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HOUSE BILL NO. 628

House Amendments in [] - February 3, 2026

A BILL to amend and reenact §§ 56-585.5 and 56-594.02 of the Code of Virginia, relating to electric utilities; renewable energy portfolio standard program requirements; power purchase agreements.

Patron Prior to Engrossment—Delegate Callsen

Referred to Committee on Labor and Commerce

Be it enacted by the General Assembly of Virginia:

1. That §§ 56-585.5 and 56-594.02 of the Code of Virginia are 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 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 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 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

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

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

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

Phase I Utilities		Phase II Utilities	
Year	RPS Program Requirement	Year	RPS Program Requirement
2021	6%	2021	14%
2022	7%	2022	17%
2023	8%	2023	20%
2024	10%	2024	23%
2025	14%	2025	26%
2026	17%	2026	29%
2027	20%	2027	32%
2028	24%	2028	35%
2029	27%	2029	38%

121	2030	30%	2030	41%
122	2031	33%	2031	45%
123	2032	36%	2032	49%
124	2033	39%	2033	52%
125	2034	42%	2034	55%
126	2035	45%	2035	59%
127	2036	53%	2036	63%
128	2037	53%	2037	67%
129	2038	57%	2038	71%
130	2039	61%	2039	75%
131	2040	65%	2040	79%
132	2041	68%	2041	83%
133	2042	71%	2042	87%
134	2043	74%	2043	91%
135	2044	77%	2044	95%
136	2045	80%	2045 and thereafter	100%
137				
138	2046	84%		
139	2047	88%		
140	2048	92%		
141	2049	96%		
142	2050 and thereafter	100%		
143				

2. A Phase II Utility shall meet ~~one percent~~ of the RPS Program requirements in any given compliance year with [~~behind-the-meter~~] solar, wind, or anaerobic digestion resources of [~~one megawatt three megawatts~~] or less located in the Commonwealth, ~~with not measured as a percentage of the Phase II Utility's RPS program requirements: (i) [five percent for the 2026 through 2035 compliance years and (ii) six percent for the 2036~~ 4.5 percent for the 2026 through 2030 compliance years and (ii) five percent for the 2031] through 2045 compliance years. No more than 3,000 kilowatts of any such ~~behind-the-meter solar, wind, or anaerobic digestion resources may be located~~ 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 required percentage~~ 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 required percentage~~ 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 2027 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.

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

187 a. By December 31, 2023, each Phase I Utility shall petition the Commission for necessary approvals to
188 construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of
189 at least 200 megawatts of generating capacity located in the Commonwealth using energy derived from
190 sunlight or onshore wind, and 35 percent of such generating capacity procured shall be from the purchase of
191 energy, capacity, and environmental attributes from solar or onshore wind facilities owned by persons other
192 than the utility, with the remainder, in the aggregate, being from construction or acquisition by such Phase I
193 Utility.

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

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

208 d. Nothing in this subdivision 1 shall prohibit such Phase I Utility from constructing, acquiring, or
209 entering into agreements to purchase the energy, capacity, and environmental attributes of more than 600
210 megawatts of generating capacity located in the Commonwealth using energy derived from sunlight or
211 onshore wind, provided the utility receives approval from the Commission pursuant to §§ 56-580 and
212 56-585.1.

