntarily agreed to
366 pay such cost. *Beginning July 1, 2026, an accelerated clean energy buyer may also contract with a Phase II*
367 *Utility, or a person other than a Phase II Utility, to obtain zero-carbon electricity from generation resources*
368 *located within the Commonwealth and initially placed in commercial operation after January 1, 2015.* Such
369 an accelerated ~~renewable~~ *clean* energy buyer may offset all or a portion of its electric load for purposes of
370 RPS compliance through such arrangements. An accelerated ~~renewable~~ *clean* energy buyer shall be exempt
371 from the assignment of non-bypassable RPS compliance costs pursuant to subsection F, with the exception of

372 the costs of an offshore wind generating facility pursuant to § 56-585.1:11, based on the amount of (i) RECs
 373 *from generation resources located within the PJM region and (ii) zero-carbon electricity from generation*
 374 *resources located within the Commonwealth* obtained pursuant to this subsection in proportion to the
 375 customer's total electric energy consumption, on an annual basis. An accelerated ~~renewable~~ *clean* energy
 376 buyer may also contract with a Phase I or Phase II Utility, or a person other than a Phase I or Phase II Utility,
 377 to obtain capacity from energy storage facilities located within the network service area of the utility pursuant
 378 to this subsection, provided that the costs of such resources are not recovered from any of the utility's
 379 customers who have not voluntarily agreed to pay for such costs. Such accelerated ~~renewable~~ *clean* energy
 380 buyer shall be exempt from the assignment of non-bypassable RPS Program compliance costs specifically
 381 associated with energy storage facilities pursuant to this subsection in proportion to the customer's total
 382 capacity demand on an annual basis. An accelerated ~~renewable~~ *clean* energy buyer obtaining RECs only shall
 383 not be exempt from costs related to procurement of new solar or onshore wind generation capacity, energy, or
 384 environmental attributes, or energy storage facilities, by the utility pursuant to subsections D and E, however,
 385 an accelerated ~~renewable~~ *clean* energy buyer that is a customer of a Phase II Utility and was subscribed, as of
 386 March 1, 2020, to a voluntary companion experimental tariff offering of the utility for the purchase of
 387 renewable attributes from renewable energy facilities that requires a renewable facilities agreement and the
 388 purchase of a minimum of 2,000 renewable attributes annually, shall be exempt from allocation of the net
 389 costs related to procurement of new solar or onshore wind generation capacity, energy, or environmental
 390 attributes, or energy storage facilities, by the utility pursuant to subsections D and E, based on the amount of
 391 RECs associated with the customer's renewable facilities agreements associated with such tariff offering as of
 392 that date in proportion to the customer's total electric energy consumption, on an annual basis. To the extent
 393 that an accelerated ~~renewable~~ *clean* energy buyer contracts for the capacity of new solar or wind generation
 394 resources or energy storage facilities pursuant to this subsection, the aggregate amount of such nameplate
 395 capacity shall be offset from the utility's procurement requirements pursuant to subsection D. All RECs
 396 associated with contracts entered into by an accelerated ~~renewable~~ *clean* energy buyer with the utility, or a
 397 person other than the utility, for an RPS Program shall not be credited to the utility's compliance with its RPS
 398 requirements, and the calculation of the utility's RPS Program requirements shall not include the electric load
 399 covered by customers certified as accelerated ~~renewable~~ *clean* energy buyers.

400 2. Each Phase I or Phase II Utility shall certify, and verify as necessary, to the Commission that the
 401 accelerated ~~renewable~~ *clean* energy buyer has satisfied the exemption requirements of this subsection for
 402 each year, or an accelerated ~~renewable~~ *clean* energy buyer may choose to certify satisfaction of this
 403 exemption by reporting to the Commission individually. The Commission may promulgate such rules and
 404 regulations as may be necessary to implement the provisions of this subsection.

405 3. Provided that no incremental costs associated with any contract between a Phase I or Phase II Utility
 406 and an accelerated ~~renewable~~ *clean* energy buyer is allocated to or recovered from any other customer of the
 407 utility, any such contract with an accelerated ~~renewable~~ *clean* energy buyer that is a jurisdictional customer of
 408 the utility shall not be deemed a special rate or contract requiring Commission approval pursuant to
 409 § 56-235.2.

410 4. The ~~State Corporation~~ Commission shall ensure that any distribution and transmission costs associated
 411 with new energy generation resources procured pursuant to this subsection ~~G~~ of § 56-585.5 of the ~~Code of~~
 412 ~~Virginia, as amended by this act~~, are justly and reasonably allocated.

413 H. No customer of a Phase II Utility with a peak demand in excess of 100 megawatts in 2019 that elected
 414 pursuant to subdivision A 3 of § 56-577 to purchase electric energy from a competitive service provider prior
 415 to April 1, 2019, shall be allocated any non-bypassable charges pursuant to subsection F for such period that
 416 the customer is not purchasing electric energy from the utility, and such customer's electric load shall not be
 417 included in the utility's RPS Program requirements. No customer of a Phase I Utility that elected pursuant to
 418 subdivision A 3 of § 56-577 to purchase electric energy from a competitive service provider prior to February
 419 1, 2019, shall be allocated any non-bypassable charges pursuant to subsection F for such period that the
 420 customer is not purchasing electric energy from the utility, and such customer's electric load shall not be
 421 included in the utility's RPS Program requirements.

422 I. In any petition by a Phase I or Phase II Utility for a certificate of public convenience and necessity to
 423 construct and operate an electrical generating facility that generates electric energy derived from sunlight
 424 submitted pursuant to § 56-580, such utility shall demonstrate that the proposed facility was subject to
 425 competitive procurement or solicitation as set forth in subdivision D 3.

426 J. Notwithstanding any contrary provision of law, for the purposes of this section, any falling water
 427 generation facility located in the Commonwealth and commencing commercial operations prior to July 1,
 428 2024, shall be considered a renewable energy portfolio standard (RPS) eligible source.

429 K. Nothing in this section shall apply to any entity organized under Chapter 9.1 (§ 56-231.15 et seq.).

430 L. The Commission shall adopt such rules and regulations as may be necessary to implement the
 431 provisions of this section, including a requirement that participants verify whether the RPS Program
 432 requirements are met in accordance with this section.