213 2. By December 31, 2035, each Phase II Utility shall petition the Commission for necessary approvals to
214 (i) construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes
215 of 16,100 megawatts of generating capacity located in the Commonwealth using energy derived from
216 sunlight or onshore wind, ~~which shall include 1,100 megawatts of solar generation of a nameplate capacity
217 not to exceed three megawatts per individual project and 35 percent of such which generating capacity
218 procured shall be from the purchase of energy, capacity, and environmental attributes from solar facilities
219 owned by persons other than a utility, including utility affiliates and deregulated affiliates, and (ii) pursuant to
220 § 56-585.1:11, construct or purchase one or more offshore wind generation facilities located off the
221 Commonwealth's Atlantic shoreline or in federal waters and interconnected directly into the Commonwealth
222 with an aggregate capacity of up to 5,200 megawatts. At least 200 1,000 megawatts of the 16,100 megawatts
223 shall be placed on previously developed project sites. Thirty-five percent of such generating capacity on
224 previously developed project sites shall be procured from the purchase of energy, capacity, and
225 environmental attributes from solar facilities owned by persons other than a utility, including utility affiliates
226 and deregulated affiliates. The 16,100 megawatts of generating capacity located in the Commonwealth using
227 energy derived from sunlight or onshore wind shall include 1,100 megawatts of solar generation of a
228 nameplate capacity not to exceed three megawatts per individual project, and 65 percent of such generation
229 capacity procured shall be from the purchase of energy, capacity, and environmental attributes from solar
230 facilities owned by persons other than a utility, including utility affiliates and deregulated affiliates.~~

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

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

245 c. By December 31, 2030, each Phase II Utility shall petition the Commission for necessary approvals to

246 construct, acquire, or enter into agreements to purchase the energy, capacity, and environmental attributes of
 247 at least 4,000 megawatts of additional generating capacity located in the Commonwealth using energy
 248 derived from sunlight or onshore wind, and 35 percent of such generating capacity procured shall be from the
 249 purchase of energy, capacity, and environmental attributes from solar or onshore wind facilities owned by
 250 persons other than the utility, with the remainder, in the aggregate, being from construction or acquisition by
 251 such Phase II Utility.

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

259 e. Nothing in this subdivision 2 shall prohibit such Phase II Utility from constructing, acquiring, or
 260 entering into agreements to purchase the energy, capacity, and environmental attributes of more than 16,100
 261 megawatts of generating capacity located in the Commonwealth using energy derived from sunlight or
 262 onshore wind, provided the utility receives approval from the Commission pursuant to §§ 56-580 and
 263 56-585.1.

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

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

290 4. In connection with the requirements of this subsection, each Phase I and Phase II Utility shall,
 291 commencing in 2020 and concluding in 2035, submit annually a plan and petition for approval for the
 292 development of new solar and onshore wind generation capacity. Such plan shall reflect, in the aggregate and
 293 over its duration, the requirements of subsection D concerning the allocation percentages for construction or
 294 purchase of such capacity. Such petition shall contain any request for approval to construct such facilities
 295 pursuant to subsection D of § 56-580 and a request for approval or update of a rate adjustment clause
 296 pursuant to subdivision A 6 of § 56-585.1 to recover the costs of such facilities. Such plan shall also include
 297 the utility's plan to meet the energy storage project targets of subsection E, including the goal of installing at
 298 least 10 percent of such energy storage projects behind the meter. In determining whether to approve the
 299 utility's plan and any associated petition requests, the Commission shall determine whether they are
 300 reasonable and prudent and shall give due consideration to (i) the RPS and carbon dioxide reduction
 301 requirements in this section; (ii) the promotion of new renewable generation and energy storage resources
 302 within the Commonwealth, and associated economic development, *including those resources not exceeding*
 303 *three megawatts or placed on previously developed project sites pursuant to subdivision 2*; and (iii) fuel
 304 savings projected to be achieved by the plan. Notwithstanding any other provision of this title, the
 305 Commission's final order regarding any such petition and associated requests shall be entered by the
 306 Commission not more than six months after the date of the filing of such petition.

307 5. If, in any year, a Phase I or Phase II Utility is unable to meet the compliance obligation of the RPS

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308 Program requirements or if the cost of RECs necessary to comply with RPS Program requirements exceeds
309 \$45 per megawatt hour, such supplier shall be obligated to make a deficiency payment equal to \$45 for each
310 megawatt-hour shortfall for the year of noncompliance, except that the deficiency payment for any shortfall
311 in procuring RECs for solar, wind, or anaerobic digesters located in the Commonwealth shall be \$75 per
312 megawatts hour for resources ~~one megawatt~~ *three megawatts* and lower. The amount of any deficiency
313 payment shall increase by one percent annually after 2021. A Phase I or Phase II Utility shall be entitled to
314 recover the costs of such payments as a cost of compliance with the requirements of this subsection pursuant
315 to subdivision A 5 d of § 56-585.1. All proceeds from the deficiency payments shall be deposited into an
316 interest-bearing account administered by the Department of Energy. In administering this account, the
317 Department of Energy shall manage the account as follows: (i) 50 percent of total revenue shall be directed to
318 job training programs in historically economically disadvantaged communities; (ii) 16 percent of total
319 revenue shall be directed to energy efficiency measures for public facilities; (iii) 30 percent of total revenue
320 shall be directed to renewable energy programs located in historically economically disadvantaged
321 communities; and (iv) four percent of total revenue shall be directed to administrative costs.

322 For any project constructed pursuant to this subsection or subsection E, a utility shall, subject to a
323 competitive procurement process, procure equipment from a Virginia-based or United States-based
324 manufacturer using materials or product components made in Virginia or the United States, if reasonably
325 available and competitively priced.

326 *[No later than July 1, 2033, the Commission shall initiate a proceeding to evaluate the future availability
327 of RECs from solar, wind, and anaerobic digestion resources of one megawatt or less located in the
328 Commonwealth in order to meet the renewable portfolio standard requirements of subdivision C 2 and may,
329 in its sole discretion, increase or decrease by up to one percentage point the percentage of a utility's
330 requirements under subdivision C 2 to be met with RECs from such resources in future compliance years.]*

331 *6. The provisions of this section are in furtherance of the Commonwealth's interest in the health, safety,
332 and welfare of its citizens, including by increasing fuel and resource diversity within the Commonwealth,
333 minimizing the risk and exposure to capacity market pricing volatility, enhancing the reliability and
334 resilience of the Commonwealth's electric system, minimizing emissions of sulfur dioxide, nitrogen oxide,
335 particulate matter, and other pollution that adversely affect public health and the environment in the
336 Commonwealth, and meeting goals to limit carbon dioxide emissions under the laws of the Commonwealth.*

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

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

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

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

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

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

360 F. All costs incurred by a Phase I or Phase II Utility related to compliance with the requirements of this
361 section or pursuant to § 56-585.1:11, including (i) costs of generation facilities powered by sunlight or
362 onshore or offshore wind, or energy storage facilities, that are constructed or acquired by a Phase I or Phase II
363 Utility after July 1, 2020, (ii) costs of capacity, energy, or environmental attributes from generation facilities
364 powered by sunlight or onshore or offshore wind, or falling water, or energy storage facilities purchased by
365 the utility from persons other than the utility through agreements after July 1, 2020, and (iii) all other costs of
366 compliance, including costs associated with the purchase of RECs associated with RPS Program
367 requirements pursuant to this section shall be recovered from all retail customers in the service territory of a
368 Phase I or Phase II Utility as a non-bypassable charge, irrespective of the generation supplier of such
369 customer, except (a) as provided in subsection G for an accelerated renewable energy buyer or (b) as

370 provided in subdivision C 3 of § 56-585.1:11, with respect to the costs of an offshore wind generation
 371 facility, for a PIPP eligible utility customer or an advanced clean energy buyer or qualifying large general
 372 service customer, as those terms are defined in § 56-585.1:11. If a Phase I or Phase II Utility serves
 373 customers in more than one jurisdiction, such utility shall recover all of the costs of compliance with the RPS
 374 Program requirements from its Virginia customers through the applicable cost recovery mechanism, and all
 375 associated energy, capacity, and environmental attributes shall be assigned to Virginia to the extent that such
 376 costs are requested but not recovered from any system customers outside the Commonwealth.

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

384 G. 1. An accelerated renewable energy buyer may contract with a Phase I or Phase II Utility, or a person
 385 other than a Phase I or Phase II Utility, to obtain (i) RECs from RPS eligible resources or (ii) bundled
 386 capacity, energy, and RECs from solar or, wind, or zero-carbon electricity generation resources located
 387 within the PJM region and initially placed in commercial operation after January 1, 2015, including any
 388 contract with a utility for such generation resources that does not allocate the cost of such resources to or
 389 recover the cost of such resources from any other customers of the utility that have not voluntarily agreed to
 390 pay such cost. Such an accelerated renewable energy buyer may offset all or a portion of its electric load for
 391 purposes of RPS compliance through such arrangements. An accelerated renewable energy buyer shall be
 392 exempt from the assignment of non-bypassable RPS compliance costs pursuant to subsection F, with the
 393 exception of the costs of an offshore wind generating facility pursuant to § 56-585.1:11, based on the amount
 394 of RECs obtained pursuant to this subsection in proportion to the customer's total electric energy
 395 consumption, on an annual basis. An accelerated renewable energy buyer may also contract with a Phase I or
 396 Phase II Utility, or a person other than a Phase I or Phase II Utility, to obtain capacity from energy storage
 397 facilities located within the network service area of the utility pursuant to this subsection, provided that the
 398 costs of such resources are not recovered from any of the utility's customers who have not voluntarily agreed
 399 to pay for such costs. Such accelerated renewable energy buyer shall be exempt from the assignment of
 400 non-bypassable RPS Program compliance costs specifically associated with energy storage facilities pursuant
 401 to this subsection in proportion to the customer's total capacity demand on an annual basis. An accelerated
 402 renewable energy buyer obtaining RECs only shall not be exempt from costs related to procurement of new
 403 solar or onshore wind generation capacity, energy, or environmental attributes, or energy storage facilities, by
 404 the utility pursuant to subsections D and E, however, an accelerated renewable energy buyer that is a
 405 customer of a Phase II Utility and was subscribed, as of March 1, 2020, to a voluntary companion
 406 experimental tariff offering of the utility for the purchase of renewable attributes from renewable energy
 407 facilities that requires a renewable facilities agreement and the purchase of a minimum of 2,000 renewable
 408 attributes annually, shall be exempt from allocation of the net costs related to procurement of new solar or
 409 onshore wind generation capacity, energy, or environmental attributes, or energy storage facilities, by the
 410 utility pursuant to subsections D and E, based on the amount of RECs associated with the customer's
 411 renewable facilities agreements associated with such tariff offering as of that date in proportion to the
 412 customer's total electric energy consumption, on an annual basis. To the extent that an accelerated renewable
 413 energy buyer contracts for the capacity of new solar or wind generation resources or energy storage facilities
 414 pursuant to this subsection, the aggregate amount of such nameplate capacity shall be offset from the utility's
 415 procurement requirements pursuant to subsection D. All RECs associated with contracts entered into by an
 416 accelerated renewable energy buyer with the utility, or a person other than the utility, for an RPS Program
 417 shall not be credited to the utility's compliance with its RPS requirements, and the calculation of the utility's
 418 RPS Program requirements shall not include the electric load covered by customers certified as accelerated
 419 renewable energy buyers.

420 2. Each Phase I or Phase II Utility shall certify, and verify as necessary, to the Commission that the
 421 accelerated renewable energy buyer has satisfied the exemption requirements of this subsection for each year,
 422 or an accelerated renewable energy buyer may choose to certify satisfaction of this exemption by reporting to
 423 the Commission individually. The Commission may promulgate such rules and regulations as may be
 424 necessary to implement the provisions of this subsection.

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

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

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432 H. No customer of a Phase II Utility with a peak demand in excess of 100 megawatts in 2019 that elected
433 pursuant to subdivision A 3 of § 56-577 to purchase electric energy from a competitive service provider prior
434 to April 1, 2019, shall be allocated any non-bypassable charges pursuant to subsection F for such period that
435 the customer is not purchasing electric energy from the utility, and such customer's electric load shall not be
436 included in the utility's RPS Program requirements. No customer of a Phase I Utility that elected pursuant to
437 subdivision A 3 of § 56-577 to purchase electric energy from a competitive service provider prior to February
438 1, 2019, shall be allocated any non-bypassable charges pursuant to subsection F for such period that the
439 customer is not purchasing electric energy from the utility, and such customer's electric load shall not be
440 included in the utility's RPS Program requirements.

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

445 J. Notwithstanding any contrary provision of law, for the purposes of this section, any falling water
446 generation facility located in the Commonwealth and commencing commercial operations prior to July 1,
447 2024, shall be considered a renewable energy portfolio standard (RPS) eligible source.

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

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

452 **§ 56-594.02. Solar-powered or wind-powered electricity generation; power purchase agreements;
453 pilot programs.**

454 A. The Commission shall conduct pilot programs under which a person that owns or operates a
455 solar-powered or wind-powered electricity generation facility located on premises owned or leased by an
456 eligible customer-generator, as defined in § 56-594, shall be permitted to sell the electricity generated from
457 such facility exclusively to such eligible customer-generator under a power purchase agreement used to
458 provide third party financing of the costs of such a renewable generation facility (third party power purchase
459 agreement), subject to the following terms, conditions, and restrictions:

460 1. Notwithstanding subsection G of § 56-580 or any other provision of law, a pilot program shall be
461 conducted within the certificated service territory of each investor-owned electric utility ("Pilot Utility");

462 2. Except as provided in this subdivision, both jurisdictional and nonjurisdictional customers may
463 participate in such pilot programs on a first-come, first-serve basis. The aggregated capacity of all generation
464 facilities that are subject to such third party power purchase agreements at any time during the pilot program
465 shall not exceed 500 megawatts for Virginia jurisdictional customers and 500 megawatts for Virginia
466 nonjurisdictional customers. Such limitation on the aggregated capacity of such facilities shall constitute a
467 portion of the existing limit of six percent of each Pilot Utility's adjusted Virginia peak-load forecast for the
468 previous year that is available to eligible customer-generators pursuant to subsection E of § 56-594.
469 Notwithstanding any provision of this section that incorporates provisions of § 56-594, the seller and the
470 customer shall elect either to (i) enter into their third party power purchase agreement subject to the
471 conditions and provisions of the Pilot Utility's net energy metering program under § 56-594 or (ii) provide
472 that electricity generated from the generation facilities subject to the third party power purchase agreement
473 will not be net metered under § 56-594, provided that an election not to net meter under § 56-594 shall not
474 exempt the third party power purchase agreement and the parties thereto from the requirements of this section
475 that incorporate provisions of § 56-594;

476 3. A solar-powered or wind-powered generation facility with a capacity of ~~no less than 50 kilowatts and~~
477 ~~no more than three megawatts shall be eligible for a third party power purchase agreement under a pilot~~
~~program; however, if the customer under such agreement is a low income utility customer, as defined in~~
~~§ 56-576, or is an entity with tax-exempt status in accordance with § 501(c) of the Internal Revenue Code of~~
~~1954, as amended, then such facility is eligible for the pilot program even if it does not meet the 50 kilowatts~~
~~minimum size requirement.~~ The maximum generation capacity of three megawatts shall not affect the limits
481 on the capacity of electrical generating capacities of 25 kilowatts for residential customers and three
482 megawatts for nonresidential customers set forth in subsection B of § 56-594, which limitations shall
483 continue to apply to net energy metering generation facilities regardless of whether they are the subject of a
484 third party power purchase agreement under the pilot program;

485 4. A generation facility that is the subject of a third party power purchase agreement under the pilot
486 program shall serve only one customer, and a third party power purchase agreement shall not serve multiple
488 customers;

489 5. The customer under a third party power purchase agreement under the pilot program shall be subject to
490 the interconnection and other requirements imposed on eligible customer-generators pursuant to subsection C
491 of § 56-594, including the requirement that the customer bear the reasonable costs, as determined by the
492 Commission, of the items described in clauses (a) and (b) of such subsection;

493 6. A third party power purchase agreement under the pilot program shall not be valid unless it conforms in

494 all respects to the requirements of the pilot program conducted under the provisions of this section and unless
 495 the Commission and the Pilot Utility are provided written notice of the parties' intent to enter into a third
 496 party power purchase agreement not less than 30 days prior to the agreement's proposed effective date; and
 497

498 7. An affiliate of the Pilot Utility shall be permitted to offer and enter into third party power purchase
 499 arrangements on the same basis as may any other person that satisfies the requirements of being a seller under
 500 a third party power purchase agreement under the pilot program.

500 B. The Commission shall review the pilot program established pursuant to subsection A in 2015 and every
 501 two years thereafter during the pilot program. In its review, the Commission shall determine whether the
 502 limitations in subdivisions A 2 and 3 should be expanded, reduced, or continued.

503 C. Any third party power purchase agreement that is not entered into pursuant to the pilot program
 504 established pursuant to subsection A is prohibited in the Pilot Utility's service territory, unless such third
 505 party power purchase agreement is entered into between a licensed supplier and a retail customer pursuant to
 506 § 56-577 where such supplier is responsible for serving 100 percent of the load requirements for each retail
 507 customer account it serves.

508 D. If the Commission approves a tariff proposed for electric power provided 100 percent from renewable
 509 energy that serves 100 percent of the load requirements for each retail customer account it serves under such
 510 tariff, hereafter referred to as a "green tariff," such a green tariff shall not be available to any party to a third
 511 party power purchase agreement for the account being served by such power purchase agreement, and such
 512 an agreement shall remain in effect notwithstanding the approval of the green tariff.

513 E. Nothing in this section shall be construed as (i) rendering any person, by virtue of its selling electric
 514 power to an eligible customer-generator under a third party power purchase agreement entered into pursuant
 515 to the pilot program established under this section, a public utility or a competitive service provider, (ii)
 516 imposing a requirement that such a person meet 100 percent of the load requirements for each retail customer
 517 account it serves, or (iii) affecting third party power purchase agreements in effect prior to July 1, 2013.

518 F. Nothing in this section shall abridge any rights of either party to an agreement between a Pilot Utility
 519 and a group purchasing organization acting on behalf of Virginia local governments regarding the purchase of
 520 electric service.

521 G. The Commission shall, by December 1, 2013, establish guidelines concerning (i) information to be
 522 provided in notices required under subdivision A 6 and (ii) procedures for aggregating and posting to the
 523 Commission's web site information derived from the aforesaid notices, including total capacity utilized by
 524 pilot projects for which notice has been received and capacity remaining available for future pilot projects. In
 525 addition, the Commission may adopt such rules or establish such guidelines as may be necessary for its
 526 general administration of the pilot program established under this section.

527 [3. 2.] **That it is the policy of the Commonwealth to encourage the development of electric generation**
 528 **projects on previously developed project sites, as defined in § 56-585.5 of the Code of Virginia, as**
 529 **amended by this act, to reduce the land use impacts of solar development.**

530 [3. That a Phase II Utility, as defined in subdivision A 1 of § 56-585.1 of the Code of Virginia, may
 531 recover costs associated with any petition for cost recovery made pursuant to clause (iv) of subdivision
 532 A 6 of § 56-585.1 of the Code of Virginia that has been approved by the State Corporation Commission
 533 as of December 1, 2038, notwithstanding any time limitations on such cost recovery under subdivision
 534 A 6 of § 56-585.1 of the Code of Virginia.]

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